STATE OF NEW YORK

S. 4009 A. 3009

SENATE - ASSEMBLY

February 1, 2023

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

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

AN ACT to amend the tax law, in relation to providing the authority to abate interest for taxpayers impacted by declared disasters (Part A); to amend the tax law, in relation to clarifying the definition of limited partner for the purposes of the metropolitan commuter transportation mobility tax (Part B); to amend the tax law, in relation to making the investment tax credit refundable for eligible farmers for five years (Part C); to amend the tax law, in relation to the empire state film production credit and the empire state film post-production credit (Part D); to amend the tax law, in relation to the abatement of penalties for underpayment of estimated tax by a corporation (Part E); to amend the economic development law, in relation to the COVID-19 capital costs tax credit program (Part F); to amend the social services law and the tax law, in relation to creating a tax credit for the creation and expansion of child care (Part G); to amend the tax law, in relation to extending the authorization of any city having a population of one million or more to provide a biotechnology credit against the general corporation tax, unincorporated business tax, and banking corporation tax of such city (Part H); to amend the tax law, in relation to extending the current corporate tax rates (Subpart A); to amend the tax law, in relation to extending the rehabilitation of historic properties tax credit (Subpart B); to amend the tax law, in relation to extending the empire state commercial production tax credit for five years (Subpart C); to amend the tax law, in relation to extending provisions of law relating to the grade No. 6 heating oil conversion tax credit (Subpart D); to amend subpart B of part PP of chapter 59 of the laws of 2021 amending the tax law and the state finance law relating to establishing the New York city musical and theatrical production tax credit and establishing the New York state council on the arts cultural program fund, in relation to the effectiveness thereof; and to amend the tax law, in relation to the New

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

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York city musical and theatrical production tax credit (Subpart E)(Part I); to amend the tax law, in relation to making technical corrections to the credit for companies who provide transportation to individuals with disabilities (Subpart A); to amend the tax law, in relation to eligibility for the brownfield redevelopment tax credit (Subpart B); to amend the tax law, in relation to the pass-through entity tax and city pass-through entity tax and making technical corrections thereto (Subpart C) (Part J); to amend the real property tax law, in relation to simplifying the senior citizens real property tax exemption (Part K); to amend chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, in relation to the effectiveness thereof (Part L); to amend the real property tax law, in relation to requiring excess proceeds from a tax foreclosure sale to be returned to the former owner (Part M); to amend the real property tax law and the state administrative procedure act, in relation to clarifying the solar or wind energy system appraisal model (Part N); to amend the tax law, in relation to the authority of counties to impose sales and compensating use taxes permanently; to amend chapter 67 of the laws of 2015, relating to authorizing the city of Yonkers to impose additional sales tax, in relation to the effectiveness thereof; to amend section 2 of item R of subpart C of part XXX of chapter 58 of the laws of 2020 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, in relation to making such provisions permanent; to amend section 2 of item Z of subpart C of part XXX of chapter 58 of the laws of 2020 amending the tax law relating to the imposition of sales and compensating use taxes by the county of Monroe, in relation to making such provisions permanent; to amend section 4 of item EE of subpart C of part XXX of chapter 58 of the laws of 2020 amending the tax law relating to extending the authorization of the county of Onondaga to impose an additional rate of sales and compensating use taxes, in relation to making such provisions permanent; to amend section 2 of item GG of subpart C of part XXX of chapter 58 of the laws of 2020 amending the tax law relating to extending the authority of the county of Orange to impose an additional rate of sales and compensating use taxes, in relation to making such provisions permanent; to amend section 3 of item XX of subpart C of part XXX of chapter 58 of the laws of 2020 amending the tax law relating to extending the authority of the county of Ulster to impose an additional 1 percent sales and compensating use tax, in relation to making such provisions permanent; and to repeal certain provisions of such law relating thereto (Part O); to repeal certain provisions of the tax law, relating to eliminating congestion surcharge registration requirements (Part P); to amend the tax law, in relation to the payment of tax on increased quantities of motor fuel and Diesel motor fuel on which the taxes pursuant to articles 12-A, 13-A and 28 were not previously paid (Part Q); to amend the tax law, in relation to extending the sales tax exemption for certain sales made through vending machines for those operated by business enterprise program participants (Part R); to amend the tax law, in relation to an increase in the rate of tax on cigarettes (Part S); to amend the tax law, in relation to the revocation of certain certificates and civil penalties for refusal of a cigarette and tobacco inspection (Part T); to amend the tax law and the administrative code of the city of New York, in relation to extending the tax rate reduction under the New York state

real estate transfer tax and the New York city real property transfer tax for conveyances of real property to existing real estate investment funds (Part U); 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 V); to amend the state finance law, in relation to clarifying the deposit timeframe for moneys deposited by the commissioner of taxation and finance (Part W); to amend the tax law, in relation to requiring the New York Racing Association, Inc. to enter into a repayment agreement with the state of New York for the repayment of funds provided by the state for the renovation of Belmont Park (Part X); to amend the tax law, in relation to a keno style lottery game (Part Y); to amend the racing, pari-mutuel wagering and breeding law, in relation to the operations of off-track betting corporations (Part Z); to amend the racing, pari-mutuel wagering and breeding law, in relation to the utilization of funds in the Capital region off-track betting corporations' capital acquisition funds (Part AA); 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; to amend 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 BB); and to amend the tax law, in relation to conforming to the federal taxation of S corporations (Part CC)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2023-2024 state fiscal year. Each component is wholly contained within a Part identified as Parts A through CC. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. The opening paragraph of paragraph a of subdivision twenty-eighth of section 171 of the tax law, as amended by chapter 451 of the laws of 2022, is amended to read as follows:

[~~In the case of a taxpayer who is determined for federal tax purposes under the provisions of~~] **Have the authority to postpone certain deadlines for a period of up to ninety days, or longer when necessary to align with relief provided by the Internal Revenue Service pursuant to**

section seven thousand five hundred eight-A of the internal revenue code [~~to be affected by a presidentially declared disaster, or who~~], **for a taxpayer who** is determined [~~under regulations promulgated by the commissioner~~] to be affected by a presidentially declared disaster or by a disaster emergency declared by the governor[~~, have authority to provide that a period of up to ninety days, or a longer period when necessary to align with relief that has already been provided by the Internal Revenue Service under the authority to postpone certain deadlines in section seven thousand five hundred eight-A of the internal revenue code, may~~]**. Any extension period provided pursuant to the authority in this subdivision shall** be disregarded in determining under the tax law, or under a law enacted pursuant to the authority of the tax law or former article 2-E of the general city law where administered by the commissioner, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such taxpayer:

§ 2. Paragraph c of subdivision twenty-eighth of section 171 of the tax law, as added by chapter 8 of the laws of 1998, is amended to read as follows:

c. **Definitions. 1.** Presidentially declared disaster. For purposes of this subdivision, the term "presidentially declared disaster" means any disaster which, with respect to an area, resulted in a subsequent determination by the president of the United States that such area warrants assistance by the federal government under the disaster relief and emergency assistance act.

2. Taxpayer. For purposes of this subdivision, the term "taxpayer" means any person or entity required to file a return or remit any tax to the commissioner pursuant to this chapter.

§ 3. Subdivision twenty-eighth of section 171 of the tax law is amended by adding a new paragraph d to read as follows:

d. Where a taxpayer who, pursuant to section seven thousand five hundred eight-a of the internal revenue code, is determined for federal tax purposes to be affected by a presidentially declared disaster, or who is determined to be affected by a disaster emergency declared by the governor, but the commissioner has not postponed a tax deadline pursuant to the authority in paragraph a of this subdivision due to such disaster, the commissioner may abate any amount of interest from the underpayment of any tax administered by the commissioner under this chapter that accrued for the period during which the taxpayer was unable to meet such deadline due to direct impacts of the disaster.

§ 4. This act shall take effect immediately.

PART B

Section 1. Subsection (e) of section 800 of the tax law, as added by section 1 of part C of chapter 25 of the laws of 2009, is amended to read as follows:

(e) Net earnings from self-employment. Net earnings from self-employment has the same meaning as in section 1402 of the internal revenue code**, provided, however, that for purposes of determining whether the exclusion pursuant to paragraph 13 of subsection (a) of section 1402 of the internal revenue code applies, an individual shall not be considered a limited partner if the individual, directly or indirectly, takes part in the control, or participates in the management or operations of the partnership such that the individual is not a passive investor, regardless of the individual's title or characterization in a partnership or operating agreement**.

§ 2. This act shall take effect immediately.

PART C

Section 1. Paragraph (d) of subdivision 1 of section 210-B of the tax law, as amended by section 31 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

(d) Except as otherwise provided in this paragraph, the credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the fixed dollar minimum amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of credit allowable under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit allowed for a taxable year commencing prior to January first, nineteen hundred eighty-seven and not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years but in no event shall such credit be carried over to taxable years commencing on or after January first, two thousand two, and any amount of credit allowed for a taxable year commencing on or after January first, nineteen hundred eighty-seven and not deductible in such year may be carried over to the fifteen taxable years next following such taxable year and may be deducted from the taxpayer's tax for such year or years. In lieu of such carryover, **(i)** any such taxpayer which qualifies as a new business under paragraph (f) of this subdivision may elect to treat the amount of such carryover as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter, **and (ii) any such taxpayer that is an eligible farmer, as defined in subdivision eleven of this section, may for taxable years beginning before January first, two thousand twenty-eight, elect to treat the amount of such carryover as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter,** provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

§ 2. Paragraph 5 of subsection (a) of section 606 of the tax law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

(5) If the amount of credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess allowed for a taxable year commencing prior to January first, nineteen hundred eighty-seven may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years, but in no event shall such credit be carried over to taxable years commencing on or after January first, nineteen hundred ninety-seven, and any amount of credit allowed for a taxable year commencing on or after January first, nineteen hundred eighty-seven and not deductible in such year may be carried over to the ten taxable years next following such taxable year and may be deducted from the taxpayer's tax for such year or years. In lieu of carrying over any such excess, **(A)** a taxpayer who qualifies as an owner of a new business for purposes of paragraph ten of this subsection may, at [~~his~~] **the taxpayer's** option, receive such excess as a refund**, and (B) a taxpayer that is an eligible farmer as defined in subsection (n) of this section may, at the taxpayer's option, for taxable years beginning before January first, two thousand twenty-eight**

receive such excess as a refund. Any refund paid pursuant to this paragraph shall be deemed to be a refund of an overpayment of tax as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

§ 3. This act shall take effect immediately, and apply to taxable years beginning on or after January 1, 2023.

PART D

Section 1. Paragraph 2 of subdivision (a) of section 24 of the tax law, as separately amended by sections 1 and 2 of part M of chapter 59 of the laws of 2020, is amended to read as follows:

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of [~~twenty-five~~] **thirty** percent**, or thirty-five percent in the case of an eligible relocated television series,** and the qualified production costs paid or incurred in the production of a qualified film, provided that: (i) the qualified production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film equal or exceed seventy-five percent of the production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at any film production facility within and without the state in the production of such qualified film, and (ii) except with respect to a qualified independent film production company or pilot, at least ten percent of the total principal photography shooting days spent in the production of such qualified film must be spent at a qualified film production facility. However, if the qualified production costs (excluding post production costs) which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film is less than three million dollars, then the portion of the qualified production costs attributable to the use of tangible property or the performance of services in the production of such qualified film outside of a qualified film production facility shall be allowed only if the shooting days spent in New York outside of a film production facility in the production of such qualified film equal or exceed seventy-five percent of the total shooting days spent within and without New York outside of a film production facility in the production of such qualified film. The credit shall be allowed for the taxable year in which the production of such qualified film is completed. However, in the case of a qualified film that receives funds from additional pool 2, no credit shall be claimed before the later of (1) the taxable year the production of the qualified film is complete, or (2) the [~~first~~] taxable year [~~beginning immediately after the~~] **that includes the last day of the** allocation year for which the film has been allocated credit by the governor's office for motion picture and television development. If the amount of the credit is at least one million dollars but less than five million dollars, the credit shall be claimed over a two year period beginning in the first taxable year in which the credit may be claimed and in the next succeeding taxable year, with one-half of the amount of credit allowed being claimed in each year. If the amount of the credit is at least five million dollars, the credit shall be claimed over a three year period beginning in the first taxable year in which the credit may be claimed and in the next two succeeding taxable years, with

one-third of the amount of the credit allowed being claimed in each year.

§ 2. Paragraph 5 of subdivision (a) of section 24 of the tax law, as amended by section 2 of part M of chapter 59 of the laws of 2022, is amended to read as follows:

(5) For the period two thousand fifteen through two thousand [~~twenty-nine~~] **thirty-four**, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, [~~music directors~~] **composers**, producers and performers, including background actors with no scripted lines) by a qualified film production company or a qualified independent film production company for services performed by those individuals in one of the counties specified in this paragraph in connection with a qualified film with a minimum budget of five hundred thousand dollars. For purposes of this additional credit, the services must be performed in one or more of the following counties: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two thousand fifteen through two thousand [~~twenty-nine~~] **thirty-four** of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of film production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section thirty-one of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand [~~twenty-nine~~] **thirty-four**.

§ 2-a. Paragraph 1 of subdivision (b) of section 24 of the tax law, as amended by section 4 of part B of chapter 59 of the laws of 2013, is amended to read as follows:

(1) "Qualified production costs" means production costs only to the extent such costs are attributable to the use of tangible property or the performance of services within the state directly and predominantly in the production (including pre-production and post production) of a qualified film. **The aggregate total eligible qualified production costs for producers, writers, directors, actors, and composers shall not**

exceed forty percent of the aggregate sum total of all other qualified production costs.

§ 3. Paragraph 2 of subdivision (b) of section 24 of the tax law, as added by section 1 of part P of chapter 60 of the laws of 2004, is amended to read as follows:

(2) "Production costs" means any costs for tangible property used and services performed directly and predominantly in the production (including pre-production and post production) of a qualified film. "Production costs" shall not include (i) costs for a story, script or scenario to be used for a qualified film and (ii) wages or salaries or other compensation for writers, directors, including [~~music directors~~] **composers**, producers and performers (other than background actors with no scripted lines) **to the extent those wages or salaries or other compensation exceed five hundred thousand dollars per individual**. "Production costs" generally include technical and crew production costs, such as expenditures for film production facilities, or any part thereof, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing and meals.

§ 4. Paragraph 8 of subdivision (b) of section 24 of the tax law, as added by section 2 of part B of chapter 59 of the laws of 2013, is amended to read as follows:

(8) "Relocated television production" shall mean, notwithstanding the limitations in subparagraph (i) of paragraph three of this subdivision, a television production that is a talk or variety program that filmed at least [~~five~~] **two** seasons outside the state prior to its first relocated season in New York, the episodes are filmed before a studio audience of two hundred or more, and the relocated television production incurs (i) at least thirty million dollars in annual production costs in the state, or (ii) at least ten million dollars in capital expenditures at a qualified production facility in the state.

§ 5. Subdivision (b) of section 24 of the tax law is amended by adding a new paragraph 9 to read as follows:

(9) "Eligible relocated television series" shall mean the first two years of a regularly occurring production intended to run in its initial broadcast, regardless of the medium or mode of its distribution, in a series of narrative and/or thematically related episodes, each of which has a running time of at least thirty minutes in length (inclusive of commercial advertisement and interstitial programming, if any). For the purposes of this definition only, a television series produced by and for media services providers described as streaming services and/or digital platforms (and excluding network/cable) shall mean a regularly occurring production intended to run in its initial release in a series of narrative and/or thematically related episodes, the aggregate length of which is at least seventy-five minutes, although the episodes themselves may vary in duration from the thirty minutes specified for network/cable production, which had filmed six episodes of the television series outside the state immediately prior to relocating to the state, where each episode of the television series had a minimum budget of at least one million dollars.

§ 6. Paragraph 4 of subdivision (e) of section 24 of the tax law, as amended by section 3 of part M of chapter 59 of the laws of 2022, is amended to read as follows:

(4) Additional pool 2 - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an additional four hundred twenty million dollars in each year starting in two thousand ten through two thousand [~~twenty-nine~~] **twenty-three and seven hundred**

million dollars each year starting in two thousand twenty-four through two thousand thirty-four, provided however, seven million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in two thousand thirteen and two thousand fourteen, twenty-five million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand fifteen through two thousand [~~twenty-nine and~~] **twenty-three, and forty-five millions dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand twenty-four through two thousand thirty-four. Provided further,** five million dollars of the annual allocation shall be made available for the television writers' and directors' fees and salaries credit pursuant to section twenty-four-b of this article in each year starting in two thousand twenty through two thousand [~~twenty-nine~~] **thirty-four**. This amount shall be allocated by the governor's office for motion picture and television development among taxpayers in accordance with subdivision (a) of this section. If the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film post production tax credit pursuant to section thirty-one of this article is insufficient to utilize the balance of unallocated empire state film post production tax credits from such pool, the remainder, after such pending applications are considered, shall be made available for allocation in the empire state film tax credit pursuant to this section, subdivision twenty of section two hundred ten-B and subsection (gg) of section six hundred six of this chapter. Also, if the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film post production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film production tax credit pursuant to this section is insufficient to utilize the balance of unallocated film production tax credits from such pool, then all or part of the remainder, after such pending applications are considered, shall be made available for allocation for the empire state film post production credit pursuant to this section, subdivision thirty-two of section two hundred ten-B and subsection (qq) of section six hundred six of this chapter. The governor's office for motion picture and television development must notify taxpayers of their allocation year and include the allocation year on the certificate of tax credit. Taxpayers eligible to claim a credit must report the allocation year directly on their empire state film production credit tax form for each year a credit is claimed and include a copy of the certificate with their tax return. In the case of a qualified film that receives funds from additional pool 2, no empire state film production credit shall be claimed before the later of the taxable year the production of the qualified film is complete, or the taxable year immediately following the allocation year for which the film has been allocated credit by the governor's office for motion picture and television development.

§ 7. Paragraph 4 of subdivision (e) of section 24 of the tax law, as amended by section 4 of part M of chapter 59 of the laws of 2022, is amended to read as follows:

(4) Additional pool 2 - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an additional four hundred twenty million dollars in each year starting in two thousand ten through two thousand [~~twenty-nine~~] **twenty-three and seven hundred million dollars in each year starting in two thousand twenty-four through two thousand thirty-four,** provided however, seven million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in two thousand thirteen and two thousand fourteen [~~and~~]**,** twenty-five million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand fifteen through two thousand [~~twenty-nine~~] **twenty-three, and forty-five million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand twenty-four through two thousand thirty-four**. This amount shall be allocated by the governor's office for motion picture and television development among taxpayers in accordance with subdivision (a) of this section. If the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film post production tax credit pursuant to section thirty-one of this article is insufficient to utilize the balance of unallocated empire state film post production tax credits from such pool, the remainder, after such pending applications are considered, shall be made available for allocation in the empire state film tax credit pursuant to this section, subdivision twenty of section two hundred ten-B and subsection (gg) of section six hundred six of this chapter. Also, if the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film post production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film production tax credit pursuant to this section is insufficient to utilize the balance of unallocated film production tax credits from such pool, then all or part of the remainder, after such pending applications are considered, shall be made available for allocation for the empire state film post production credit pursuant to this section, subdivision thirty-two of section two hundred ten-B and subsection (qq) of section six hundred six of this chapter. The governor's office for motion picture and television development must notify taxpayers of their allocation year and include the allocation year on the certificate of tax credit. Taxpayers eligible to claim a credit must report the allocation year directly on their empire state film production credit tax form for each year a credit is claimed and include a copy of the certificate with their tax return. In the case of a qualified film that receives funds from additional pool 2, no empire state film production credit shall be claimed before the later of the taxable year the production of the qualified film is complete, or the taxable year immediately following the allocation year for which the film has been allocated credit by the governor's office for motion picture and television development.

§ 8. Paragraph 2 of subdivision (a) of section 31 of the tax law, as amended by section 5 of part M of chapter 59 of the laws of 2020, is amended to read as follows:

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of [~~twenty-five~~] **thirty** percent and the qualified post production costs paid in the production of a qualified film at a qualified post production facility located within the metropolitan commuter transportation district as defined in section twelve hundred sixty-two of the public authorities law or [~~thirty~~] **thirty-five** percent and the qualified post production costs paid in the production of a qualified film at a qualified post production facility located elsewhere in the state.

§ 9. Paragraph 6 of subdivision (a) of section 31 of the tax law, as amended by section 6 of part M of chapter 59 of the laws of 2022, is amended to read as follows:

(6) For the period two thousand fifteen through two thousand [~~twenty-nine~~] **thirty-four**, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, [~~music directors~~] **composers**, producers and performers, including background actors with no scripted lines) for services performed by those individuals in one of the counties specified in this paragraph in connection with the post production work on a qualified film with a minimum budget of five hundred thousand dollars at a qualified post production facility in one of the counties listed in this paragraph. For purposes of this additional credit, the services must be performed in one or more of the following counties: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two thousand fifteen through two thousand [~~twenty-nine~~] **thirty-four** of the annual allocation made available to the empire state film post production credit pursuant to paragraph four of subdivision (e) of section twenty-four of this article. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of post production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation for two thousand seventeen made available to the empire state film post production credit pursuant to paragraph four of subdivision (e) of section twenty-four of this article. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section twenty-four of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand [~~twenty-nine~~] **thirty-four**.

§ 10. This act shall take effect immediately for new initial applications received on or after such effective date; provided, however, that the amendments to paragraph 4 of subdivision (e) of section 24 of the tax law made by section six of this act shall take effect on the same date and in the same manner as section 6 of chapter 683 of the laws of 2019, as amended, takes effect.

PART E

Section 1. Section 1085 of the tax law is amended by adding a new subsection (e-1) to read as follows:

(e-1) Waiver of addition for underpayment of estimated tax. No addition to tax shall be imposed under subsection (c) of this section with respect to any underpayment to the extent the commissioner determines that by reason of casualty, disaster or other unusual circumstances the imposition of such addition to tax would be against equity and good conscience.

§ 2. This act shall take effect immediately.

PART F

Section 1. Subdivision 4 of section 484 of the economic development law, as added by section 1 of part E of chapter 59 of the laws of 2022, is amended to read as follows:

4. The business entity must submit its application by [~~March thirty-first~~] **September thirtieth**, two thousand twenty-three.

§ 2. This act shall take effect immediately.

PART G

Section 1. Article 6 of the social services law is amended by adding a new title 1-A to read as follows:

TITLE 1-A

CHILD CARE CREATION AND EXPANSION TAX CREDIT PROGRAM

Section 394. Short title.
394-a. Definitions.
394-b. Eligibility criteria.
394-c. Application and approval process.
394-d. Child care creation and expansion tax credit.
394-e. Allocation of credit.
394-f. Powers and duties of the commissioner.
394-g. Maintenance of records.

§ 394. Short title. This title shall be known and may be cited as the "child care creation and expansion tax credit program act".

§ 394-a. Definitions. For the purposes of this title:

1. "Certificate of tax credit" shall mean the document issued to a business entity by the office after the office has verified that the business entity has met all applicable eligibility criteria in this title. The certificate shall specify the exact amount of the tax credit under this title that a business entity may claim, pursuant to section three hundred ninety-four-d of this title, and the service year.

2. "Child care program" shall mean a child day care for which a license or registration to operate such program has been issued by the office pursuant to section three hundred ninety of this article.

3. "Child care rate" shall mean the weekly child care subsidy market rates, based on the eightieth percentile of the 2021-22 New York state

child care market rate survey, for infant and toddler care provided by a licensed or registered child care program, as reflected in the 2022 child care market rate survey report published by the office in compliance with section 98.45 of title forty-five of the code of federal regulations.

4. "Child care seats" shall mean the maximum number of children to be allowed on the premises of a child care program at any time that such program is in operation as specified on the license or registration issued for such program by the office.

5. "Creates child care" shall mean the making available of child care seats in a child care program by a business entity, directly or through a third-party, for employees of such business entity, where such child care program was not available prior to April first, two thousand twenty-three, provided that the costs imposed on such employees for such child care program do not exceed forty percent of the child care rate.

6. "Commissioner" shall mean commissioner of the office of children and family services.

7. "Expands child care" shall mean the increase in the number of child care seats in a child care program made available by a business entity, directly or through a third party, for employees of such business entity, provided that such increase requires a new or amended license or registration issued by the office pursuant to section three hundred ninety of this article on or after April first, two thousand twenty-three, and, provided further, that the costs imposed on such employees for such child care program do not exceed forty percent of the child care rate.

8. "Occupied" shall mean, for each service year in which a child care program is in operation, the average daily number of children in attendance on the premises of such child care program.

9. "Office" shall mean the office of children and family services.

10. "Service year" shall mean the twelve-month period, or portion thereof, commencing on January first and ending on December thirty-first.

§ 394-b. Eligibility criteria. 1. To be eligible for a tax credit under the child care creation and expansion tax credit program, a business entity must:

(a) be a business entity that is required to file a tax return pursuant to article nine-A, twenty-two or thirty-three of the tax law;

(b) be a child care program, or contract with such child care program, as defined in this title that is licensed or registered pursuant to section three hundred ninety of this article;

(c) create or expand child care seats, directly or through a third party, for the employees of such business entity on or after April first, two thousand twenty-three and before January first, two thousand twenty-five;

(d) operate a business location in New York state;

(e) be in substantial compliance with any child care licensing laws and regulations related to the entity's business sector or other laws and regulations as determined by the commissioner; and

(f) not owe past due state taxes or local property taxes unless the business entity is making payments and complying with an approved binding payment agreement entered into with the taxing authority.

§ 394-c. Application and approval process. 1. A business entity must submit a complete application as prescribed by the commissioner by the thirty-first of January after the end of the service year.

2. The commissioner shall establish procedures for a business entity to submit applications. As part of the application, each business entity must:

(a) provide evidence in a form and manner prescribed by the commissioner of their business eligibility;

(b) provide the license or registration issued to the business entity, directly or through a third party, by the office to operate a child care program indicating the number of child care seats created or, in the case of a child care program that has experienced an expansion of child care seats, the license or registration issued by the office demonstrating such expansion;

(c) provide evidence in a form and manner prescribed by the commissioner establishing:

(i) the total number of child care seats that were occupied during the service year;

(ii) of such total number of child care seats that were occupied, the number of infant child care seats that were occupied and the number of toddler child care seats that were occupied;

(iii) that, to the extent the business entity, directly or through a third party, has expanded child care, the number of child care seats in existence before such expansion and the number of such child care seats that were occupied before such expansion; and

(iv) that the costs imposed on the business entity's employees for such child care program do not exceed forty percent of the child care rate.

(d) agree to allow the department of taxation and finance to share the business entity's tax information relevant to the administration of this title with the office. However, any information shared as a result of this title shall not be available for disclosure or inspection under the state freedom of information law;

(e) allow the office and its agents access to any and all books and records the office may require to monitor compliance; and

(f) agree to provide any additional information required by the office relevant to this title.

3. After reviewing a business entity's completed final application and determining that the business entity meets the eligibility criteria as set forth in this title, the office may issue to that business entity a certificate of tax credit, which shall set forth the amount of the credit that may be claimed and the service year.

§ 394-d. Child care creation and expansion tax credit. Allowance of credit. 1. A business entity in the child care creation and expansion tax credit program that meets the eligibility requirements of section three hundred ninety-four-b of this title may be eligible to claim a credit for the portion of the service year in which the child care program was in operation, equal to the sum of: (a) the product of the number of infant child care seats that have been created or expanded and twenty percent of the child care rate for such infant child care seats and (b) the product of the number of toddler child care seats that have been created or expanded and twenty percent of the child care rate for such toddler child care seats; provided that such infant and toddler child care seats are child care seats that are occupied. Notwithstanding the preceding sentence, a credit shall not be allowed for more than twenty-five child care seats that are occupied, and the amount of such credit may be reduced as a result of an allocation of available funds, as described in section three hundred ninety-four-e of this title.

2. The credit shall be allowed as provided in section forty-eight, subdivision fifty-nine of section two hundred ten-B, subsection (ooo) of section six hundred six and subdivision (ee) of section fifteen hundred eleven of the tax law.

§ 394-e. Allocation of credit. The aggregate amount of tax credits allowed under this title, subdivision fifty-nine of section two hundred ten-B, subsection (ooo) of section six hundred six and subdivision (ee) of section fifteen eleven of the tax law shall be twenty-five million dollars each year during the period two thousand twenty-three and two thousand twenty-four. Such aggregate amount of credits shall be allocated by the office on a pro rata basis to each business entity that demonstrates eligibility pursuant to section three hundred ninety-four-b of this title.

§ 394-f. Powers and duties of the commissioner. 1. The commissioner may promulgate regulations establishing an application process and eligibility criteria, which will be applied consistent with the purposes of this title so as not to exceed the annual cap on tax credits set forth in this title, that, notwithstanding any provisions to the contrary in the state administrative procedure act, may be adopted on an emergency basis.

2. The commissioner shall, in consultation with the department of taxation and finance, develop a certificate of tax credit that shall be issued by the commissioner to eligible businesses. Such certificate shall contain such information as required by the department of taxation and finance.

3. The commissioner shall solely determine the eligibility of any business entity applying for entry into the program and shall remove any business entity from the program for failing to meet any of the requirements set forth in section three hundred ninety-four-b of this title.

§ 394-g. Maintenance of records. Each business entity participating in the program shall keep all relevant records for the duration of their participation in the program for at least three years.

§ 2. The tax law is amended by adding a new section 48 to read as follows:

§ 48. Child care creation and expansion tax credit. (a) Allowance of credit. A taxpayer subject to tax under article nine-A, twenty-two or thirty-three of this chapter shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (f) of this section. The amount of the credit is equal to the amount determined pursuant to section three hundred ninety-four-d of the social services law and shall be claimed in the taxable year that includes the last day of the service year for which the credit is calculated. No cost or expense paid or incurred by the taxpayer that is included as part of the calculation of this credit shall be the basis of any other tax credit allowed under this chapter.

(b) Eligibility. To be eligible for the child care creation and expansion tax credit, the taxpayer shall have been issued a certificate of tax credit by the office of children and family services pursuant to section three hundred ninety-four-c of the social services law. A taxpayer that is a partner in a partnership, member of a limited liability company or shareholder in a subchapter S corporation that has received a certificate of tax credit shall be allowed its pro rata share of the credit earned by the partnership, limited liability company or subchapter S corporation.

(c) Tax return requirement. The taxpayer shall be required to attach to its tax return in the form prescribed by the commissioner, proof of

receipt of its certificate of tax credit issued by the commissioner of the office of children and family services.

(d) Information sharing. Notwithstanding any provision of this chapter, employees of the office of children and family services and the department shall be allowed and are directed to share and exchange:

(1) information regarding the credit applied for, allowed or claimed pursuant to this section and taxpayers that are applying for the credit or that are claiming the credit; and

(2) information contained in or derived from credit claim forms submitted to the department. Except as provided in paragraph one of this subdivision, all information exchanged between the office of children and family services and the department shall not be subject to disclosure or inspection under the state's freedom of information law.

(e) Credit recapture. If a certificate of tax credit issued by the office of children and family services under title 1-A of article six of the social services law is revoked by such office, the amount of credit described in this section and claimed by the taxpayer prior to that revocation shall be added back to tax in the taxable year in which any such revocation becomes final.

(f) Cross references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) article 9-A: section 210-B, subdivision 59;

(2) article 22: section 606, subsection (ooo);

(3) article 33: section 1511, subdivision (ee).

§ 3. Section 210-B of the tax law is amended by adding a new subdivision 59 to read as follows:

59. Child care creation and expansion tax credit. (a) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-eight of this chapter, against the taxes imposed by this article.

(b) Application of credit. The credit allowed under this subdivision for the taxable year shall not reduce the tax due for such year to less than the amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of credit allowed under this subdivision for the taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit thus not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest will be paid thereon.

§ 4. Section 606 of the tax law is amended by adding a new subsection (ooo) to read as follows:

(ooo) Child care creation and expansion tax credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-eight of this chapter, against the tax imposed by this article.

(2) Application of credit. If the amount of the credit allowed under this subsection for the taxable year exceeds the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest will be paid thereon.

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

(l) Child care creation and expansion tax credit under subsection (ooo)	**Amount of credit under subdivision 59 of section two hundred ten-B**

§ 6. Section 1511 of the tax law is amended by adding a new subdivision (ee) to read as follows:

(ee) Child care creation and expansion tax credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-eight of this chapter, against the tax imposed by this article.

(2) Application of credit. The credit allowed under this subdivision shall not reduce the tax due for such year to be less than the minimum fixed by paragraph four of subdivision (a) of section fifteen hundred two or section fifteen hundred two-a of this article, whichever is applicable. However, if the amount of the credit allowed under this subdivision for any taxable year reduces the taxpayer's tax to such amount, any amount of credit thus not deductible will be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

§ 7. This act shall take effect immediately.

PART H

Section 1. Paragraph 5 of subdivision (d) of section 1201-a of the tax law, as amended by chapter 260 of the laws of 2015, is amended to read as follows:

5. Any local law adopted pursuant to this subdivision may provide for a credit as authorized by this subdivision for a maximum of three consecutive calendar years, provided, however, that any such credit may not apply to taxable years beginning before January first, two thousand [~~ten~~] **twenty-three** or beginning on or after January first, two thousand [~~nineteen~~] **twenty-six**.

§ 2. This act shall take effect immediately.

PART I

Section 1. This Part enacts into law major components of legislation relating to extending various taxes and tax credits. Each component is wholly contained within a Subpart identified as Subparts A through E. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this Part sets forth the general effective date of this Part.

SUBPART A

Section 1. The opening paragraph of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 1 of part HHH of chapter 59 of the laws of 2021, is amended to read as follows:

For taxable years beginning before January first, two thousand sixteen, the amount prescribed by this paragraph shall be computed at the rate of seven and one-tenth percent of the taxpayer's business income base. For taxable years beginning on or after January first, two thousand sixteen, the amount prescribed by this paragraph shall be six and one-half percent of the taxpayer's business income base. For taxable years beginning on or after January first, two thousand twenty-one and before January first, two thousand [~~twenty-four~~] **twenty-seven** for any taxpayer with a business income base for the taxable year of more than five million dollars, the amount prescribed by this paragraph shall be seven and one-quarter percent of the taxpayer's business income base. The taxpayer's business income base shall mean the portion of the taxpayer's business income apportioned within the state as hereinafter provided. However, in the case of a small business taxpayer, as defined in paragraph (f) of this subdivision, the amount prescribed by this paragraph shall be computed pursuant to subparagraph (iv) of this paragraph and in the case of a manufacturer, as defined in subparagraph (vi) of this paragraph, the amount prescribed by this paragraph shall be computed pursuant to subparagraph (vi) of this paragraph, and, in the case of a qualified emerging technology company, as defined in subparagraph (vii) of this paragraph, the amount prescribed by this paragraph shall be computed pursuant to subparagraph (vii) of this paragraph.

§ 2. Subparagraph 1 of paragraph (b) of subdivision 1 of section 210 of the tax law, as amended by section 2 of part HHH of chapter 59 of the laws of 2021, is amended to read as follows:

(1) (i) The amount prescribed by this paragraph shall be computed at .15 percent for each dollar of the taxpayer's total business capital, or the portion thereof apportioned within the state as hereinafter provided for taxable years beginning before January first, two thousand sixteen. However, in the case of a cooperative housing corporation as defined in the internal revenue code, the applicable rate shall be .04 percent until taxable years beginning on or after January first, two thousand twenty and zero percent for taxable years beginning on or after January first, two thousand twenty-one. The rate of tax for subsequent tax years shall be as follows: .125 percent for taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen; .100 percent for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen; .075 percent for taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen; .050 percent for taxable years beginning on or after January first, two thousand nineteen and before January first, two thousand twenty; .025 percent for taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one; and .1875 percent for years beginning on or after January first, two thousand twenty-one and before January first, two thousand [~~twenty-four~~] **twenty-seven**, and zero percent for taxable years beginning on or after January first, two thousand [~~twenty-four~~] **twenty-seven**. Provided however, for taxable years beginning on or after January first, two thousand twenty-one, the rate of tax for a small business as defined in paragraph (f) of this subdivision shall be zero percent. The rate of tax for a qualified New York manufacturer shall be .132 percent for taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen, .106 percent for taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen, .085

percent for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen; .056 percent for taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen; .038 percent for taxable years beginning on or after January first, two thousand nineteen and before January first, two thousand twenty; .019 percent for taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one; and zero percent for years beginning on or after January first, two thousand twenty-one. (ii) In no event shall the amount prescribed by this paragraph exceed three hundred fifty thousand dollars for qualified New York manufacturers and for all other taxpayers five million dollars.

§ 3. This act shall take effect immediately.

SUBPART B

Section 1. Subparagraph (A) of paragraph 1 of subsection (oo) of section 606 of the tax law, as amended by section 1 of part CCC of chapter 59 of the laws of 2021, is amended to read as follows:

(A) For taxable years beginning on or after January first, two thousand ten and before January first, two thousand [~~twenty-five~~] **thirty**, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure, and one hundred fifty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure that is a small project, under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47, with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand [~~twenty-five~~] **thirty**, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47, with respect to a certified historic structure located within the state; provided, however, the credit shall not exceed one hundred thousand dollars.

§ 2. Subparagraph (i) of paragraph (a) of subdivision 26 of section 210-B of the tax law, as amended by section 2 of part CCC of chapter 59 of the laws of 2021, is amended to read as follows:

(i) For taxable years beginning on or after January first, two thousand ten, and before January first, two thousand [~~twenty-five~~] **thirty**, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer for the same taxable year with respect to a certified historic structure, and one hundred fifty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure that is a small project, under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47, with respect to a certified historic structure

located within the state. Provided, however, the credit shall not exceed five million dollars.

§ 3. Clause (B) of subparagraph (ii) of paragraph (a) of subdivision 26 of section 210-B of the tax law, as added by section 17 of part A of chapter 59 of the laws of 2014, is redesignated as paragraph (a-1) and is amended to read as follows:

(a-1) If the taxpayer is a partner in a partnership or a shareholder in a New York S corporation, then the credit caps imposed in [~~subparagraph (A)~~] **paragraph (a)** of this [~~paragraph~~] **subdivision** shall be applied at the entity level, so that the aggregate credit allowed to all the partners or shareholders of each such entity in the taxable year does not exceed the credit cap that is applicable in that taxable year.

§ 4. Subparagraph (ii) of paragraph (a) of subdivision 26 of section 210-B of the tax law, as amended by section 2 of part RR of chapter 59 of the laws of 2018, is amended to read as follows:

(ii) For taxable years beginning on or after January first, two thousand [~~twenty-five~~] **thirty**, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the amount of credit allowed the taxpayer for the same taxable year determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of section 47 of the internal revenue code, with respect to a certified historic structure under subsection (c)(3) of section 47 of the internal revenue code with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed one hundred thousand dollars.

§ 5. Subparagraph (A) of paragraph 1 of subdivision (y) of section 1511 of the tax law, as amended by section 3 of part CCC of chapter 59 of the laws of 2021, is amended to read as follows:

(A) For taxable years beginning on or after January first, two thousand ten and before January first, two thousand [~~twenty-five~~] **thirty**, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure, and one hundred fifty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure that is a small project, under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47, with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand [~~twenty-five~~] **thirty**, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47 with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed one hundred thousand dollars.

§ 6. This act shall take effect immediately.

SUBPART C

Section 1. Paragraph 1 of subdivision (a) of section 28 of the tax law, as amended by section 1 of part AAA of chapter 59 of the laws of 2019, is amended to read as follows:

(1) A taxpayer which is a qualified commercial production company, or which is a sole proprietor of a qualified commercial production company, and which is subject to tax under article nine-A or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (c) of this section, to be computed as provided in this section. Provided, however, to be eligible for such credit, at least seventy-five percent of the production costs (excluding post production costs) paid or incurred directly and predominantly in the actual filming or recording of the qualified commercial must be costs incurred in New York state. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand [~~twenty-four~~] **twenty-nine**.

§ 2. Paragraph (c) of subdivision 23 of section 210-B of the tax law, as amended by chapter 518 of the laws of 2018, is amended to read as follows:

(c) Expiration of credit. The credit allowed under this subdivision shall not be applicable to taxable years beginning on or after January first, two thousand [~~twenty-four~~] **twenty-nine**.

§ 3. Paragraph 1 of subsection (jj) of section 606 of the tax law, as amended by chapter 518 of the laws of 2018, is amended to read as follows:

(1) Allowance of credit. A taxpayer that is eligible pursuant to the provisions of section twenty-eight of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand [~~twenty-four~~] **twenty-nine**.

§ 4. This act shall take effect immediately.

SUBPART D

Section 1. Paragraph 1 of subdivision (a) of section 47 of the tax law, as added by section 1 of part I of chapter 59 of the laws of 2022, is amended to read as follows:

(1) Allowance of credit. A taxpayer that meets the eligibility requirements of subdivision (b) of this section and is subject to tax under article nine-A or twenty-two of this chapter may be eligible to claim a grade no. 6 heating oil conversion tax credit in the taxable year the conversion is complete. The credit shall be equal to fifty percent of the conversion costs for all of the taxpayer's buildings located at a facility regulated pursuant to section 19-0302 or title ten of article seventeen of the environmental conservation law, paid by such taxpayer on or after January first, two thousand twenty-two and before [~~July~~] **January** first, two thousand [~~twenty-three~~] **twenty-four**. The credit cannot exceed five hundred thousand dollars per facility.

§ 2. This act shall take effect immediately.

SUBPART E

Section 1. Section 6 of subpart B of part PP of chapter 59 of the laws of 2021 amending the tax law and the state finance law relating to establishing the New York city musical and theatrical production tax credit and establishing the New York state council on the arts cultural

program fund, as amended by section 7 of part F of chapter 59 of the laws of 2022, is amended to read as follows:

§ 6. This act shall take effect immediately; provided however, that [~~section~~] **sections** one, two, three and four of this act shall apply to taxable years beginning on or after January 1, 2021, and before January 1, [~~2024~~] **2026** and shall expire and be deemed repealed January 1, [~~2024~~] **2026**; provided further, however that the obligations under paragraph 3 of subdivision (g) of section 24-c of the tax law, as added by section one of this act, shall remain in effect until December 31, [~~2025~~] **2027**.

§ 2. Paragraph 2 of subdivision (a) of section 24-c of the tax law, as amended by section 1 of part F of chapter 59 of the laws of 2022, is amended to read as follows:

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of twenty-five percent and the sum of the qualified production expenditures paid for during the qualified New York city musical and theatrical production's credit period. Provided however that the amount of the credit cannot exceed three million dollars per qualified New York city musical and theatrical production for productions whose first performance is prior to January first, two thousand [~~twenty-three~~] **twenty-five**. [~~For productions whose first performance is on or after January first, two thousand twenty-three, such cap shall decrease to one million five hundred thousand dollars per qualified New York city musical and theatrical production unless the New York city tourism economy has not sufficiently recovered, as determined by the department of economic development in consultation with the division of the budget. In determining whether the New York city tourism economy has sufficiently recovered, the department of economic development will perform an analysis of key New York city economic indicators which shall include, but not be limited to, hotel occupancy rates and travel metrics. The department of economic development's analysis shall also be informed by the status of any remaining COVID-19 restrictions affecting New York city musical and theatrical productions.~~] In no event shall a qualified New York city musical and theatrical production be eligible for more than one credit under this program.

§ 3. Subparagraph (i) of paragraph 5 of subdivision (b) of section 24-c of the tax law, as amended by section 2 of part F of chapter 59 of the laws of 2022, is amended to read as follows:

(i) "The credit period of a qualified New York city musical and theatrical production company" is the period starting on the production start date and ending on the earlier of the date the qualified musical and theatrical production has expended sufficient qualified production expenditures to reach its credit cap, September thirtieth, two thousand [~~twenty-three~~] **twenty-five** or the date the qualified musical and theatrical production closes.

§ 4. Subdivision (c) of section 24-c of the tax law, as added by section 1 of subpart B of part PP of chapter 59 of the laws of 2021, is amended to read as follows:

(c) The credit shall be allowed for the taxable year beginning on or after January first, two thousand twenty-one but before January first, two thousand [~~twenty-four~~] **twenty-six**. A qualified New York city musical and theatrical production company shall claim the credit in the year in which its credit period ends.

§ 5. Paragraphs 1 and 2 of subdivision (f) of section 24-c of the tax law, paragraph 1 as amended by section 3 of part F of chapter 59 of the

laws of 2022, and paragraph 2 as amended by section 4 of part F of chapter 59 of the laws of 2022, are amended to read as follows:

(1) The aggregate amount of tax credits allowed under this section, subdivision fifty-seven of section two hundred ten-B and subsection (mmm) of section six hundred six of this chapter shall be [~~two~~] **three** hundred million dollars. Such aggregate amount of credits shall be allocated by the department of economic development among taxpayers based on the date of first performance of the qualified musical and theatrical production.

(2) The commissioner of economic development, after consulting with the commissioner, shall promulgate regulations to establish procedures for the allocation of tax credits as required by this section. Such rules and regulations shall include provisions describing the application process, the due dates for such applications, the standards that will be used to evaluate the applications, the documentation that will be provided by applicants to substantiate to the department the amount of qualified production expenditures of such applicants, and such other provisions as deemed necessary and appropriate. Notwithstanding any other provisions to the contrary in the state administrative procedure act, such rules and regulations may be adopted on an emergency basis. In no event shall a qualified New York city musical and theatrical production submit an application for this program after June thirtieth, two thousand [~~twenty-three~~] **twenty-five**.

§ 6. This act shall take effect immediately; provided that the amendments to section 24-c of the tax law made by sections two, three, four and five of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

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

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

PART J

Section 1. This act enacts into law major components of legislation relating to taxation. Each component is wholly contained within a Subpart identified as Subparts A through C. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this act sets forth the general effective date of this act.

SUBPART A

Section 1. Paragraph (b) of subdivision 38 of section 210-B of the tax law, as amended by section 2 of part L of chapter 59 of the laws of 2022, is amended to read as follows:

(b) Definitions. The term "accessible by individuals with disabilities" shall, for the purposes of this subdivision, refer to a vehicle that complies with federal regulations promulgated pursuant to the Americans with Disabilities Act applicable to vans under twenty-two feet in length, by the federal Department of Transportation, in Code of Federal Regulations, title 49, parts 37 and 38[~~, and by the federal Architecture and Transportation Barriers Compliance Board, in Code of Federal Regulations, title 36, section 1192.23,~~] and the Federal Motor Vehicle Safety Standards, Code of Federal Regulations, title 49, part [~~57~~] **571**. The term "electric vehicle" shall, for the purposes of this subdivision, have the same meaning as in section sixty-six-s of the public service law.

§ 2. Paragraph 2 of subsection (tt) of section 606 of the tax law, as amended by section 4 of part L of chapter 59 of the laws of 2022, is amended to read as follows:

(2) Definitions. The term "accessible by individuals with disabilities" shall, for the purposes of this subsection, refer to a vehicle that complies with federal regulations promulgated pursuant to the Americans with Disabilities Act applicable to vans under twenty-two feet in length, by the federal Department of Transportation, in Code of Federal Regulations, title 49, parts 37 and 38[~~, and by the federal Architecture and Transportation Barriers Compliance Board, in Code of Federal Regulations, title 36, section 1192.23,~~] and the Federal Motor Vehicle Safety Standards, Code of Federal Regulations, title [~~29~~] **49**, part [~~57~~] **571**. The term "electric vehicle" shall, for the purposes of this subsection, have the same meaning as in section sixty-six-s of the public service law.

§ 3. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2023.

SUBPART B

Section 1. Paragraph 2 of subdivision (b) of section 21 of the tax law, as amended by section 7 of part LL of chapter 58 of the laws of 2022, is amended to read as follows:

(2) Site preparation costs. The term "site preparation costs" shall mean all amounts properly chargeable to a capital account, which are paid or incurred which are necessary to implement a site's investigation, remediation, or qualification for a certificate of completion, and shall include costs of: excavation; demolition; activities undertaken under the oversight of the department of labor or in accordance with standards established by the department of health to remediate and dispose of regulated materials including asbestos, lead or polychlorinated biphenyls; environmental consulting; engineering; legal costs; transportation, disposal, treatment or containment of contaminated soil; remediation measures taken to address contaminated soil vapor; cover systems consistent with applicable regulations; physical support of excavation; dewatering and other work to facilitate or enable remediation activities; sheeting, shoring, and other engineering controls required to prevent off-site migration of contamination from the qualified site or migrating onto the qualified site; and the costs of fencing, temporary electric wiring, scaffolding, and security facilities until such time as the certificate of completion has been issued. Site

preparation shall include all costs paid or incurred within sixty months after the last day of the tax year in which the certificate of completion is issued that are necessary for compliance with the certificate of completion or subsequent modifications thereof, or the remedial program defined in such certificate of completion including but not limited to institutional controls, engineering controls, an approved site management plan, and an environmental easement with respect to the qualified site; provided, however, with respect to any qualified site for which [~~the department of environmental conservation has issued a notice to the taxpayer on or after July first, two thousand fifteen but on or before June twenty-fourth, two thousand twenty-one that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law~~] **a certificate of completion was issued on or after July first, two thousand fifteen but on or before June twenty-fourth, two thousand twenty-one**, site preparation shall include all costs paid or incurred within eighty-four months after the last day of the tax year in which the certificate of completion is issued that are necessary for compliance with the certificate of completion or subsequent modifications thereof, or the remedial program defined in such certificate of completion including but not limited to institutional controls, engineering controls, an approved site management plan, and an environmental easement with respect to the qualified site. Site preparation cost shall not include the costs of foundation systems that exceed the cover system requirements in the regulations applicable to the qualified site.

§ 2. This act shall take effect immediately and shall be deemed to have been in effect on and after April 9, 2022.

SUBPART C

Section 1. Paragraphs 1, 2 and 3 of subsection (h) of section 860 of the tax law, paragraph 1 as added by section 1 of part C of chapter 59 of the laws of 2021, and paragraph 2 as amended and paragraph 3 as added by section 2 of subpart A of part MM of chapter 59 of the laws of 2022, are amended to read as follows:

(1) In the case of an electing partnership, the sum of (i) all items of income, gain, loss, or deduction derived from or connected with New York sources to the extent they are included in the taxable income of a nonresident partner subject to tax under article twenty-two**,** under paragraph one of subsection (a) of section six hundred thirty-two of this chapter; [~~and~~] (ii) all items of income, gain, loss, or deduction to the extent they are included in the taxable income of a resident partner subject to tax under article twenty-two of this chapter**; and (iii) all pass-through entity taxes including taxes paid under this article to New York, taxes paid under article twenty-four-B of this chapter to the city of New York, and taxes paid to other jurisdictions that are substantially similar to the taxes paid under this article, to the extent that, for federal income tax purposes, the taxes are paid and deducted in the taxable year, and are included in the taxable income of the partners subject to tax under article twenty-two of this chapter for the taxable year**.

(2) In the case of an electing standard S corporation, the sum of **(i)** all items of income, gain, loss, or deduction derived from or connected with New York sources to the extent they would be included under paragraph two of subsection (a) of section six hundred thirty-two of this chapter in the taxable income of a shareholder subject to tax under

article twenty-two of this chapter**; and (ii) all pass-through entity taxes including taxes paid under this article to New York, taxes paid under article twenty-four-B of this chapter to the city of New York, and taxes paid to other jurisdictions that are substantially similar to the taxes paid under this article, to the extent that, for federal income tax purposes, the taxes are paid and deducted in the taxable year, and are included in the taxable income of the shareholders subject to tax under article twenty-two of this chapter for the taxable year**.

(3) In the case of an electing resident S corporation, the sum of **(i)** all items of income, gain, loss, or deduction to the extent they are included in the taxable income of a shareholder subject to tax under article twenty-two of this chapter**; and (ii) all pass-through entity taxes including taxes paid under this article to New York, taxes paid under article twenty-four-B of this chapter to the city of New York, and taxes paid to other jurisdictions that are substantially similar to taxes paid under this article, to the extent that, for federal income tax purposes, the taxes are paid and deducted in the taxable year, and are included in the taxable income of the shareholders subject to tax under article twenty-two of this chapter for the taxable year**.

§ 2. Subsection (c) of section 861 of the tax law, as amended by section 3 of subpart A of part MM of chapter 59 of the laws of 2022, is amended to read as follows:

(c) The annual election must be made [~~by~~] **on or before** the due date of the first estimated payment under section eight hundred sixty-four of this article and will take effect for the current taxable year. Only one election may be made during each calendar year. An election made under this section is irrevocable [~~as of~~] **after** the due date.

§ 3. Paragraphs 1 and 2 of subsection (b) of section 867 of the tax law, as added by section 1 of subpart B of part MM of chapter 59 of the laws of 2022, are amended to read as follows:

(1) In the case of an electing city partnership, the sum of **(i)** all items of income, gain, loss, or deduction to the extent they are included in the city taxable income of a partner or member of the electing city partnership who is a city taxpayer**; and (ii) all pass-through entity taxes including taxes paid under article twenty-four-A of this chapter to New York, taxes paid under this article to the city of New York, and taxes paid to other jurisdictions that are substantially similar to taxes paid under article twenty-four-A of this chapter, to the extent that, for federal income tax purposes, the taxes were paid and deducted in the taxable year, and they are included in the taxable income of the partners subject to tax under article twenty-two of this chapter for the taxable year**.

(2) In the case of an electing city resident S corporation, the sum of **(i)** all items of income, gain, loss, or deduction to the extent they would be included in the city taxable income of a shareholder of the electing city resident S corporation who is a city taxpayer**; and (ii) all pass-through entity taxes including taxes paid under article twenty-four-A of this chapter to New York, taxes paid under this article to the city of New York, and taxes paid to other jurisdictions that are substantially similar to taxes paid under article twenty-four-A of this chapter, to the extent that, for federal income tax purposes, the taxes were paid and deducted in the taxable year, and they are included in the taxable income of the shareholders subject to tax under article twenty-two of this chapter for the taxable year**.

§ 4. Subsection (e) of section 867 of the tax law, as added by section 1 of subpart B of part MM of chapter 59 of the laws of 2022, is amended to read as follows:

(e) City taxpayer. A city taxpayer means [~~a city resident individual subject to the tax imposed pursuant to the authority of article thirty of this chapter~~]**:**

(1) a city resident individual, as defined in subsection (a) of section thirteen hundred five of this chapter; and

(2) a city resident trust or estate, as defined in subsection (c) of section thirteen hundred five of this chapter.

§ 5. Subsection (i) of section 867 of the tax law, as added by section 1 of subpart B of part MM of chapter 59 of the laws of 2022, is amended to read as follows:

(i) Eligible city partnership. Eligible city partnership means any partnership as provided for in section 7701(a)(2) of the Internal Revenue Code that has a filing requirement under paragraph one of subsection (c) of section six hundred fifty-eight of this chapter other than a publicly traded partnership as defined in section 7704 of the Internal Revenue Code, where at least one partner or member is a city [~~resident individual~~] **taxpayer**. An eligible city partnership includes any entity, including a limited liability company, treated as a partnership for federal income tax purposes that otherwise meets the requirements of this subsection.

§ 6. Subsection (j) of section 867 of the tax law, as added by section 1 of subpart B of part MM of chapter 59 of the laws of 2022, is amended to read as follows:

(j) Eligible city resident S corporation. Eligible city resident S corporation means any New York S corporation as defined pursuant to subdivision one-A of section two hundred eight of this chapter that is subject to tax under section two hundred nine of this chapter that has only city [~~resident individual~~] **taxpayer** shareholders. An eligible city resident S corporation includes any entity, including a limited liability company, treated as an S corporation for federal income tax purposes that otherwise meets the requirements of this subsection.

§ 7. Subsection (c) of section 868 of the tax law, as added by section 1 of subpart B of part MM of chapter 59 of the laws of 2022, is amended to read as follows:

(c) The annual election to be taxed pursuant to this article must be made [~~by~~] **on or before** the due date of the first estimated payment under section eight hundred sixty-four of this chapter and will take effect for the current taxable year. Only one election to be taxed pursuant to this article may be made during each calendar year. An election made under this section is irrevocable [~~as of~~] **after** such due date. To the extent an election made under section eight hundred sixty-one of this chapter is revoked or otherwise invalidated an election made under this section is automatically invalidated.

§ 8. This act shall take effect immediately, provided, however, that: (i) sections one and two of this act shall be deemed to have been in full force and effect on and after the effective date of part C of chapter 59 of the laws of 2021; (ii) sections three and seven of this act shall be deemed to have been in full force and effect on and after the effective date of section 1 of subpart B of part MM of chapter 59 of the laws of 2022; and (iii) sections four, five and six of this act shall apply to taxable years beginning on or after January 1, 2023.

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

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

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

PART K

Section 1. Paragraphs (a) and (d) of subdivision 1 of section 467 of the real property tax law, as amended by section 1 of part B of chapter 686 of the laws of 2022, are amended to read as follows:

(a) Real property owned by one or more persons, each of whom is sixty-five years of age or over, or real property owned by [~~husband and wife~~] **a married couple** or by siblings, one of whom is sixty-five years of age or over, or real property owned by one or more persons, some of whom qualify under this section and the others of whom qualify under section four hundred fifty-nine-c of this title, shall be exempt from payments in lieu of taxes (PILOT) to the battery park city authority or from taxation by any municipal corporation in which located to the extent of fifty per centum of the assessed valuation thereof, provided the governing board of such municipality, after public hearing, adopts a local law, ordinance or resolution providing therefor. For the purposes of this section, [~~sibling shall mean a brother or a sister, whether related~~] **the term "sibling" shall include persons whose relationship as siblings has been established** through **either** half blood, whole blood or adoption.

(d) The real property tax or PILOT exemption on real property owned by [~~husband and wife~~] **a married couple**, one of whom is sixty-five years of age or over, once granted, shall not be rescinded by any municipal corporation solely because of the death of the older spouse so long as the surviving spouse is at least sixty-two years of age.

§ 2. Subdivision 3 of section 467 of the real property tax law, as amended by section 1 of part B of chapter 686 of the laws of 2022, paragraph (a) as separately amended by chapter 488 of the laws of 2022, is amended to read as follows:

3. No exemption shall be granted:

(a)**(i)** if the income of the owner or the combined income of the owners of the property for the **applicable** income tax year [~~immediately preceding the date of making application for exemption~~] exceeds the sum of three thousand dollars, or such other sum not less than three thousand dollars nor more than [~~twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, twenty-nine thousand dollars beginning July first, two thousand nine, fifty thousand dollars beginning July first, two thousand twenty-two, and in a city with a population of one million or more fifty thousand dollars beginning July first, two thousand seventeen,~~] **fifty thousand dollars,** as may be provided by the local law, ordinance or resolution adopted pursuant to this section.

(ii) Where the taxable status date is on or before April fourteenth, **the applicable** income tax year shall [~~mean~~] **be** the twelve-month period

for which the owner or owners filed a federal personal income tax return for the year before the income tax year immediately preceding the date of application and where the taxable status date is on or after April fifteenth, **the applicable** income tax year shall [~~mean~~] **be** the twelve-month period for which the owner or owners filed a federal personal income tax return for the income tax year immediately preceding the date of application.

(iii) Where title is vested in [~~either the husband or the wife, their~~] **a married person, the** combined income **of such person and such person's spouse** may not exceed such sum, except where [~~the husband or wife, or ex-husband or ex-wife~~] **one spouse or ex-spouse** is absent from the property as provided in subparagraph (ii) of paragraph (d) of this subdivision, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. [~~Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286 or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance, if the governing board of a municipality, after a public hearing, adopts a local law, ordinance or resolution providing therefor. In addition, an exchange of an annuity for an annuity contract, which resulted in non-taxable gain, as determined in section one thousand thirty-five of the internal revenue code, shall be excluded from such income. Provided that such exclusion shall be based on satisfactory proof that such an exchange was solely an exchange of an annuity for an annuity contract that resulted in a non-taxable transfer determined by such section of the internal revenue code. Furthermore, such income shall not include the proceeds of a reverse mortgage, as authorized by section six-h of the banking law, and sections two hundred eighty and two hundred eighty-a of the real property law; provided, however, that monies used to repay a reverse mortgage may not be deducted from income, and provided additionally that any interest or dividends realized from the investment of reverse mortgage proceeds shall be considered income. The provisions of this paragraph notwithstanding, such income shall not include veterans disability compensation, as defined in Title 38 of the United States Code provided the governing board of such municipality, after public hearing, adopts a local law, ordinance or resolution providing therefor. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income;~~]

(iv) The term "income" as used herein shall mean the "adjusted gross income" for federal income tax purposes as reported on the applicant's federal or state income tax return for the applicable income tax year, subject to any subsequent amendments or revisions, plus any social security benefits not included in such adjusted gross income, minus any distributions, to the extent included in federal adjusted gross income, received from an individual retirement account and an individual retirement annuity; provided that if no such return was filed for the applicable income tax year, the applicant's income shall be determined based on

the amounts that would have so been reported if such a return had been filed; and provided further, that the governing board of a municipality may adopt a local law, ordinance or resolution providing that any social security benefits that were not included in the applicant's adjusted gross income shall not be considered income for purposes of this section;

(b) unless the owner shall have held an exemption under this section for [~~his~~] **the owner's** previous residence or unless the title of the property shall have been vested in the owner or one of the owners of the property for at least twelve consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of [~~either a husband or wife~~] **a married person** in whose name title of the property shall have been vested at the time of death and then becomes vested solely in [~~the survivor~~] **such person's surviving spouse** by virtue of devise by or descent from the deceased [~~husband or wife~~] **spouse**, the time of ownership of the property by the deceased [~~husband or wife~~] **spouse** shall be deemed also a time of ownership by the [~~survivor~~] **surviving spouse** and such ownership shall be deemed continuous for the purposes of computing such period of twelve consecutive months. In the event of a transfer by [~~either a husband or wife to the other~~] **a married person to such person's** spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of twelve consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation by a municipality within the state granting such exemption. Where the owner or owners transfer title to property which as of the date of transfer was exempt from taxation or PILOT under the provisions of this section, the reacquisition of title by such owner or owners within nine months of the date of transfer shall be deemed to satisfy the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which as of the date of such death was exempt from taxation or PILOT under such provisions, becomes vested, by virtue of devise or descent from the deceased owner or owners, or by transfer by any other means within nine months after such death, solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months shall be deemed satisfied;

(c) unless the property is used exclusively for residential purposes, provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation or PILOT and the

remaining portion only shall be entitled to the exemption provided by this section;

(d) unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property: except where, (i) an owner is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in section twenty-eight hundred one of the public health law, provided that any income accruing to that person shall only be income only to the extent that it exceeds the amount paid by such owner, spouse, or co-owner for care in the facility, and provided further, that during such confinement such property is not occupied by other than the spouse or co-owner of such owner; or, (ii) the real property is owned by a [~~husband and/or wife, or an ex-husband and/or an ex-wife, and either~~] **married person or a married couple, or by a formerly married person or a formerly married couple, and one spouse or ex-spouse** is absent from the residence due to divorce, legal separation or abandonment and all other provisions of this section are met provided that where an exemption was previously granted when both resided on the property, then the person remaining on the real property shall be sixty-two years of age or over.

§ 3. Paragraph (a) of subdivision 3-a of section 467 of the real property tax law, as amended by section 1 of part B of chapter 686 of the laws of 2022, is amended to read as follows:

(a) For the purposes of this section, title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides and which is represented by [~~his~~] **the tenant-stockholder's** share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

§ 4. Subdivisions 5 and 5-a of section 467 of the real property tax law, as amended by section 1 of part B of chapter 686 of the laws of 2022, are amended to read as follows:

5. Application for such exemption must be made by the owner, or all of the owners of the property, on forms prescribed by the commissioner to be furnished by the appropriate assessing authority and shall furnish the information and be executed in the manner required or prescribed in such forms, and shall be filed in such assessor's office on or before the appropriate taxable status date. Notwithstanding any other provision of law, at the option of the municipal corporation, any person otherwise qualifying under this section shall not be denied the exemption under this section if [~~he~~] **such person** becomes sixty-five years of age after the appropriate taxable status date and on or before December thirty-first of the same year.

5-a. Any local law or ordinance adopted pursuant to paragraph (a) of subdivision one of this section may be amended, or a local law or ordinance may be adopted to provide, notwithstanding subdivision five of this section, that an application for such exemption may be filed with the assessor after the appropriate taxable status date but not later than the last date on which a petition with respect to complaints of assessment may be filed, where failure to file a timely application resulted from: (a) a death of the applicant's spouse, child, parent[~~, brother or sister~~] **or sibling**; or (b) an illness of the applicant or of the applicant's spouse, child, parent[~~, brother or sister~~] **or sibling**, which actually prevents the applicant from filing on a timely basis, as

certified by a licensed physician. The assessor shall approve or deny such application as if it had been filed on or before the taxable status date.

§ 5. Subdivision 6 of section 467 of the real property tax law, as amended by section 1 of part B of chapter 686 of the laws of 2022, is amended to read as follows:

6. (a) At least sixty days prior to the appropriate taxable status date, the assessing authority shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed on or before the taxable status date and be approved in order for the exemption to be granted. The assessing authority shall, within three days of the completion and filing of the tentative assessment roll, notify by mail any applicant [~~who has included with his~~] **whose** application **includes** at least one self-addressed, pre-paid envelope, of the approval or denial of the application; provided, however, that the assessing authority shall, upon the receipt and filing of the application, send by mail notification of receipt to any applicant who has included two of such envelopes with the application. Where an applicant is entitled to a notice of denial pursuant to this subdivision, such notice shall be on a form prescribed by the commissioner and shall state the reasons for such denial and shall further state that the applicant may have such determination reviewed in the manner provided by law. Failure to mail any such application form or notices or the failure of such person to receive any of the same shall not prevent the levy, collection and enforcement of the payment of the taxes or PILOT on property owned by such person.

(b) Except in cities of one million or more, any person who has been granted exemption pursuant to this section on five (5) consecutive completed assessment rolls, including any years when the exemption was granted to a property owned by [~~a husband and/or wife~~] **a married person or a married couple** while both **spouses** resided in such property, shall not be subject to the requirements set forth in paragraph (a) of this subdivision provided the governing board of the municipality in which said property is situated after public hearing adopts a local law, ordinance or resolution providing therefor however said person shall be mailed an application form and a notice [~~informing him of his~~] **setting forth such person's** rights. Such exemption shall be automatically granted on each subsequent assessment roll. Provided, however, that when tax payment is made by such person a sworn affidavit must be included with such payment which shall state that such person continues to be eligible for such exemption. Such affidavit shall be on a form prescribed by the commissioner. If such affidavit is not included with the tax payment, the collecting officer shall proceed pursuant to section five hundred fifty-one-a of this chapter.

(c) In cities of one million or more, any person who has been granted exemption pursuant to this section shall file the completed application with the appropriate assessing authority every twenty-four months from the date such exemption was granted without the necessity of having been granted exemption pursuant to this section on five (5) consecutive completed assessment rolls including any years when the exemption was granted to a property owned by [~~a husband and/or wife~~] **a married person or a married couple** while both **spouses** resided in such property.

§ 6. Subdivision 8-a of section 467 of the real property tax law, as amended by section 1 of part B of chapter 686 of the laws of 2022, is amended to read as follows:

8-a. Notwithstanding any provision of law to the contrary, the local governing body of a municipal corporation that is authorized to adopt a local law pursuant to subdivision eight of this section is further authorized to adopt a local law providing that where a renewal application for the exemption authorized by this section has not been filed on or before the taxable status date, and the owner believes that good cause existed for the failure to file the renewal application by that date, the owner may, no later than the last day for paying taxes or PILOT without incurring interest or penalty, submit a written request to the assessor asking [~~him or her~~] **the assessor** to extend the filing deadline and grant the exemption. Such request shall contain an explanation of why the deadline was missed, and shall be accompanied by a renewal application, reflecting the facts and circumstances as they existed on the taxable status date. The assessor may extend the filing deadline and grant the exemption if [~~he or she~~] **the assessor** is satisfied that (i) good cause existed for the failure to file the renewal application by the taxable status date, and that (ii) the applicant is otherwise entitled to the exemption. The assessor shall **make a determination and** mail notice [~~of his or her determination~~] **thereof** to the owner. If the determination states that the assessor has granted the exemption, [~~he or she~~] **the assessor** shall thereupon be authorized and directed to correct the assessment roll accordingly, or, if another person has custody or control of the assessment roll, to direct that person to make the appropriate corrections. If the correction is not made before taxes are levied, the failure to take the exemption into account in the computation of the tax shall be deemed a "clerical error" for purposes of title three of article five of this chapter, and shall be corrected accordingly.

§ 7. This act shall take effect immediately and shall apply to all applications for exemptions pursuant to section 467 of the real property tax law on assessment rolls that are based on taxable status dates occurring on and after October 1, 2023.

PART L

Section 1. Section 2 of chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, as amended by section 1 of part C of chapter 59 of the laws of 2020, is amended to read as follows:

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 1992; provided, however that any charges imposed by section 593 of the real property tax law as added by section one of this act shall first be due for values for assessment rolls with tentative completion dates after July 1, 1992, and provided further, that this act shall remain in full force and effect until March 31, [~~2024~~] **2027**, at which time section 593 of the real property tax law as added by section one of this act shall be repealed.

§ 2. This act shall take effect immediately.

PART M

Section 1. The real property tax law is amended by adding a new section 989 to read as follows:

§ 989. Distribution of surplus in tax enforcement proceedings. 1. Notwithstanding the provisions of any general, special or local law to

the contrary, when a property owner is divested of title due to the foreclosure of a delinquent real property tax lien on the property, and the property is sold to a third party, the proceeds of such sale shall be distributed as follows:

(a) If the proceeds of the sale are less than or equal to the total taxes due on the property plus interest, penalties and other charges duly imposed upon the property, including the administrative costs associated with the foreclosure process, the entire proceeds shall be paid to the local government.

(b) If the proceeds of the sale exceed the total taxes due on the property plus interest, penalties and other charges duly imposed upon the property, including the administrative costs associated with the foreclosure process, the excess shall be distributed as follows:

(i) If the property is not subject to other liens, the excess proceeds shall be paid to the prior owner or owners of the property.

(ii) If the property is subject to other liens, the lienholders shall be paid from the excess proceeds in the same order and to the same extent as they would be in an action to foreclose a mortgage pursuant to article thirteen of the real property actions and proceedings law. Any proceeds remaining after the other lienholders have been so paid shall be paid to the prior owner or owners of the property.

2. The provisions of this section shall apply whether property is sold through a public auction or otherwise.

3. When a foreclosure concludes with the tax district taking title to property, the provisions of this section shall not apply unless and until the tax district sells the property to a third party; provided that in such a case, if there are excess proceeds to be paid to the prior owner or owners of the property, such proceeds shall be paid to the owner or owners of the property prior to its acquisition by the tax district.

4. The provisions of this section shall not apply to the enforcement of tax liens on abandoned real property. For purposes of this section, real property shall be deemed abandoned if it:

(a) has been included on a local municipal roll, registry or list of vacant and abandoned residential property pursuant to section eleven hundred eleven-a of this chapter, or

(b) has been certified as abandoned commercial or industrial real property pursuant to article nineteen-A of the real property actions and proceedings law, or

(c) has been included on the statewide registry of vacant and abandoned property pursuant to section thirteen hundred ten of the real property actions and proceedings law.

5. This section shall be construed to supersede all general, special and local laws relating to tax enforcement to the extent that such laws would otherwise allow the proceeds of a sale to be distributed in a manner other than as set forth in this section. This section is not intended to supersede such laws in other respects.

§ 2. Subdivision 2 of section 1104 of the real property tax law, as amended by chapter 532 of the laws of 1994, paragraph (iii) as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

2. The provisions of this article shall not be applicable to a county, city or town which: (i) on January first, nineteen hundred ninety-three, was authorized to enforce the collection of delinquent taxes pursuant to a county charter, city charter, administrative code or special law; (ii) adopted a local law, no later than July first, nineteen hundred ninety-

four, providing that the collection of taxes in such county, city or town shall continue to be enforced pursuant to such charter, code or special law, as such charter, code or special law may from time to time be amended; and (iii) filed a copy of such local law with the commissioner no later than August first, nineteen hundred ninety-four. **Provided, however, that nothing contained herein shall be construed to exempt any such county, city or town from the provisions of section nine hundred eighty-nine of this chapter.**

§ 3. Subdivision 1 of section 1166 of the real property tax law, as amended by chapter 500 of the laws of 2015, is amended to read as follows:

1. Whenever any tax district shall become vested with the title to real property by virtue of a foreclosure proceeding brought pursuant to the provisions of this article, such tax district is hereby authorized to sell and convey the real property so acquired, which shall include any and all gas, oil or mineral rights associated with such real property, either with or without advertising for bids, notwithstanding the provisions of any general, special or local law. **The proceeds obtained from any such sale shall be distributed in the manner provided by section nine hundred eighty-nine of this chapter.**

§ 4. This act shall take effect October 1, 2023, and shall apply to all tax foreclosure proceedings commenced on and after such date.

PART N

Section 1. Section 575-b of the real property tax law is amended by adding a new subdivision 1-a to read as follows:

1-a. Notwithstanding any provision of law to the contrary, the solar or wind energy system appraisal model authorized by this section shall be identified, formulated, adopted, published, and updated periodically in the manner provided in this section without regard to the provisions of article two of the state administrative procedure act.

§ 2. Subparagraph (viii) of paragraph (b) of subdivision 2 of section 102 of the state administrative procedure act, as amended by chapter 74 of the laws of 1987, is amended to read as follows:

(viii) **appraisal models, discount rates,** state equalization rates, class ratios, special equalization rates and special equalization ratios established pursuant to the real property tax law;

§ 3. No assessing unit that failed to use the appraisal model pursuant to section 575-b of the real property tax law in 2022 shall be held liable for failing to use such model in 2022. Within fifteen days from the effective date of this act, the commissioner of taxation and finance may readopt the 2022 appraisal model or models and discount rates for use in 2023, without additional consultation with the New York state energy research and development authority or the New York state assessors association, and without soliciting or considering additional public comments.

§ 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after the effective date of part X of chapter 59 of the laws of 2021.

PART O

Section 1. Subparagraph (i) of the opening paragraph of section 1210 of the tax law is REPEALED and a new subparagraph (i) is added to read as follows:

(i) with respect to a city of one million or more and the following counties: (1) any such city having a population of one million or more is hereby authorized and empowered to adopt and amend local laws, ordinances or resolutions imposing such taxes in any such city, at the rate of four and one-half percent;

(2) the following counties that impose taxes described in subdivision (a) of this section at the rate of three percent as authorized above in this paragraph are hereby further authorized and empowered to adopt and amend local laws, ordinances, or resolutions imposing such taxes at additional rates, in quarter percent increments, not to exceed the following rates, which rates are additional to the three percent rate authorized above in this paragraph:

(A) One percent - Albany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Rockland, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, Wyoming, Yates;

(B) One and one-quarter percent - Herkimer, Nassau;

(C) One and one-half percent - Allegany;

(D) One and three-quarters percent - Erie, Oneida.

(E) Provided, however, that (I) the county of Rockland may impose additional rates of five-eighths percent and three-eighths percent, in lieu of imposing such additional rate in quarter percent increments; (II) the county of Ontario may impose additional rates of one-eighth percent and three-eighths percent, in lieu of imposing such additional rate in quarter percent increments; (III) three-quarters percent of the additional rate authorized to be imposed by the county of Nassau shall be subject to the limitation set forth in section twelve hundred sixty-two-e of this article; (IV) the one and three-quarters percent additional rate to be imposed by the county of Erie shall be subject to the limitations set forth in section twelve hundred sixty-two-q of this article.

§ 2. Subparagraph (ii) of the opening paragraph of section 1210 of the tax law is REPEALED and a new subparagraph (ii) is added to read as follows:

(ii) the following cities that impose taxes described in subdivision (a) of this section at the rate of one and one-half percent or higher as authorized above in this paragraph for such cities are hereby further authorized and empowered to adopt and amend local laws, ordinances, or resolutions imposing such taxes at additional rates, in quarter percent increments, not to exceed the following rates, which rates are additional to the one and one-half percent or higher rates authorized above in this paragraph:

(1) One percent - Mount Vernon; New Rochelle; Oswego; White Plains;

(2) One and one-quarter percent - None;

(3) One and one-half percent - Yonkers.

§ 3. Subparagraphs (iii) and (iv) of the opening paragraph of section 1210 of the tax law are REPEALED and a new subparagraph (iii) is added to read as follows:

(iii) the maximum rate referred to in section twelve hundred twenty-four of this article shall be calculated without reference to the additional rates authorized for counties, other than the counties of Cayuga,

Cortland, Fulton, Madison, and Otsego, in clause two of subparagraph (i) and the cities in subparagraph (ii) of this paragraph.

§ 4. Section 1210 of the tax law is amended by adding a new subdivision (p) to read as follows:

(p) Notwithstanding any provision of this section or any other law to the contrary, a county authorized to impose an additional rate or rates of sales and compensating use taxes by clause two of subparagraph (i) of the opening paragraph of this section, or a city, other than the city of Mount Vernon, authorized to impose an additional rate of such taxes by subparagraph (ii) of such opening paragraph, may adopt a local law, ordinance, or resolution by a majority vote of its governing body imposing such rate or rates for a period not to exceed two years, and any such period must end on November thirtieth of an odd-numbered year. Notwithstanding the preceding sentence, the city of White Plains is authorized to exceed such two-year limitation to impose the tax authorized by subparagraph (ii) of such opening paragraph for the period commencing on September first, two thousand twenty-three and ending on November thirtieth, two thousand twenty-five. Any such local law, ordinance, or resolution shall also be subject to the provisions of subdivisions (d) and (e) of this section.

§ 5. Section 1210-E of the tax law is REPEALED.

§ 6. Subdivision (a) of section 1223 of the tax law, as amended by chapter 44 of the laws of 2019, is amended to read as follows:

(a) No transaction taxable under sections twelve hundred two through twelve hundred four of this article shall be taxed pursuant to this article by any county or by any city located therein, or by both, at an aggregate rate in excess of the highest rate set forth in the applicable subdivision of section twelve hundred one of this article or, in the case of any taxes imposed pursuant to the authority of section twelve hundred ten or twelve hundred eleven of this article (other than taxes imposed by the county of Nassau, Erie, [~~Steuben, Cattaraugus, Suffolk,~~] Oneida, [~~Genesee, Greene, Franklin, Hamilton,~~] Herkimer, [~~Tioga, Orleans,~~] and Allegany[~~, Ulster, Albany, Rensselaer, Tompkins, Wyoming, Columbia, Schuyler, Rockland, Chenango, Monroe, Chemung, Seneca, Sullivan, Wayne, Livingston, Schenectady, Montgomery, Delaware, Clinton, Niagara, Yates, Lewis, Essex, Dutchess, Schoharie, Putnam, Chautauqua, Orange, Oswego, Ontario, Jefferson, St. Lawrence, Westchester or Onondaga and by the county of Cortland and the city of Cortland and by the county of Broome and the city of Binghamton and by the county of Cayuga and the city of Auburn and by the county of Otsego and the city of Oneonta and by the county of Madison and the city of Oneida and by the county of Fulton and the city of Gloversville or the city of Johnstown~~] as provided in section twelve hundred ten of this article) at a rate in excess of [~~three~~] four percent, except that, in the city of Yonkers[~~, in the city of Mount Vernon, in the city of New Rochelle, in the city of Fulton, in the city of Oswego, and in the city of White Plains,~~] the rate may not be in excess of four and one-half percent, and except that in the city of Poughkeepsie in the county of Dutchess, if such county withdraws from the metropolitan commuter transportation district pursuant to section twelve hundred seventy-nine-b of the public authorities law and if the revenues from a three-eighths percent rate of such tax imposed by such county, pursuant to the authority of section twelve hundred ten of this article, are required by local laws, ordinances or resolutions to be set aside for mass transportation purposes, the rate may not be in excess of [~~three~~] four and three-eighths percent.

§ 7. Subdivisions (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (z-1), (aa), (bb), (cc), (dd), (ee), (ff), (gg), (hh), (ii) and (jj) of section 1224 of the tax law are REPEALED.

§ 8. Section 1224 of the tax law is amended by adding three new subdivisions (d), (e), and (f) to read as follows:

(d) For purposes of this section, the term "prior right" shall mean the preferential right to impose any tax described in sections twelve hundred two and twelve hundred three, or twelve hundred ten and twelve hundred eleven, of this article and thereby to preempt such tax and to preclude another municipal corporation from imposing or continuing the imposition of such tax to the extent that such right is exercised. However, the right of preemption shall only apply within the territorial limits of the taxing jurisdiction having the right of preemption.

(e) Each of the following counties and cities shall have the sole right to impose the following additional rate of sales and compensating use taxes in excess of three percent that such county or city is authorized to impose pursuant to clause two of subparagraph (i) or subparagraph (ii) of the opening paragraph of section twelve hundred ten of this article. Such additional rates of tax shall not be subject to preemption.

(1) Counties:

(A) One percent - Albany, Broome, Cattaraugus, Chautauqua, Chemung, Chenango, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Genesee, Greene, Hamilton, Jefferson, Lewis, Livingston, Monroe, Montgomery, Niagara, Onondaga, Ontario, Orange, Orleans, Oswego, Putnam, Rensselaer, Rockland, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, Wyoming, Yates;

(B) One and one-quarter percent - Herkimer, Nassau;

(C) One and one-half percent - Allegany;

(D) One and three-quarters percent - Erie, Oneida.

(E) Provided, however, that the county of Westchester shall have the sole right to impose the additional one percent rate of tax which such county is authorized to impose pursuant to the authority of clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten of this article in the area of the county outside the cities of Mount Vernon, New Rochelle, White Plains, and Yonkers.

(2) Cities:

(A) One-quarter of one percent - Rome;

(B) One-half of one percent - None;

(C) Three-quarters of one percent - None;

(D) One percent - Mount Vernon, New Rochelle, White Plains;

(E) One and one-quarter percent - None;

(F) One and one-half percent - Yonkers.

(f) Each of the following cities is authorized to preempt the taxes imposed by the county in which it is located pursuant to the authority of section twelve hundred ten of this article, to the extent of one-half the maximum aggregate rate authorized under section twelve hundred ten of this article, including the additional rate that the county in which such city is located is authorized to impose: Auburn, in Cayuga county; Cortland, in Cortland county; Gloversville and Johnstown, in Fulton county; Oneida, in Madison county; Oneonta, in Otsego county. As of the date this subdivision takes effect, any such preemption by such a city in effect on such date shall continue in full force and effect until the effective date of a local law, ordinance, or resolution adopted or

amended by the city to change such preemption. Any preemption by such a city pursuant to this subdivision that takes effect after the effective date of this subdivision shall be subject to the notice requirements in section twelve hundred twenty-three of this subpart and to the other requirements of this article.

§ 9. Subdivision (b) of section 1262-b of the tax law is REPEALED.

§ 10. Section 1262-e of the tax law, as amended by section 2 of item BB of subpart C of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

§ 1262-e. Establishment of local government assistance programs in Nassau county. 1. Towns and cities. Notwithstanding any other provision of law to the contrary, for the calendar year beginning on January first, nineteen hundred ninety-eight and continuing through the calendar year beginning on January first, two thousand twenty-three, **and each calendar year thereafter beginning on January first,** the county of Nassau shall enact and establish a local government assistance program for the towns and cities within such county to assist such towns and cities to minimize real property taxes; defray the cost and expense of the treatment, collection, management, disposal, and transportation of municipal solid waste, and to comply with the provisions of chapter two hundred ninety-nine of the laws of nineteen hundred eighty-three; and defray the cost of maintaining conservation and environmental control programs. Such special assistance program for the towns and cities within such county and the funding for such program shall equal one-third of the revenues received by such county from the imposition of the three-quarters percent sales and use tax during calendar years two thousand one, two thousand two, two thousand three, two thousand four, two thousand five, two thousand six, two thousand seven, two thousand eight, two thousand nine, two thousand ten, two thousand eleven, two thousand twelve, two thousand thirteen, two thousand fourteen, two thousand fifteen, two thousand sixteen, two thousand seventeen, two thousand eighteen, two thousand nineteen, two thousand twenty, two thousand twenty-one, two thousand twenty-two [~~and~~]**,** two thousand twenty-three **and each calendar year thereafter** additional to the regular three percent rate authorized for such county in section twelve hundred ten of this article. The monies for such special local assistance shall be paid and distributed to the towns and cities on a per capita basis using the population figures in the latest decennial federal census. Provided further, that notwithstanding any other law to the contrary, the establishment of such special assistance program shall preclude any city or town within such county from preempting or claiming under any other section of this chapter the revenues derived from the additional tax authorized by section twelve hundred ten of this article. Provided further, that any such town or towns may, by resolution of the town board, apportion all or a part of monies received in such special assistance program to an improvement district or special district account within such town or towns in order to accomplish the purposes of this special assistance program.

2. Villages. Notwithstanding any other provision of law to the contrary, for the calendar year beginning on January first, nineteen hundred ninety-eight and continuing through the calendar year beginning on January first, two thousand twenty-three, **and each calendar year thereafter,** the county of Nassau, by local law, is hereby empowered to enact and establish a local government assistance program for the villages within such county to assist such villages to minimize real property taxes; defray the cost and expense of the treatment, collection, management,

disposal, and transportation of municipal solid waste; and defray the cost of maintaining conservation and environmental control programs. The funding of such local assistance program for the villages within such county may be provided by Nassau county during any calendar year in which such village local assistance program is in effect and shall not exceed one-sixth of the revenues received from the imposition of the three-quarters percent sales and use tax that are remaining after the towns and cities have received their funding pursuant to the provisions of subdivision one of this section. The funding for such village local assistance program shall be paid and distributed to the villages on a per capita basis using the population figures in the latest decennial federal census. Provided further, that the establishment of such village local assistance program shall preclude any village within such county from preempting or claiming under any other section of this chapter the revenues derived from the additional tax authorized by section twelve hundred ten of this article.

§ 11. Section 1262-g of the tax law, as amended by section 2 of item DD of subpart C of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

§ 1262-g. Oneida county allocation and distribution of net collections from the additional [~~one percent rate~~] **rates** of sales and compensating use taxes. Notwithstanding any contrary provision of law, **(a)** if the county of Oneida imposes sales and compensating use taxes at a rate which is one percent additional to the three percent rate authorized by section twelve hundred ten of this article, as authorized by such section, [~~(a)~~] **(i)** where a city in such county imposes tax pursuant to the authority of subdivision (a) of such section twelve hundred ten, such county shall allocate, distribute and pay in cash quarterly to such city one-half of the net collections attributable to such additional one percent rate of the county's taxes collected in such city's boundaries; [~~(b)~~] **(ii)** where a city in such county does not impose tax pursuant to the authority of such subdivision (a) of such section twelve hundred ten, such county shall allocate, distribute and pay in cash quarterly to such city not so imposing tax a portion of the net collections attributable to one-half of the county's additional one percent rate of tax calculated on the basis of the ratio which such city's population bears to the county's total population, such populations as determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, which special census must include the entire area of the county; [~~and (c)~~] provided, however, that such county shall dedicate the first one million five hundred thousand dollars of net collections attributable to such additional one percent rate of tax received by such county after the county receives in the aggregate eighteen million five hundred thousand dollars of net collections from such additional one percent rate of tax [~~imposed for any of the periods: September first, two thousand twelve through August thirty-first, two thousand thirteen; September first, two thousand thirteen through August thirty-first, two thousand fourteen; and September first, two thousand fourteen through August thirty-first, two thousand fifteen; September first, two thousand fifteen through August thirty-first, two thousand sixteen; and September first, two thousand sixteen through August thirty-first, two thousand seventeen; September first, two thousand seventeen through August thirty-first, two thousand eighteen; September first, two thousand eighteen through August thirty-first, two thousand~~

~~twenty; and September first, two thousand twenty through August thirty-first, two thousand twenty-three,~~] to an allocation on a per capita basis, utilizing figures from the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law, completed and published prior to the end of the year for which such allocation is made, which special census must include the entire area of such county, to be allocated and distributed among the towns of Oneida county by appropriation of its board of legislators; provided, further, that nothing herein shall require such board of legislators to make any such appropriation until it has been notified by any town by appropriate resolution and, in any case where there is a village wholly or partly located within a town, a resolution of every such village, embodying the agreement of such town and village or villages upon the amount of such appropriation to be distributed to such village or villages out of the allocation to the town or towns in which it is located. **(b) If the county of Oneida imposes sales and compensating use taxes at a rate which is one and three-quarters percent additional to the three percent rate authorized by section twelve hundred ten of this article, as authorized pursuant to clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten of this article, net collections attributable to the additional three-quarters percent of such additional rate shall not be subject to any revenue distribution agreement entered into by the county and the cities in the county pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part.**

§ 12. Section 1262-h of the tax law, as amended by chapter 315 of the laws of 2020, is amended to read as follows:

§ 1262-h. Allocation and distribution of net collections from the additional one percent rate of sales and compensating use taxes in Steuben county. Notwithstanding any provision of law to the contrary, of the net collections received by the county of Steuben as a result of the imposition of the additional one percent rate of tax authorized by section twelve hundred ten of this article [~~(a) during the period beginning December first, nineteen hundred ninety-three and ending November thirtieth, nineteen hundred ninety-four, the county of Steuben shall pay or cause to be paid to the city of Hornell the sum of two hundred thousand dollars, to the city of Corning the sum of three hundred thousand dollars, and the sum of five hundred thousand dollars to the towns and villages of the county of Steuben, on the basis of the ratio which the full valuation of real property in each town or village bears to the aggregate full valuation of real property in all of the towns and villages in such area. Of the net collections received by the county of Steuben as a result of the imposition of said additional one percent rate of tax authorized by section twelve hundred ten of this article during the period beginning December first, nineteen hundred ninety-four and ending November thirtieth, nineteen hundred ninety-five, the county of Steuben shall pay or cause to be paid to the city of Hornell the sum of three hundred thousand dollars, to the city of Corning the sum of four hundred fifty thousand dollars, and the sum of seven hundred fifty thousand dollars to the towns and villages of the county of Steuben, on the basis of the ratio which the full valuation of real property in each town or village bears to the aggregate full valuation of real property in all of the towns and villages in such area; and (b) during the period beginning December first, nineteen hundred ninety-five and ending November thirtieth, two thousand seven, the county of Steuben shall annually pay or cause to be paid to the city of Hornell the sum of five hundred~~

~~fifty thousand dollars, to the city of Corning the sum of six hundred thousand dollars, and the sum of seven hundred fifty thousand dollars to the towns and villages of the county of Steuben, on the basis of the ratio which the full valuation of real property in each town or village bears to the aggregate full valuation of real property in all of the towns and villages in such area; and during the period beginning December first, two thousand seven and ending November thirtieth, two thousand nine, the county of Steuben shall annually pay or cause to be paid to the city of Hornell the sum of six hundred ten thousand dollars, to the city of Corning the sum of six hundred fifty thousand dollars, and the sum of seven hundred fifty thousand dollars to the towns and villages of the county of Steuben, on the basis of the ratio which the full valuation of real property in each town or village bears to the aggregate full valuation of real property in all of the towns and villages in such area; and during the period beginning December first, two thousand nine and ending November thirtieth, two thousand eleven, the county of Steuben shall annually pay or cause to be paid to the city of Hornell the sum of seven hundred ten thousand dollars, to the city of Corning the sum of seven hundred ten thousand dollars, and the sum of seven hundred fifty thousand dollars to the towns and villages of the county of Steuben, on the basis of the ratio which the full valuation of real property in each town or village bears to the aggregate full valuation of real property in all of the towns and villages in such area; and during the period beginning December first, two thousand eleven and ending November thirtieth, two thousand thirteen, the county of Steuben shall annually pay or cause to be paid to the city of Hornell the sum of seven hundred forty thousand dollars, to the city of Corning the sum of seven hundred forty thousand dollars, and the sum of seven hundred fifty thousand dollars to the towns and villages of the county of Steuben, on the basis of the ratio which the full valuation of real property in each town or village bears to the aggregate full valuation of real property in all of the towns and villages in such area; and during the period beginning December first, two thousand thirteen and ending November thirtieth, two thousand fifteen, the county of Steuben shall annually pay or cause to be paid to the city of Hornell the sum of seven hundred sixty-five thousand dollars, to the city of Corning the sum of seven hundred sixty-five thousand dollars, and the sum of seven hundred fifty thousand dollars to the towns and villages of the county of Steuben, on the basis of the ratio which the full valuation of real property in each town or village bears to the aggregate full valuation of real property in all of the towns and villages in such area; and during the period beginning December first, two thousand fifteen and ending November thirtieth, two thousand seventeen, the county of Steuben shall annually pay or cause to be paid to the city of Hornell the sum of seven hundred sixty-five thousand dollars, to the city of Corning the sum of seven hundred sixty-five thousand dollars, and the sum of seven hundred fifty thousand dollars to the towns and villages of the county of Steuben, on the basis of the ratio which the full valuation of real property in each town or village bears to the aggregate full valuation of real property in all of the towns and villages in such area; and during the period beginning December first, two thousand seventeen and ending November thirtieth, two thousand twenty, the county of Steuben shall annually pay or cause to be paid to the city of Hornell the sum of seven hundred eighty thousand dollars, to the city of Corning the sum of seven hundred eighty thousand dollars, and the sum of seven hundred fifty thousand dollars to the towns and villages of the county of Steuben, on the basis~~

~~of the ratio which the full valuation of real property in each town or village bears to the aggregate full valuation of real property in all of the towns and villages in such area; and during the~~] for any period beginning on or after December first, two thousand twenty [~~and ending November thirtieth, two thousand twenty-three~~], the county of Steuben shall annually pay or cause to be paid to the city of Hornell the sum of eight hundred twenty thousand dollars, to the city of Corning the sum of eight hundred twenty thousand dollars, and the sum of seven hundred ninety thousand dollars to the towns and villages of the county of Steuben, on the basis of the ratio which the full valuation of real property in each town or village bears to the aggregate full valuation of real property in all of the towns and villages in such area.

§ 13. Subdivision (c) of section 1262-j of the tax law, as amended by section 2 of item TT of subpart C of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

(c) Notwithstanding any provision of law to the contrary, of the net collections received by the county of Suffolk as a result of the increase of one percent to the tax authorized by section twelve hundred ten of this article for [~~the~~] any period beginning or after June first, two thousand one [~~and ending November thirtieth, two thousand twenty-three~~], imposed by local laws or resolutions (by simple majority) by the county legislature, and signed by the county executive, the county of Suffolk shall allocate such net collections as follows: no less than one-eighth and no more than three-eighths of such net collections received shall be dedicated for public safety purposes and the balance shall be deposited in the general fund of the county of Suffolk.

§ 14. Section 1262-l of the tax law, as amended by section 2 of item MM of subpart C of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

§ 1262-1. Allocation and distribution of net collections from the additional rate of sales and compensating use tax in Rockland county. 1. Notwithstanding any provision of law to the contrary, if the county of Rockland imposes the additional five-eighths of one percent rate of tax authorized by section twelve hundred ten of this article [~~during the~~] for each period beginning on or after March first, two thousand two, [~~and ending November thirtieth, two thousand twenty-three,~~] such county shall allocate and distribute twenty percent of the net collections from such additional rate to the towns and villages in the county in accordance with subdivision (c) of section twelve hundred sixty-two of this part on the basis of the ratio which the population of each such town or village bears to such county's total population; and

2. Notwithstanding any provision of law to the contrary, if the county of Rockland imposes the additional three-eighths of one percent rate of tax authorized by section twelve hundred ten of this article [~~during the~~] for any period beginning on or after March first, two thousand seven, [~~and ending November thirtieth, two thousand twenty-three,~~] such county shall allocate and distribute [~~sixteen and two-thirds~~] thirty-three and one-third percent of the net collections from such additional rate to the general funds of towns and villages within the county of Rockland with existing town and village police departments from [~~March first, two thousand seven through December thirty-first, two thousand seven and thirty-three and one-third percent of the net collections from such additional rate from~~] January first, two thousand eight [~~through November thirtieth, two thousand twenty-three~~] and thereafter. The monies allocated and distributed pursuant to this subdivision shall be allocated and distributed to towns and villages with police departments

on the basis of the number of full-time equivalent police officers employed by each police department and shall not be used for salaries heretofore or hereafter negotiated.

§ 15. Section 1262-n of the tax law, as amended by section 2 of item CC of subpart C of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

§ 1262-n. Disposition of net collections from the additional one percent rate of sales and compensating use taxes in the county of Niagara. Notwithstanding any contrary provision of law, if the county of Niagara imposes the additional one percent rate of sales and compensating use taxes authorized by section twelve hundred ten of this article for all or any portion of [~~the~~] **each** period beginning **on or after** March first, two thousand three [~~and ending November thirtieth, two thousand twenty-three,~~] the county shall use all net collections from such additional one percent rate to pay the county's expenses for Medicaid. The net collections from the additional one percent rate imposed pursuant to this section shall be deposited in a special fund to be created by such county separate and apart from any other funds and accounts of the county. Any and all remaining net collections from such additional one percent tax, after the Medicaid expenses are paid, shall be deposited by the county of Niagara in the general fund of such county for any county purpose.

§ 16. Section 1262-o of the tax law, as amended by section 2 of item F of subpart C of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

§ 1262-o. Disposition of net collections from the additional rate of sales and compensating use taxes in the county of Chautauqua. [~~Notwithstanding any contrary provision of law, if the county of Chautauqua imposes the additional one and one-quarter percent rate of sales and compensating use taxes authorized by section twelve hundred ten of this article for all or any portion of the period beginning March first, two thousand five and ending August thirty-first, two thousand six, the additional one percent rate authorized by such section for all or any of the period beginning September first, two thousand six and ending November thirtieth, two thousand seven, the additional three-quarters of one percent rate authorized by such section for all or any of the period beginning December first, two thousand seven and ending November thirtieth, two thousand ten, the county shall allocate one-fifth of the net collections from the additional three-quarters of one percent to the cities, towns and villages in the county on the basis of their respective populations, determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, and allocate the remainder of the net collections from the additional three-quarters of one percent as follows: (1) to pay the county's expenses for Medicaid and other expenses required by law; (2) to pay for local road and bridge projects; (3) for the purposes of capital projects and repaying any debts incurred for such capital projects in the county of Chautauqua that are not otherwise paid for by revenue received from the mortgage recording tax; and (4) for deposit into a reserve fund for bonded indebtedness established pursuant to the general municipal law. Notwithstanding any contrary provision of law, if the county of Chautauqua imposes the additional one-half percent rate of sales and compensating use taxes authorized by such section twelve hundred ten for all or any of the period beginning December first, two thousand ten and ending~~

~~November thirtieth, two thousand fifteen, the county shall allocate three-tenths of the net collections from the additional one-half of one percent to the cities, towns and villages in the county on the basis of their respective populations, determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, and allocate the remainder of the net collections from the additional one-half of one percent as follows: (1) to pay the county's expenses for Medicaid and other expenses required by law; (2) to pay for local road and bridge projects; (3) for the purposes of capital projects and repaying any debts incurred for such capital projects in the county of Chautauqua that are not otherwise paid for by revenue received from the mortgage recording tax; and (4) for deposit into a reserve fund for bonded indebtedness established pursuant to the general municipal law.~~] Notwithstanding any contrary provision of law, if the county of Chautauqua imposes the additional one percent rate of sales and compensating use taxes authorized by such section twelve hundred ten for all or any of [~~the~~] **any** period beginning **on or after** December first, two thousand fifteen and [~~ending November thirtieth, two thousand twenty-three,~~] the county shall allocate three-twentieths of the net collections from the additional one percent to the cities, towns and villages in the county on the basis of their respective populations, determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, and allocate the remainder of the net collections from the additional one percent as follows: (1) to pay the county's expenses for Medicaid and other expenses required by law; (2) to pay for local road and bridge projects; (3) for the purposes of capital projects and repaying any debts incurred for such capital projects in the county of Chautauqua that are not otherwise paid for by revenue received from the mortgage recording tax; and (4) for deposit into a reserve fund for bonded indebtedness established pursuant to the general municipal law. The net collections from the additional rates imposed pursuant to this section shall be deposited in a special fund to be created by such county separate and apart from any other funds and accounts of the county to be used for purposes above described.

§ 17. Section 1262-p of the tax law, as amended by section 2 of item X of subpart C of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

§ 1262-p. Disposition of net collections from the additional one percent rate of sales and compensating use taxes in the county of Livingston. Notwithstanding any contrary provision of law, if the county of Livingston imposes the additional one percent rate of sales and compensating use taxes authorized by section twelve hundred ten of this article for all or any portion of [~~the~~] **any** period beginning **on or after** June first, two thousand three [~~and ending November thirtieth, two thousand twenty-three~~], the county shall use all net collections from such additional one percent rate to pay the county's expenses for Medicaid. The net collections from the additional one percent rate imposed pursuant to this section shall be deposited in a special fund to be created by such county separate and apart from any other funds and accounts of the county. Any and all remaining net collections from such additional one percent tax, after the Medicaid expenses are paid, shall be deposit-

ed by the county of Livingston in the general fund of such county for any county purpose.

§ 18. Subdivision 1 of section 1262-q of the tax law, as amended by chapter 243 of the laws of 2011, is amended to read as follows:

(1) If the county of Erie imposes the additional one percent rate of sales and compensating use taxes authorized by [~~item (i) of clause (4) of subparagraph (i) of the opening paragraph of~~] section twelve hundred ten of this article [~~during the~~] **for any** period beginning January first, two thousand seven, or thereafter, the county shall allocate each calendar year the first twelve million five hundred thousand dollars of the net collections from such one percent rate to the cities of such county and the area in such county outside its cities to be applied or distributed in the same manner and proportion as the net collections for such cities and area are applied or distributed under the revenue distribution agreement entered into pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part in effect on January first, two thousand six, and subject to all provisions of such agreement governing the net collections for such cities and area and shall retain the remainder of such net collections for any county purpose.

§ 19. Subdivision 2 of section 1262-q of the tax law, as amended by section 2 of item N of subpart C of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

(2) Net collections from the additional three-quarters of one percent rate of sales and compensating use taxes which the county may impose [~~during the period~~] commencing December first, two thousand eleven, [~~and ending November thirtieth, two thousand twenty-three,~~] pursuant to the authority of [~~item (ii) of clause (4) of subparagraph (i) of the opening paragraph of~~] section twelve hundred ten of this article shall be used by the county solely for county purposes and shall not be subject to any revenue distribution agreement the county entered into pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part.

§ 20. The opening paragraph of section 1262-r of the tax law, as added by chapter 37 of the laws of 2006, is amended to read as follows:

(1) Notwithstanding any contrary provision of law, if the county of Ontario imposes the additional one-eighth of one percent and the additional three-eighths of one percent rates of tax authorized pursuant to clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten of this article, net collections from such additional three-eighths of one percent rate of such taxes shall be set aside for county purposes and shall not be subject to any agreement entered into by the county and the cities in the county pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part or this section.

(2) Notwithstanding the provisions of subdivision (c) of section twelve hundred sixty-two of this part to the contrary, if the cities of Canandaigua and Geneva in the county of Ontario do not impose sales and compensating use taxes pursuant to the authority of section twelve hundred ten of this article and such cities and county enter into an agreement pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part to be effective March first, two thousand six, such agreement may provide that:

§ 21. Section 1262-s of the tax law, as amended by section 3 of item U of subpart C of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

§ 1262-s. Disposition of net collections from the additional one-quarter of one percent rate of sales and compensating use taxes in the county of Herkimer. Notwithstanding any contrary provision of law, if the county of Herkimer imposes [~~the additional~~] **sales and compensating use tax at a rate that is one and** one-quarter [~~of one~~] percent [~~rate of sales and compensating use taxes~~] **additional to the three percent rate authorized by section twelve hundred ten of this article as** authorized by [~~section twelve hundred ten E~~] **clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten** of this article [~~for all or any portion of the period beginning December first, two thousand seven and ending November thirtieth, two thousand twenty-three~~], the county shall use all net collections [~~from such~~] **attributable to the** additional one-quarter [~~of one~~] percent **of such additional** rate to pay the county's expenses for the construction of additional correctional facilities. The net collections from [~~the~~] **such additional one-quarter percent of such** additional rate [~~imposed pursuant to section twelve hundred ten E of this article~~] shall be deposited in a special fund to be created by such county separate and apart from any other funds and accounts of the county. Any and all remaining net collections from such additional tax, after the expenses of such construction are paid, shall be deposited by the county of Herkimer in the general fund of such county for any county purpose.

§ 22. Section 1262-t of the tax law, as added by chapter 67 of the laws of 2015, is amended to read as follows:

§ 1262-t. City of Yonkers - disposition of net collections from the additional one-half of one percent rate of sales and compensating use taxes in the city of Yonkers. Notwithstanding any provision of law to the contrary, if the city of Yonkers imposes the additional one-half of one percent rate of sales and compensating use taxes authorized by [~~item (b) of clause one of~~] subparagraph (ii) of the opening paragraph of section twelve hundred ten of this article, the city shall use the net collections from such additional one-half of one percent rate solely for the support of education, unless the city council votes, on an annual basis, to use such net collections for a different purpose of the city, provided, however, that the requirements of paragraph b of subdivision five-b of section two thousand five hundred seventy-six of the education law are met.

§ 23. The tax law is amended by adding a new section 1262-w to read as follows:

§ 1262-w. Disposition of net collections from the additional rate of sales and compensating use tax in Clinton county. Notwithstanding any contrary provision of law, if the county of Clinton imposes the additional one percent rate of sales and compensating use taxes authorized pursuant to clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten of this article, net collections from such additional rate shall be paid to the county and the county shall set aside such net collections and use them solely for county purposes. Such net collections shall not be subject to any revenue distribution agreement entered into by the county and the city in the county pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part.

§ 24. The tax law is amended by adding a new section 1262-x to read as follows:

§ 1262-x. Allocation and distribution of net collections from the additional one percent rate of sales and compensating use taxes in Westchester county. Notwithstanding any provision of law to the contrary,

if the county of Westchester imposes the additional one percent rate of sales and compensating use tax authorized by section twelve hundred ten of this article, the county shall allocate and credit or pay net collections from such additional one percent rate with respect to the area of the county outside any city imposing sales and compensating use taxes at a rate of one and one-half percent or greater pursuant to the authority of subdivision (a) or at any rate pursuant to the authority of subdivision (b) of section twelve hundred ten of this article as follows:

(1) Seventy percent of such net collections shall be retained by the county to be used for any county purpose.

(2) Ten percent of such net collections shall be allocated and paid quarterly by the county commissioner of finance, in cash, to the several school districts in such area of the county outside any such city imposing sales and compensating use taxes. Such allocation and payment, to such several school districts, shall be made on the basis of the ratio which the population of each such school district bears to the aggregate population of all of the school districts in such area. In the case of school districts which are partially within and partially without the county, or partially within or partially without the area of the county outside a city imposing sales and compensating use taxes, the allocation and payment to each such school district shall be made on the basis of the population in such school district in the county, or in such area of the county outside a city imposing sales and compensating use taxes, as the case may be. Such populations shall be determined in accordance with the latest federal census or special population census under section twenty of the general municipal law completed and published prior to the end of the quarter in which such allocation and payment are made, which special population census shall include the entire area of the county; provided that such special population census shall not be taken more than once in every two years. A school district split between Westchester county and another county shall apply such allocation and payment solely to the benefit of the residents of the county in which the sales and compensating use taxes are imposed.

(3) Twenty percent of such net collections shall be allocated and paid quarterly by the county commissioner of finance, in cash, to the cities not imposing sales and compensating use taxes and to the towns and villages on which such rate is imposed, on the basis of the ratio which the population of each such city, town or village on which such rate is imposed bears to the entire population of all such cities, towns and villages in the area on which such rate is imposed. Such populations shall be determined in accordance with the latest federal census or special population census under section twenty of the general municipal law completed and published prior to the end of the quarter in which such allocation is made, which special population census shall include the entire area of the county; provided that such special population census shall not be taken more than once in every two years.

§ 25. Paragraph 2 of subdivision (c) of section 1261 of the tax law, as amended by chapter 67 of the laws of 2015, is amended to read as follows:

(2) However, the taxes, penalties and interest from the additional one percent rate which the city of Yonkers is authorized to impose pursuant to [~~item (a) of clause one of~~] subparagraph (ii) of the opening paragraph of section twelve hundred ten of this article, after the comptroller has reserved such refund fund and such cost shall be paid to the special sales and compensating use tax fund for the city of Yonkers

established by section ninety-two-f of the state finance law at the times set forth in the preceding sentence.

§ 26. The tax law is amended by adding a new section 1265 to read as follows:

§ 1265. References to certain provisions authorizing additional rates. Notwithstanding any provision of law to the contrary, any reference in any section of this chapter or other law, or in any local law, ordinance, or resolution adopted pursuant to the authority of this article, to net collections or revenues from a tax imposed by a county or city pursuant to the authority of a clause, or to a subclause of a clause, of subparagraph (i) or (ii) of the opening paragraph of section twelve hundred ten of this article repealed by section one or two of a part of the chapter of the laws of two thousand twenty-three that added this section or pursuant to section twelve hundred ten-E of this article repealed by section five of such part shall be deemed to be a reference to net collections or revenues from a tax imposed by that county or city pursuant to the authority of the equivalent provision of clause two of subparagraph (i) or to subparagraph (ii) of the opening paragraph of such section twelve hundred ten as added by such section one or two of such part of the chapter of the laws of two thousand twenty-three.

§ 27. Section 7 of chapter 67 of the laws of 2015, amending the tax law relating to authorizing the city of Yonkers to impose additional sales tax, as amended by section 2 of item CCC of subpart C of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

§ 7. This act shall take effect immediately [~~and shall expire and be deemed repealed November 30, 2023~~].

§ 28. Section 2 of item R of subpart C of part XXX of chapter 58 of the laws of 2020 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, 2023~~] 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.

§ 29. Section 2 of item Z of subpart C of part XXX of chapter 58 of the laws of 2020 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~~] **any** period [~~of~~] **beginning on or after** December 1, 2020 [~~through November 30, 2023~~] in cash, five percent to the school districts in the area of the county outside the city of Rochester, three percent to the towns located within the county, one and one-quarter percent to the

villages located within the county, and ninety and three-quarters percent to the city of Rochester and county of Monroe. The amount of the ninety and three-quarters percent to be distributed and allocated to the city of Rochester and county of Monroe shall be distributed and allocated to each so that the combined total distribution and allocation to each from the sales tax revenues pursuant to sections 1262 and 1262-g of the tax law and this section shall result in the same total amount being distributed and allocated to the city of Rochester and county of Monroe. The amount so distributed and allocated to the county shall be used for county purposes. The foregoing cash payments to the school districts shall be allocated on the basis of the enrolled public school pupils, thereof, as such term is used in subdivision (b) of section 1262 of the tax law, residing in the county of Monroe. The cash payments to the towns located within the county of Monroe shall be allocated on the basis of the ratio which the population of each town, exclusive of the population of any village or portion thereof located within a town, bears to the total population of the towns, exclusive of the population of the villages located within such towns. The cash payments to the villages located within the county shall be allocated on the basis of the ratio which the population of each village bears to the total population of the villages located within the county. The term population as used in this section shall have the same meaning as used in subdivision (b) of section 1262 of the tax law.

§ 30. Section 4 of item EE of subpart C of part XXX of chapter 58 of the laws of 2020 amending the tax law relating to extending the authorization of the county of Onondaga to impose an additional rate of sales and compensating use taxes, is amended to read as follows:

§ 4. Notwithstanding any contrary provision of law, net collections from the additional one percent rate of sales and compensating use taxes which may be imposed by the county of Onondaga during [~~the~~] **any** period commencing **on or after** December 1, 2022 [~~and ending November 30, 2023~~], pursuant to the authority of section 1210 of the tax law, shall not be subject to any revenue distribution agreement entered into under subdivision (c) of section 1262 of the tax law, but shall be allocated and distributed or paid, at least quarterly, as follows: (i) 1.58% to the county of Onondaga for any county purpose; (ii) 97.79% to the city of Syracuse; and (iii) .63% to the school districts in accordance with subdivision (a) of section 1262 of the tax law.

§ 31. Section 2 of item GG of subpart C of part XXX of chapter 58 of the laws of 2020 amending the tax law relating to extending the authority of the county of Orange to impose an additional rate of sales and compensating use taxes, is amended to read as follows:

§ 2. Notwithstanding subdivision (c) of section 1262 of the tax law, net collections from any additional rate of sales and compensating use taxes which may be imposed by the county of Orange [~~during the~~] **for any** period commencing **on or after** December 1, 2020, [~~and ending November 30, 2023,~~] pursuant to the authority of section 1210 of the tax law, shall be paid to the county of Orange and shall be used by such county solely for county purposes and shall not be subject to any revenue distribution agreement entered into pursuant to the authority of subdivision (c) of section 1262 of the tax law.

§ 32. Section 3 of item XX of subpart C of part XXX of chapter 58 of the laws of 2020 amending the tax law relating to extending the authority of the county of Ulster to impose an additional 1 percent sales and compensating use tax, is amended to read as follows:

§ 3. If, pursuant to the authority of this act, the county of Ulster imposes sales and compensating use taxes at a rate greater than three percent for all or any portion of [~~the~~] **any** period commencing **on or after** September 1, 2002, [~~and ending November 30, 2023,~~] net collections from such additional rate of tax imposed during such period shall be deemed to be, and shall be included in, net collections subject to such county's existing agreement with the city of Kingston entered into pursuant to subdivision (c) of section 1262 of the tax law and such net collections shall be allocated in accordance with such agreement.

§ 33. This act shall take effect immediately.

PART P

Section 1. Section 1299-C of the tax law is REPEALED.

§ 2. Notwithstanding any provision of law to the contrary, there shall be no refund of any registration fees paid prior to the effective date of this act.

§ 3. This act shall take effect immediately.

PART Q

Section 1. Section 285-a of the tax law is amended by adding a new subdivision 4 to read as follow:

4. Upon each sale of motor fuel, other than a sale that is otherwise exempt under this article, the distributor must charge the tax imposed by this article to the purchaser on each gallon sold. If the taxes imposed by this article have not already been assumed or paid by a distributor on any quantity of such fuel for any reason, including, but not limited to, the expansion of such fuel as a result of temperature fluctuation, the distributor must remit such taxes to the commissioner on the return for the period in which such sale was made.

§ 2. Section 285-b of the tax law is amended by adding a new subdivision 5 to read as follows:

5. Upon each sale of Diesel motor fuel, other than a sale that is otherwise exempt under this article, the distributor must charge the tax imposed by this article to the purchaser on each gallon sold. If the taxes imposed by this article have not already been assumed or paid by a distributor on any quantity of such fuel for any reason, including, but not limited to, the expansion of such fuel as a result of temperature fluctuation, the distributor must remit such taxes to the commissioner on the return for the period in which such sale was made.

§ 3. Section 308 of the tax law is amended by adding a new subdivision (j) to read as follows:

(j) Every petroleum business subject to tax under this article that is also a distributor, as defined in section two hundred eighty-two of this chapter, must charge the tax imposed by this article to the purchaser on each gallon sold, unless otherwise exempt. If the taxes imposed by this article have not already been assumed or paid by such petroleum business on any quantity of such fuel for any reason, including, but not limited to, the expansion of such fuel as a result of temperature fluctuation, such petroleum business must remit such taxes to the commissioner on the return for the period in which such sale was made.

§ 4. Section 1102 of the tax law is amended by adding a new subdivision (g) to read as follows:

(g) The tax imposed by this section must be charged on the sale, other than a retail sale or a sale that is otherwise exempt under this arti-

cle, of each gallon of motor fuel or Diesel motor fuel. If the taxes imposed by this section have not already been assumed or paid by the distributor on any quantity of such fuel for any reason, including, but not limited to, the expansion of such fuel as a result of temperature fluctuation, the distributor must remit such taxes to the commissioner on the return for the period in which such sale was made.

§ 5. This act shall take effect on September 1, 2023 and shall apply to sales of motor fuel and Diesel motor fuel on or after such date.

PART R

Section 1. Subparagraph (B) of paragraph 1 of subdivision (a) of section 1115 of the tax law, as amended by section 1 of part GG of chapter 59 of the laws of 2022, is amended to read as follows:

(B) Until May [~~thirty-first~~] **thirty-first**, two thousand [~~twenty-three~~] **twenty-four**, the food and drink excluded from the exemption provided by clauses (i), (ii) and (iii) of subparagraph (A) of this paragraph, and bottled water, shall be exempt under this subparagraph**: (i)** when sold for one dollar and fifty cents or less through any vending machine **operated by a participant in the "business enterprise program", as such term is defined in paragraph two of subdivision a of section eleven-a of chapter four hundred fifteen of the laws of nineteen hundred thirteen** that accepts coin or currency only**;** or **(ii)** when sold for two dollars or less through any vending machine **operated by such a participant** that accepts any form of payment other than coin or currency, whether or not it also accepts coin or currency.

§ 2. This act shall take effect June 1, 2023.

PART S

Section 1. Subdivision 1 of section 471 of the tax law, as amended by section 1 of part D of chapter 134 of the laws of 2010, is amended to read as follows:

1. There is hereby imposed and shall be paid a tax on all cigarettes possessed in the state by any person for sale, except that no tax shall be imposed on cigarettes sold under such circumstances that this state is without power to impose such tax, including sales to qualified Indians for their own use and consumption on their nations' or tribes' qualified reservation, or sold to the United States or sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States, to the extent provided in such regulations and policy statements of such an agency applicable to such sales. The tax imposed by this section is imposed on all cigarettes sold on an Indian reservation to non-members of the Indian nation or tribe and to non-Indians and evidence of such tax shall be by means of an affixed cigarette tax stamp. Indian nations or tribes may elect to participate in the Indian tax exemption coupon system established in section four hundred seventy-one-e of this article which provides a mechanism for the collection of the tax imposed by this section on cigarette sales on qualified reservations to such non-members and non-Indians and for the delivery of quantities of tax-exempt cigarettes to Indian nations or tribes for the personal use and consumption of qualified members of the Indian nation or tribe. If an Indian nation or tribe does not elect to participate in the Indian tax exemption coupon system, the prior approval system shall be the mechanism for the

delivery of quantities of tax-exempt cigarettes to Indian nations or tribes for the personal use and consumption of qualified members of the Indian nation or tribe as provided for in paragraph (b) of subdivision five of this section. Such tax on cigarettes shall be at the rate of [~~four~~] **five** dollars and thirty-five cents for each twenty cigarettes or fraction thereof, provided, however, that if a package of cigarettes contains more than twenty cigarettes, the rate of tax on the cigarettes in such package in excess of twenty shall be one dollar and [~~eight~~] **thirty-three** and three-quarters cents for each five cigarettes or fraction thereof. Such tax is intended to be imposed upon only one sale of the same package of cigarettes. It shall be presumed that all cigarettes within the state are subject to tax until the contrary is established, and the burden of proof that any cigarettes are not taxable hereunder shall be upon the person in possession thereof.

§ 2. Section 471-a of the tax law, as amended by section 5 of part D of chapter 134 of the laws of 2010, is amended to read as follows:

§ 471-a. Use tax on cigarettes. There is hereby imposed and shall be paid a tax on all cigarettes used in the state by any person, except that no tax shall be imposed (1) if the tax provided in section four hundred seventy-one of this article is paid, (2) on the use of cigarettes which are exempt from the tax imposed by said section, or (3) on the use of four hundred or less cigarettes, brought into the state on, or in the possession of, any person. Such tax on cigarettes shall be at the rate of [~~four~~] **five** dollars and thirty-five cents for each twenty cigarettes or fraction thereof, provided, however, that if a package of cigarettes contains more than twenty cigarettes, the rate of tax on the cigarettes in such package in excess of twenty shall be one dollar and [~~eight~~] **thirty-three** and three-quarters cents for each five cigarettes or fraction thereof. Within twenty-four hours after liability for the tax accrues, each such person shall file with the commissioner a return in such form as the commissioner may prescribe together with a remittance of the tax shown to be due thereon. For purposes of this article, the word "use" means the exercise of any right or power actual or constructive and shall include but is not limited to the receipt, storage or any keeping or retention for any length of time, but shall not include possession for sale. All other provisions of this article if not inconsistent shall apply to the administration and enforcement of the tax imposed by this section in the same manner as if the language of said provisions had been incorporated in full into this section.

§ 3. Notwithstanding any other provision of law to the contrary, the tax due on cigarettes possessed in New York state as of the close of business on August 31, 2023, by any person for sale solely attributable to the increase imposed by the amendments to section 471 of the tax law, as amended by section one of this act, shall be paid by November 20, 2023, subject to such terms and conditions as the commissioner of taxation and finance shall prescribe.

§ 4. This act shall take effect on September 1, 2023, and shall apply to all cigarettes possessed in this state by any person for sale and all cigarettes used in this state by any person on or after such date.

PART T

Section 1. Subdivision 4 of section 474 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

4. **(a)** At the time of delivering cigarettes to any person each agent or wholesale dealer, and at the time of delivering tobacco products to

any person each distributor or wholesale dealer of tobacco products, shall make a true duplicate invoice showing the date of delivery, the number of packages and number of cigarettes contained therein, in each shipment of cigarettes delivered, and the items and quantity and wholesale price of each item in each shipment of tobacco products delivered, and the name of the purchaser to whom delivery is made, and shall retain the same for a period of three years subject to the use and inspection of the commissioner [~~of taxation and finance~~]. Each dealer shall procure and retain invoices showing the number of packages and number of cigarettes contained therein, in each shipment of cigarettes received by him **or her**, and the items and quantity and wholesale price of each item in each shipment of tobacco products received by him **or her**, the date thereof, and the name of the shipper, and shall retain the same for a period of three years subject to the use and inspection of the commissioner [~~of taxation and finance~~]. The commissioner [~~of taxation and finance~~] by regulation may provide that whenever cigarettes or tobacco products are shipped into the state, the railroad company, express company, trucking company or other public carrier transporting any shipment thereof shall file with the commissioner [~~of taxation and finance~~] a copy of the freight bill within ten days after the delivery in the state of each shipment. All dealers shall maintain and keep for a period of three years such other records of cigarettes or tobacco products received, sold or delivered within the state as may be required by the commissioner [~~of taxation and finance~~]. The commissioner [~~of taxation and finance~~] is hereby authorized to examine the books, papers, invoices and other records of any person in possession, control or occupancy of any premises where cigarettes or tobacco products are placed, stored, sold or offered for sale, and the equipment of any such person pertaining to the stamping of cigarettes or the sale and delivery of cigarettes or tobacco products taxable under this article, as well as the stock of cigarettes or tobacco products in any such premises or vehicle. To verify the accuracy of the tax imposed and assessed by this article, each such person is hereby directed and required to give to the commissioner [~~of taxation and finance~~] or his **or her** duly authorized representatives, the means, facilities and opportunity for such examinations as are herein provided for and required.

(b) If a retail dealer, or its employees or agents, refuses to give the commissioner or his or her duly authorized representatives, the means, facilities and opportunity for such examinations as are required and provided for by this section: (i) its registration to sell cigarettes and tobacco products shall be revoked for a period of one year; (ii) for a second such failure within a period of three years, its registration shall be permanently revoked. If such retail dealer does not possess a valid registration, either because it failed to obtain a registration or its registration is suspended or revoked at the time of such refusal, the retail dealer shall be subject to a penalty of up to five thousand dollars for a first refusal and up to ten thousand dollars for a second refusal within three years.

§ 2. This act shall take effect immediately.

PART U

Section 1. The opening paragraph of subparagraph (B) of paragraph 2 of subdivision (b) of section 1402 of the tax law, as amended by section 1 of item UUU of subpart B of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

For purposes of this subdivision, the phrase "real estate investment trust transfer" shall mean any conveyance of real property or an interest therein to a REIT, or to a partnership or corporation in which a REIT owns a controlling interest immediately following the conveyance, which conveyance (I) occurs in connection with the initial formation of the REIT, provided that the conditions set forth in clauses (i) and (ii) of this subparagraph are satisfied, or (II) in the case of any real estate investment trust transfer occurring on or after July thirteenth, nineteen hundred ninety-six and before September first, two thousand [~~twenty-three~~] **twenty-six**, is described in the last sentence of this subparagraph.

§ 2. Subparagraph 2 of paragraph (xi) of subdivision (b) of section 1201 of the tax law, as amended by section 2 of item UUU of subpart B of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

(2) any issuance or transfer of an interest in a REIT, or in a partnership or corporation in which a REIT owns a controlling interest immediately following the issuance or transfer, in connection with a transaction described in subparagraph one of this paragraph. Notwithstanding the foregoing, a transaction described in the preceding sentence shall not constitute a real estate investment trust transfer unless (A) it occurs in connection with the initial formation of the REIT and the conditions described in subparagraphs three and four of this paragraph are satisfied, or (B) in the case of any real estate investment trust transfer occurring on or after July thirteenth, nineteen hundred ninety-six and before September first, two thousand [~~twenty-three~~] **twenty-six**, the transaction is described in subparagraph five of this paragraph in which case the provisions of such subparagraph shall apply.

§ 3. Subparagraph (B) of paragraph 2 of subdivision e of section 11-2102 of the administrative code of the city of New York, as amended by section 3 of item UUU of subpart B of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

(B) any issuance or transfer of an interest in a REIT, or in a partnership or corporation in which a REIT owns a controlling interest immediately following the issuance or transfer in connection with a transaction described in subparagraph (A) of this paragraph. Notwithstanding the foregoing, a transaction described in the preceding sentence shall not constitute a real estate investment trust transfer unless (i) it occurs in connection with the initial formation of the REIT and the conditions described in subparagraphs (C) and (D) of this paragraph are satisfied, or (ii) in the case of any real estate investment trust transfer occurring on or after July thirteenth, nineteen hundred ninety-six and before September first, two thousand [~~twenty-three~~] **twenty-six**, the transaction is described in subparagraph (E) of this paragraph in which case the provision of such subparagraph shall apply.

§ 4. This act shall take effect immediately.

PART V

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

§ 2016. Judicial review. A decision of the tax appeals tribunal, which is not subject to any further administrative review, shall finally and irrevocably decide all the issues which were raised in proceedings before the division of tax appeals upon which such decision is based unless, within four months after notice of such decision is served by

the tax appeals tribunal upon every party to the proceeding before such tribunal by certified mail or personal service, the petitioner who commenced the proceeding [~~petitions~~] **or the commissioner, or both, petition** for judicial review in the manner provided by article seventy-eight of the civil practice law and rules, except as otherwise provided in this [~~section~~] **chapter**. Such service by certified mail shall be complete upon deposit of such notice, enclosed in a post-paid properly addressed wrapper, in a post office or official depository under the exclusive care and custody of the United States postal service. [~~The~~] **Where the** petitioner **who commenced the proceeding before the division of tax appeals files a petition for judicial review, the petition** shall designate the tax appeals tribunal and the commissioner [~~of taxation and finance~~] as respondents in the proceeding for judicial review. **Where the commissioner files a petition for judicial review, the petition shall designate the tax appeals tribunal and the petitioner who commenced the proceeding before the division of tax appeals as respondents in the proceeding for judicial review.** The tax appeals tribunal shall not participate in proceedings for judicial review of its decisions and such proceedings for judicial review shall be commenced in the appellate division of the supreme court, third department. In all other respects the provisions and standards of article seventy-eight of the civil practice law and rules shall apply. The record to be reviewed in such proceedings for judicial review shall include the determination of the administrative law judge, the decision of the tax appeals tribunal, the stenographic transcript of the hearing before the administrative law judge, the transcript of any oral proceedings before the tax appeals tribunal and any exhibit or document submitted into evidence at any proceeding in the division of tax appeals upon which such decision is based.

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

PART W

Section 1. Subdivision 1 of section 105 of the state finance law, as amended by chapter 204 of the laws of 2002, is amended to read as follows:

1. All moneys received by the commissioner of taxation and finance on account of the state, excepting such moneys as are required by law to be deposited to the credit of the comptroller, but including such moneys as are thereafter paid into the state treasury by the comptroller, shall be deposited by the commissioner of taxation and finance within three **business** days after the receipt thereof, either as a demand deposit or an interest-bearing time deposit (other than a time certificate of deposit), as [~~he~~] **the commissioner** and the comptroller may determine, in such banks, trust companies and industrial banks as in [~~his~~] **the** opinion **of the commissioner** and the opinion of the comptroller are secure. The moneys so deposited shall be placed to the account of the commissioner of taxation and finance. [~~He~~] **The commissioner** shall keep a bankbook in which shall be entered [~~his~~] **their** account of deposit in and moneys drawn from the banks and trust companies and industrial banks in which deposits are made by [~~him~~] **the commissioner**, which [~~he~~] **they** shall exhibit to the comptroller for [~~his~~] inspection on the first Tuesday of every month and oftener if required. [~~He~~] **The commissioner** shall not draw any moneys from such banks, trust companies or industrial banks

unless by checks signed and countersigned in the manner prescribed by section one hundred one, unless otherwise provided by law. No moneys shall be paid by any such bank, trust company or industrial bank out of any such deposit except upon such checks. Moneys may be paid through electronic transfer in accordance with procedures developed by the commissioner of taxation and finance and the comptroller and consistent with the requirements of this section for recording payments. Such payments through electronic transfer shall be considered, for purposes of this chapter, to be moneys drawn by check. Every such bank, trust company or industrial bank shall transmit to the comptroller monthly statements of all moneys received and paid by it on account of the commissioner of taxation and finance.

§ 2. This act shall take effect immediately.

PART X

Section 1. Legislative findings. The legislature finds that it is in the interests of the state to assist The New York Racing Association, Inc., which is the franchised corporation pursuant to section two hundred six of the racing, pari-mutuel wagering and breeding law, to renovate Belmont Park racetrack and repurpose the Aqueduct property. The legislature further finds and determines that the anticipated cost of renovating Belmont Park racetrack is four hundred fifty-five million dollars and that the renovation of Belmont Park racetrack shall initially be financed by the state subject to the provisions of the repayment agreement of the franchised corporation required by section two of this act. The franchised corporation will be responsible for repayment of the state funds in accordance with the terms of such repayment agreement.

§ 2. Prior to, and as a condition to the state initially providing funds for the renovation of Belmont Park racetrack, the franchised corporation shall enter into a repayment agreement with the state authorizing and directing that a portion of the funds of the franchised corporation dedicated for capital expenditures of the franchised corporation pursuant to paragraph 3 of subdivision f and paragraph 3 of subdivision f-1 of section 1612 of the tax law shall be used to repay the state for the funds provided by the state for the renovation of Belmont Park racetrack, in accordance with the repayment agreement between the state and the franchised corporation. Such agreement shall further provide that in the event the franchised corporation receives future statutory payments enacted for the specific purpose of holding the franchised corporation harmless for any loss of payments pursuant to paragraph 3 of subdivision f and paragraph 3 of subdivision f-1 of section 1612 of the tax law, such statutory payments shall also be used to repay the state for the funds provided by the state for the renovation of Belmont Park racetrack. Such agreement may also be amended from time to time as agreed to by the state and the franchised corporation. At any time prior to the repayment of the state funds for the renovation of Belmont Park racetrack, the state may issue state personal income tax revenue bonds or state sales tax revenue bonds. In the event of the issuance of such bonds, the repayment agreement shall be revised to reflect the obligation of the franchised corporation to fully repay the debt service costs associated with such bonds.

§ 3. Prior to, and as a condition of, the state initially providing funds for the renovation of Belmont Park racetrack, the franchised corporation shall also enter into an agreement with the state relinquishing to the state its leasehold interest in real property located in

South Ozone Park, commonly known as Aqueduct Racetrack, upon substantial completion of the renovation of Belmont Park racetrack.

§ 4. The New York State Gaming Commission shall ensure that to the extent that the law allows for a franchise agreement for the operation of Belmont Park racetrack with a franchisee other than the franchised corporation, the term of any such franchise agreement awarded after funding provided by the state for the renovation of Belmont Park racetrack described by section one of this act shall include a provision obligating such franchisee to assume the payments of the franchised corporation required by section two of this act.

§ 5. The opening paragraph of paragraph 3 of subdivision f of section 1612 of the tax law is designated subparagraph (i) and a new subparagraph (ii) is added to read as follows:

(ii) Notwithstanding subparagraph (i) of this paragraph, in the event the state provides funds to the franchised corporation for the renovation of Belmont Park racetrack, out of the amount payable to the franchised corporation for capital expenditures pursuant to subparagraph (i) of this paragraph during any state fiscal year, an amount pursuant to the repayment agreement between the state and the franchised corporation shall instead be deposited into the miscellaneous capital projects fund, New York racing capital improvement fund as required to repay the state for funds provided for the renovation of Belmont Park racetrack. Any amount payable to the franchised corporation in any state fiscal year for capital expenditures pursuant to subparagraph (i) of this paragraph in excess of the amount pursuant to the repayment agreement between the state and the franchised corporation shall be deposited pursuant to subparagraph (i) of this paragraph. Once the state has been fully reimbursed for the costs related to the renovation of Belmont Park racetrack, this subparagraph shall no longer apply and subparagraph (i) of this paragraph shall apply.

§ 6. The opening paragraph of paragraph 3 of subdivision f-1 of section 1612 of the tax law is designated subparagraph (i) and a new subparagraph (ii) is added to read as follows:

(ii) Notwithstanding subparagraph (i) of this paragraph, in the event the state provides funds to the franchised corporation for the renovation of Belmont Park racetrack, and in the event the amount deposited pursuant to subparagraph (ii) of paragraph three of subdivision f of this section is insufficient to make the required repayment pursuant to such subparagraph during any state fiscal year, an amount payable to the franchised corporation for capital expenditures pursuant to subparagraph (i) of this paragraph shall instead be deposited into the miscellaneous capital projects fund, New York racing capital improvement fund to the extent necessary, when combined with the amount set forth in subparagraph (ii) of paragraph three of subdivision f of this section, to make any required repayment of funds provided by the state related to the renovation of Belmont Park racetrack during such fiscal year. Any amount payable to the franchised corporation in any state fiscal year for capital expenditures pursuant to subparagraph (i) of this paragraph in excess of the amount pursuant to the repayment agreement between the state and the franchised corporation shall be deposited pursuant to subparagraph (i) of this paragraph. Once the state has been fully reimbursed for such costs related to the renovation of Belmont Park racetrack, this subparagraph shall no longer apply and subparagraph (i) of this paragraph shall apply.

§ 7. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of

section 4 of the state finance law to the miscellaneous capital projects fund, New York racing capital improvement fund.

§ 8. 1. Notwithstanding any other provisions of law to the contrary, the dormitory authority, the urban development corporation, and the New York state thruway authority are hereby authorized to issue personal income tax revenue bonds or notes or state sales tax revenue bonds or notes in one or more series in an aggregate principal amount not to exceed four hundred fifty-five million dollars ($455,000,000) excluding bonds or notes issued to pay costs of issuance of such bonds or notes and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing the renovation of Belmont Park racetrack.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority, urban development corporation, and the New York state thruway authority in undertaking the financing for the renovation of Belmont Park racetrack, the director of the budget is hereby authorized to enter into one or more financing agreements with the dormitory authority, the urban development corporation, and the New York state thruway authority, upon such terms and conditions as the director of the budget and the dormitory authority, the urban development corporation and the New York state thruway authority agree, so as to annually provide to the dormitory authority, the urban development corporation, and the New York state thruway authority, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any financing agreement entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority, the urban development corporation, and the New York state thruway authority as security for such bonds and notes, as authorized by this section.

§ 9. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed in each state fiscal year to transfer, upon request of the director of the budget, up to the unencumbered balance or an amount up to twenty-five million eight hundred thousand dollars ($25,800,000) from the miscellaneous capital projects fund, New York racing capital improvement fund to the general fund.

§ 10. This act shall take effect immediately.

PART Y

Section 1. Paragraph 1 of subdivision a of section 1612 of the tax law, as amended by chapter 174 of the laws of 2013, is amended to read as follows:

(1) sixty percent of the total amount for which tickets have been sold for [~~a lawful lottery~~] **the Quick Draw** game [~~introduced on or after the effective date of this paragraph,~~] subject to [~~the following provisions:~~

~~(A) such game shall be available only on premises occupied by licensed lottery sales agents, subject to the following provisions:~~

~~(i) if the licensee does not hold a license issued pursuant to the alcoholic beverage control law to sell alcoholic beverages for consump-~~

~~tion on the premises, then the premises must have a minimum square footage greater than two thousand five hundred square feet;~~

~~(ii) notwithstanding the foregoing provisions, television equipment that automatically displays the results of such drawings may be installed and used without regard to the square footage if such premises are used as:~~

~~(I) a commercial bowling establishment, or~~

~~(II) a facility authorized under the racing, pari-mutuel wagering and breeding law to accept pari-mutuel wagers;~~

~~(B) the~~] rules for the operation of such game [~~shall be~~] as prescribed by regulations promulgated and adopted by the division[~~, provided however, that such rules shall provide that no person under the age of twenty-one may participate in such games on the premises of a licensee who holds a license issued pursuant to the alcoholic beverage control law to sell alcoholic beverages for consumption on the premises; and, provided, further, that such regulations may be revised on an emergency basis not later than ninety days after the enactment of this paragraph in order to conform such regulations to the requirements of this paragraph~~]; or

§ 2. This act shall take effect immediately.

PART Z

Section 1. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 502-a to read as follows:

§ 502-a. Closure of Catskill regional off-track betting corporation.

1. Catskill regional off-track betting corporation established under section five hundred two of this article is terminated, subject to the satisfaction of outstanding debts and obligations and distribution of any remaining assets, as set forth in this section.

2. Catskill regional off-track betting corporation shall continue in its existence solely for the purpose of satisfying all outstanding debts and obligations and distribution of any remaining assets, taking into account the priority requirements of subdivision two of section five hundred six and subdivision two of section five hundred sixteen of this article. Such corporation shall submit a list of all outstanding debts and obligations to the commission and a plan proposing the order in which such debts and obligations shall be satisfied. The commission shall approve or modify such plan. Once all debts and obligations are satisfied or all available funds have been exhausted, and any remaining assets are distributed, such corporation shall be terminated for all purposes. Such corporation may use the following to satisfy its existing debts and obligations:

(a) in accordance with subdivision four of section five hundred nine of this article, any remaining money in such corporation's capital reserve fund, after use of such funds for payment of the principal of bonds, interest on such bonds and the payment of any redemption premium required, as set forth in such section; and

(b) in accordance with subdivision four of section five hundred nine-a of this article, funds from its capital acquisition fund.

§ 2. Paragraph c of subdivision 1 of section 509 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 243 of the laws of 2020, is amended and a new subdivision 4 is added, to read as follows:

c. Any other moneys that may be made available to the corporation for the purpose of such capital reserve fund from any other source or sources. All moneys held in the capital reserve fund, except as [~~hereinafter~~]

provided **in this paragraph and in subdivision four of this section**, shall be used solely for the payment of the principal of bonds of the corporation, the payment of interest on such bonds, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in such capital reserve fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding fiscal year of the corporation on all bonds of the corporation then outstanding, except for the purpose of paying principal of and interest on such bonds of the corporation maturing and becoming due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred to other funds or accounts to the extent it does not reduce the amount of the capital reserve fund below the maximum amount of principal and interest maturing and becoming due in any such succeeding fiscal year on all bonds of the corporation then outstanding.

4. Upon the termination of Catskill regional off-track betting corporation pursuant to section five hundred two-a of this article, the remainder of the corporation's capital reserve fund, after such funds are used for the purposes set forth in paragraph c of subdivision one of this section, shall be used to pay other obligations, debts and liabilities of the corporation pursuant to the commission-approved plan described in subdivision two of section five hundred two-a of this article.

§ 3. Section 509-a of the racing, pari-mutuel wagering and breeding law is amended by adding a new subdivision 4 to read as follows:

4. As of April first, two thousand twenty-three, Catskill regional off-track betting corporation may use any remaining money in its capital acquisition fund to pay off any outstanding debts and obligations in accordance with the commission-approved plan described in subdivision two of section five hundred two-a of this article. The use of such money shall be subject to the approval of the commission and shall not be used to pay the wages and benefits of employees of such corporation until all other debts and obligations have been satisfied. Any money remaining in the fund after such debts and obligations have been paid upon termination of such corporation shall be distributed to the counties in accordance with law.

§ 4. Section 521 of the racing, pari-mutuel wagering and breeding law is amended by adding a new subdivision 9 to read as follows:

9. Notwithstanding any other provision of this article to the contrary, a county for whose benefit Catskill regional off-track betting corporation had been established may enter into an agreement with an existing off-track betting corporation from a different region to provide the services authorized under this article within such county.

§ 5. This act shall take effect immediately.

PART AA

Section 1. Subdivision 2 of section 509-a of the racing, pari-mutuel wagering and breeding law, as amended by section 1 of part DD of chapter 59 of the laws of 2022, is amended to read as follows:

2. a. Notwithstanding any other provision of law or regulation to the contrary, from April nineteenth, two thousand twenty-one to March thirty-first, two thousand twenty-two, twenty-three percent of the funds,

not to exceed two and one-half million dollars, in the Catskill off-track betting corporation's capital acquisition fund and twenty-three percent of the funds, not to exceed four hundred forty thousand dollars, in the Capital off-track betting corporation's capital acquisition fund established pursuant to this section shall also be available to such off-track betting corporation for the purposes of statutory obligations, payroll, and expenditures necessary to accept authorized wagers.

b. Notwithstanding any other provision of law or regulation to the contrary, from April first, two thousand twenty-two to March thirty-first, two thousand twenty-three, twenty-three percent of the funds, not to exceed two and one-half million dollars, in the Catskill off-track betting corporation's capital acquisition fund established pursuant to this section, and twenty-three percent of the funds, not to exceed four hundred forty thousand dollars, in the Capital off-track betting corporation's capital acquisition fund established pursuant to this section, shall be available to such off-track betting corporations for the purposes of statutory obligations, payroll, and expenditures necessary to accept authorized wagers.

c. **Notwithstanding any other provision of law or regulation to the contrary, from April first, two thousand twenty-three to March thirty-first, two thousand twenty-four, twenty-three percent of the funds, not to exceed four hundred forty thousand dollars, in the Capital off-track betting corporation's capital acquisition fund established pursuant to this section, shall be available to such off-track betting corporation for the purposes of statutory obligations, payroll, and expenditures necessary to accept authorized wagers.**

d. Prior to a corporation being able to utilize the funds authorized by [~~paragraph~~] **paragraphs** b **and c** of this subdivision, the corporation must submit an expenditure plan to the gaming commission for review. Such plan shall include the corporation's outstanding liabilities, projected revenue for the upcoming year, a detailed explanation of how the funds will be used, and any other information determined necessary by the commission. Upon review, the commission will make a determination as to whether access to the funds is needed and warranted.

§ 2. This act shall take effect immediately.

PART BB

Section 1. Paragraph (a) of subdivision 1 of section 1003 of the racing, pari-mutuel wagering and breeding law, as amended by section 1 of part EE of chapter 59 of the laws of 2022, is amended to read as follows:

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

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

§ 2. Subparagraph (iii) of paragraph d of subdivision 3 of section 1007 of the racing, pari-mutuel wagering and breeding law, as amended by section 2 of part EE of chapter 59 of the laws of 2022, is amended to read as follows:

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

§ 3. The opening paragraph of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as amended by section 3 of part EE of chapter 59 of the laws of 2022, is amended to read as follows:

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

§ 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering and breeding law, as amended by section 4 of part EE of chapter 59 of the laws of 2022, is amended to read as follows:

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

§ 5. The opening paragraph of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by section 5 of part EE of chapter 59 of the laws of 2022, is amended to read as follows:

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

§ 6. The opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law, as amended by section 6 of part EE of chapter 59 of the laws of 2022, is amended to read as follows:

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

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

§ 7. Section 32 of chapter 281 of the laws of 1994, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting, as amended by section 7 of part EE of chapter 59 of the laws of 2022, is amended to read as follows:

§ 32. This act shall take effect immediately and the pari-mutuel tax reductions in section six of this act shall expire and be deemed repealed on July 1, [~~2023~~] **2024**; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration, or repeal of any provision of law amended by any section of this act, and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law; provided further, however, that sections twenty-three and twenty-five of this act shall remain in full force and effect only until May 1, 1997 and at such time shall be deemed to be repealed.

§ 8. Section 54 of chapter 346 of the laws of 1990, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, as amended by section 8 of part EE of chapter 59 of the laws of 2022, is amended to read as follows:

§ 54. This act shall take effect immediately; provided, however, sections three through twelve of this act shall take effect on January 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breeding law, as added by section thirty-eight of this act, shall expire and be deemed repealed on July 1, [~~2023~~] **2024**; and section eighteen of this act shall take effect on July 1, 2008 and sections fifty-one and fifty-two of this act shall take effect as of the same date as chapter 772 of the laws of 1989 took effect.

§ 9. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as amended by section 9 of part EE of chapter 59 of the laws of 2022, is amended to read as follows:

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

percent of the total deposits in pools resulting from on-track super exotic bets, plus the breaks. The retention rate to be established is subject to the prior approval of the commission.

Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. For purposes of this section, a "pick six bet" shall mean a single bet or wager on the outcomes of six races. The breaks are hereby defined as the odd cents over any multiple of five for payoffs greater than one dollar five cents but less than five dollars, over any multiple of ten for payoffs greater than five dollars but less than twenty-five dollars, over any multiple of twenty-five for payoffs greater than twenty-five dollars but less than two hundred fifty dollars, or over any multiple of fifty for payoffs over two hundred fifty dollars. Out of the amount so retained there shall be paid by such franchised corporation to the commissioner of taxation and finance, as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the race meetings held by such franchised corporation, the following percentages of the total pool for regular and multiple bets five percent of regular bets and four percent of multiple bets plus twenty percent of the breaks; for exotic wagers seven and one-half percent plus twenty percent of the breaks, and for super exotic bets seven and one-half percent plus fifty percent of the breaks.

For the period April first, two thousand one through December thirty-first, two thousand [~~twenty-three~~] **twenty-four**, such tax on all wagers shall be one and six-tenths percent, plus, in each such period, twenty percent of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one percent of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three percent of super exotic bets and for the period April first, two thousand one through December thirty-first, two thousand [~~twenty-three~~] **twenty-four**, such payment shall be seven-tenths of one percent of regular, multiple and exotic pools.

§ 10. This act shall take effect immediately.

PART CC

Section 1. Subdivision 1-A of section 208 of the tax law, as amended by section 4 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

1-A. The term "New York S corporation" means, with respect to any taxable year, a **federal S** corporation [~~subject to tax under this article for which an election is in effect pursuant to~~] **required to file as a New York S corporation pursuant to** subsection (a) of section six hundred sixty of this chapter for such year, **and** any such year shall be denominated a "New York S year", [~~and such election shall be denominated a "New York S election"~~] **unless the corporation is treated as a New York C corporation for such year under subsection (b) of section six hundred sixty of this chapter**. The term "New York C corporation" means, with respect to any taxable year, a corporation subject to tax under this article which is not a New York S corporation, and any such year shall be denominated a "New York C year". The term "termination year" means any taxable year of a corporation during which the **corporation's status**

as a New York S [~~election~~] corporation terminates on a day other than the first day of such year. The portion of the taxable year ending before the first day for which such termination is effective shall be denominated the "S short year", and the portion of such year beginning on such first day shall be denominated the "C short year". [~~The term "New York S termination year" means any termination year which is not also an S termination year for federal purposes.~~]

§ 2. Subdivision 1-B of section 208 of the tax law, as amended by section 4 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

1-B. The term "QSSS" means a corporation which is a qualified subchapter S subsidiary as defined in subparagraph (B) of paragraph three of subsection (b) of section thirteen hundred sixty-one of the internal revenue code. [~~The term "exempt QSSS" means a QSSS exempt from tax under this article as provided in paragraph (k) of subdivision nine of this section, or a QSSS described in subclause (i) of clause (B) of subparagraph two of paragraph (k) of subdivision nine of this section, wherein the parent corporation of the QSSS is subject to tax under this article, and the assets, liabilities, income and deductions of the QSSS are treated as the assets, liabilities, income and deductions of the parent corporation. Where a QSSS is an exempt QSSS, then for all purposes under this article~~] When the parent corporation of the QSSS is a New York S corporation:

(a) the assets, liabilities, income, deductions, property, payroll, receipts, capital, credits, and all other tax attributes and elements of economic activity of the QSSS shall be deemed to be those of the parent corporation,

(b) the stocks, bonds and other securities issued by, and any indebtedness from, the QSSS shall not be investment or business capital of the parent corporation,

(c) transactions between the parent corporation and the QSSS, including the payment of interest and dividends, shall not be taken into account, [~~and~~]

(d) general executive officers of the QSSS shall be deemed to be general executive officers of the parent corporation, and

(e) the QSSS shall not be subject to tax under this article.

§ 3. Paragraph (k) of subdivision 9 of section 208 of the tax law, as amended by section 4 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(k) QSSS. (1) [~~New York S corporation. In the case of a New York S corporation which is the parent of a qualified subchapter S subsidiary (QSSS) with respect to a taxable year:~~

~~(A) where the QSSS is not an excluded corporation,~~

~~(i) in determining the entire net income of such parent corporation, all assets, liabilities, income and deductions of the QSSS shall be treated as assets, liabilities, income and deductions of the parent corporation, and~~

~~(ii) the QSSS shall be exempt from all taxes imposed by this article, and~~

~~(B) where the QSSS is an excluded corporation, the entire net income of the parent corporation shall be determined as if the federal QSSS election had not been made.~~

~~(2)~~] New York C corporation. In the case of a federal S corporation that is a New York C corporation [~~which is~~] under subsection (b) of section six hundred sixty of this chapter and is the parent of a QSSS with respect to a taxable year:

(A) where the QSSS is a taxpayer,

(i) in determining the entire net income of such parent corporation, all assets, liabilities, income and deductions of the QSSS shall be treated as assets, liabilities, income and deductions of the parent corporation, and

(ii) the QSSS shall be exempt from all taxes imposed by this article, and

(B) where the QSSS is not a taxpayer,

(i) if the QSSS is not an excluded corporation, the parent corporation may make a QSSS inclusion election to include all assets, liabilities, income and deductions of the QSSS as assets, liabilities, income and deductions of the parent corporation, and

(ii) in the absence of such election, or where the QSSS is an excluded corporation, the entire net income of the parent corporation shall be determined as if the federal QSSS election had not been made.

[~~(3) Non-New York S corporation not excluded. In the case of an S corporation which is not a taxpayer and not an excluded corporation, and which is the parent of a QSSS which is a taxpayer, the shareholders of the parent corporation shall be entitled to make the New York S election under subsection (a) of section six hundred sixty of this chapter.~~

~~(A) For any taxable year for which such election is in effect, the parent corporation shall be subject to tax under this article as a New York S corporation, and the provisions of clause (A) of subparagraph one of this paragraph shall apply.~~

~~(B) For any taxable year for which such election is not in effect, the QSSS shall be a New York C corporation, and the entire net income of the QSSS shall be determined as if the federal QSSS election had not been made. For purposes of such determination, the taxable year of the parent corporation shall constitute the taxable year of the QSSS, excluding, however, any portion of such year during which the QSSS is not a taxpayer.~~

~~(4) S corporation excluded. In the case of an S corporation which is an excluded corporation and which is the parent of a QSSS which is a taxpayer, the QSSS shall be a New York C corporation and the provisions of clause (B) of subparagraph three of this paragraph shall apply.~~

~~(5)~~] **(2)** Excluded corporation. The term "excluded corporation" means a corporation subject to tax under sections one hundred eighty-three through one hundred eighty-six, inclusive, or article thirty-three of this chapter, or a foreign corporation not taxable by this state which, if it were taxable, would be subject to tax under any of such sections or article.

[~~(6)~~] **(3)** Taxpayer. For purposes of this paragraph, the term "taxpayer" means a parent corporation or QSSS subject to tax under this article, determined without regard to the provisions of this paragraph.

[~~(7)~~] **(4)** QSSS inclusion election. The election under subclause (i) of clause (B) of subparagraph [~~two~~] **one** of this paragraph shall be effective for the taxable year for which made and for all succeeding taxable years of the corporation until such election is terminated. An election or termination shall be made on such form and in such manner as the commissioner may prescribe by regulation or instruction.

§ 4. Subparagraph (A) of paragraph 5 of subdivision (a) of section 292 of the tax law, as added by section 48 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(A) In the case of a shareholder of an S corporation, (i) [~~where the election provided for in~~] **except for when such S corporation is treated as a New York C corporation under** subsection [~~(a)~~] **(b)** of section six

hundred sixty of this chapter [~~is in effect with respect to such corporation~~], there shall be added to federal unrelated business taxable income an amount equal to the shareholder's pro rata share of the corporation's reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code, and (ii) where such [~~election has not been made with respect to such corporation~~] **S corporation is treated as a New York C corporation under subsection (b) of section six hundred sixty of this chapter**, there shall be subtracted from federal unrelated business taxable income any items of income of the corporation included therein, and there shall be added to federal unrelated business taxable income any items of loss or deduction included therein, and (iii) in the case of [~~a New York~~] **an** S termination year, the amount of any such items of S corporation income, loss, deduction and reductions for taxes shall be adjusted in the manner provided in paragraph two or three of subsection (s) of section six hundred twelve of this chapter.

§ 5. Paragraph 18 of subsection (b) of section 612 of the tax law, as amended by chapter 606 of the laws of 1984, subparagraph (A) as amended by chapter 28 of the laws of 1987 and subparagraph (B) as amended by chapter 190 of the laws of 1990, is amended to read as follows:

(18) In the case of a shareholder of an S corporation **as described in subsection (a) of section six hundred sixty of this article:**

(A) [~~where the election provided for in subsection (a) of section six hundred sixty is in effect with respect to such corporation,~~] an amount equal to [~~his~~] **such shareholder's** pro rata share of the corporation's reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code, and

(B) in the case of [~~a New York~~] **an** S termination year, subparagraph (A) of this paragraph shall apply to the amount of reductions for taxes determined under subsection (s) of this section.

§ 6. Paragraph 19 of subsection (b) of section 612 of the tax law, as amended by chapter 606 of the laws of 1984, subparagraph (A) as amended by chapter 28 of the laws of 1987 and subparagraph (B) as amended by chapter 190 of the laws of 1990, is amended to read as follows:

(19) In the case of a shareholder of an S corporation (A) where [~~the election provided for in~~] **such S corporation is treated as a New York C corporation under** subsection [~~(a)~~] **(b)** of section six hundred sixty [~~has not been made with respect to such corporation~~] **of this article**, any item of loss or deduction of the corporation included in federal gross income pursuant to section thirteen hundred sixty-six of the internal revenue code, and (B) in the case of [~~a New York~~] **an** S termination year, subparagraph (A) of this paragraph shall apply to the amounts of loss or deduction determined under subsection (s) of this section.

§ 7. Paragraph 20 of subsection (b) of section 612 of the tax law, as amended by chapter 606 of the laws of 1984, is amended to read as follows:

(20) S corporation distributions to the extent not included in federal gross income for the taxable year because of the application of section thirteen hundred sixty-eight, subsection (e) of section thirteen hundred seventy-one or subsection (c) of section thirteen hundred seventy-nine of the internal revenue code which represent income not previously subject to tax under this article **(a) for tax years beginning before January first, two thousand twenty-four,** because the election provided for in subsection (a) of section six hundred sixty **of this article** had not been made**, or (b) for tax years beginning on or after January first,**

two thousand twenty-four, because the S corporation filed a return under article nine-A of this chapter pursuant to subsection (b) of section six hundred sixty of this article. Any such distribution treated in the manner described in paragraph two of subsection (b) of section thirteen hundred sixty-eight of the internal revenue code for federal income tax purposes shall be treated as ordinary income for purposes of this article.

§ 8. Paragraph 22 of subsection (c) of section 612 of the tax law, as amended by chapter 606 of the laws of 1984, subparagraph (A) as amended by chapter 28 of the laws of 1987 and subparagraph (B) as amended by chapter 190 of the laws of 1990, is amended to read as follows:

(22) In the case of a shareholder of an S corporation (A) where [~~the election provided for in~~] such S corporation is treated as a New York C corporation under subsection [~~(a)~~] (b) of section six hundred sixty [~~has not been made with respect to such corporation~~] of this article, any item of income of the corporation included in federal gross income pursuant to section thirteen hundred sixty-six of the internal revenue code, and

(B) in the case of [~~a New York~~] an S termination year, subparagraph (A) of this paragraph shall apply to the amounts of income determined under subsection (s) of this section.

§ 9. The section heading and paragraph 1 of subsection (s) of section 612 of the tax law, as amended by chapter 760 of the laws of 1992, is amended to read as follows:

(s) [~~New York~~] S termination year. (1) General. In the case of [~~a New York~~] an S termination year, the amount of any item of S corporation income, loss and deduction included in the shareholder's federal adjusted gross income and any reductions for taxes (as described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code) shall be adjusted in accordance with the treatment provided in paragraph two or three of this subsection.

§ 10. Paragraph 6 of subsection (c) of section 615 of the tax law, as added by chapter 606 of the laws of 1984, subparagraph (B) as amended by chapter 190 of the laws of 1990, is amended to read as follows:

(6) in the case of a shareholder of an S corporation

(A) where [~~the election provided for in~~] such S corporation is treated as a New York C corporation under subsection [~~(a)~~] (b) of section six hundred sixty [~~has not been made~~] of this article, S corporation items of deduction included in federal itemized deductions, and

(B) in the case of [~~a New York~~] an S termination year, [~~the portion of such items assigned to the period beginning on the day the election ceases to be effective, as~~] the modification under subparagraph (A) of this paragraph shall be determined under subsection (s) of section six hundred twelve of this part.

§ 11. Subparagraph (C) of paragraph 1 of subsection (b) of section 631 of the tax law, as amended by chapter 586 of the laws of 1999, is amended to read as follows:

(C) in the case of a shareholder of an S corporation [~~where the election provided for in~~] subject to subsection (a) of section six hundred sixty of this article [~~is in effect~~], the ownership of shares issued by such corporation, to the extent determined under section six hundred thirty-two of this [~~article~~] part; or

§ 12. Subparagraph (E-1) of paragraph 1 of subsection (b) of section 631 of the tax law, as added by section 3 of part C of chapter 57 of the laws of 2010, is amended to read as follows:

(E-1) in the case of an S corporation [~~for which an election is in effect pursuant~~] subject to subsection (a) of section six hundred sixty of this article that terminates its taxable status in New York, any income or gain recognized on the receipt of payments from an installment sale contract entered into when the S corporation was subject to tax in New York, allocated in a manner consistent with the applicable methods and rules for [~~allocation~~] apportionment under article nine-A or former article thirty-two of this chapter, in the year that the S corporation sold its assets.

§ 13. The section heading and paragraph 2 of subsection (a) of section 632 of the tax law, the section heading as amended by chapter 606 of the laws of 1984, and paragraph 2 of subsection (a) as amended by section 71 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

Nonresident partners and [~~electing~~] shareholders of S corporations.

(2) In determining New York source income of a nonresident shareholder of [~~an~~] a New York S corporation [~~where the election provided for in subsection (a) of section six hundred sixty~~] as defined in subdivision one-A of section two hundred eight of [~~this article is in effect~~] this chapter, there shall be included only the portion derived from or connected with New York sources of such shareholder's pro rata share of items of S corporation income, loss and deduction entering into [~~his~~] such shareholder's federal adjusted gross income, increased by reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code, as such portion shall be determined under regulations of the commissioner consistent with the applicable methods and rules for [~~allocation~~] apportionment under article nine-A of this chapter[~~, regardless of whether or not such item or reduction is included in entire net income under article nine-A for the tax year~~]. If a nonresident is a shareholder in [~~an~~] a New York S corporation [~~where the election provided for in subsection (a) of section six hundred sixty~~] as defined in subdivision one-A of section two hundred eight of [~~this article is in effect~~] this chapter, and the S corporation has distributed an installment obligation under section 453(h)(1)(A) of the Internal Revenue Code, then any gain recognized on the receipt of payments from the installment obligation for federal income tax purposes will be treated as New York source income allocated in a manner consistent with the applicable methods and rules for [~~allocation~~] apportionment under article nine-A of this chapter in the year that the assets were sold. In addition, if the shareholders of the S corporation have made an election under section 338(h)(10) of the Internal Revenue Code, then any gain recognized on the deemed asset sale for federal income tax purposes will be treated as New York source income allocated in a manner consistent with the applicable methods and rules for [~~allocation~~] apportionment under article nine-A of this chapter in the year that the shareholder made the section 338(h)(10) election. For purposes of a section 338(h)(10) election, when a nonresident shareholder exchanges his or her S corporation stock as part of the deemed liquidation, any gain or loss recognized shall be treated as the disposition of an intangible asset and will not increase or offset any gain recognized on the deemed assets sale as a result of the section 338(h)(10) election.

§ 14. Paragraph 2 and subparagraph (A) of paragraph 4 of subsection (c) of section 658 of the tax law, paragraph 2 as amended by chapter 190 of the laws of 1990, and subparagraph (A) of paragraph 4 as amended by

section 72 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

(2) S corporations. Every S corporation [~~for which the election provided for in subsection (a) of section six hundred sixty is in effect~~] **treated as a New York S corporation as defined in subdivision one-A of section two hundred eight of this chapter** shall make a return for the taxable year setting forth all items of income, loss and deduction and such other pertinent information as the commissioner of taxation and finance may by regulations and instructions prescribe. Such return shall be filed on or before the fifteenth day of the third month following the close of each taxable year.

(A) General. Every entity which is a partnership, other than a publicly traded partnership as defined in section 7704 of the federal Internal Revenue Code, subchapter K limited liability company or [~~an~~] **a New York** S corporation [~~for which the election provided for in subsection (a) of section six hundred sixty of this part is in effect~~] **as defined in subdivision one-A of section two hundred eight of this chapter**, which has partners, members or shareholders who are nonresident individuals, as defined under subsection (b) of section six hundred five of this article, or C corporations, and which has any income derived from New York sources, determined in accordance with the applicable rules of section six hundred thirty-one of this article as in the case of a nonresident individual, shall pay estimated tax on such income on behalf of such partners, members or shareholders in the manner and at the times prescribed by subsection (c) of section six hundred eighty-five of this article. For purposes of this paragraph, the term "estimated tax" shall mean a partner's, member's or shareholder's distributive share or pro rata share of the entity income derived from New York sources, multiplied by the highest rate of tax prescribed by section six hundred one of this article for the taxable year of any partner, member or shareholder who is an individual taxpayer, or paragraph (a) of subdivision one of section two hundred ten of this chapter for the taxable year of any partner, member or shareholder which is a C corporation, whether or not such C corporation is subject to tax under article nine, nine-A or thirty-three of this chapter, and reduced by the distributive share or pro rata share of any credits determined under section one hundred eighty-seven, one hundred eighty-seven-a, six hundred six or fifteen hundred eleven of this chapter, whichever is applicable, derived from the entity.

§ 15. Section 660 of the tax law, as amended by chapter 606 of the laws of 1984, subsections (a) and (h) as amended by section 73 of part A of chapter 59 of the laws of 2014, paragraph 3 of subsection (b) as amended by section 51, paragraphs 4 and 5 of subsection (b) as added and paragraph 6 of subsection (b) as renumbered by section 52 and subsections (e) and (f) as added and subsection (g) as relettered by section 53 of part A of chapter 389 of the laws of 1997, subsection (d) as added by chapter 760 of the laws of 1992, subsection (i) as added by section 1 of part L of chapter 60 of the laws of 2007 and paragraph 1 of subsection (i) as amended by section 39 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

§ 660. [~~Election by shareholders of S corporations~~] **Tax treatment of federal S corporations**. (a) [~~Election.~~] If a corporation is an eligible S corporation, **except for eligible S corporations treated as New York C corporations under subsection (b) of this section,** the shareholders of the corporation [~~may elect in the manner set forth in subsection (b) of this section to~~] **shall** take into account, to the extent provided for in

this article (or in article thirteen of this chapter, in the case of a shareholder which is a taxpayer under such article), the S corporation items of income, loss, deduction and reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code which are taken into account for federal income tax purposes for the taxable year. [~~No election under this subsection shall be effective unless all shareholders of the corporation have so elected.~~] An eligible S corporation is (i) [~~an S~~] **a** corporation [~~which~~] **that has elected to be an S corporation for federal income tax purposes pursuant to section thirteen hundred sixty-two of the internal revenue code that** is subject to tax under article nine-A of this chapter, or (ii) [~~an S~~] **a** corporation [~~which~~] **that has elected to be an S corporation for federal income tax purposes pursuant to section thirteen hundred sixty-two of the internal revenue code that is not subject to tax under article nine-A of this chapter, or an excluded corporation, and** is the parent of a qualified subchapter S subsidiary **as defined in subparagraph (B) of paragraph three of subsection (b) of section thirteen hundred sixty-one of the internal revenue code** subject to tax under article nine-A[~~, where the shareholders of such parent corporation are entitled to make the election under this subsection by reason of subparagraph three of paragraph (k) of subdivision nine of section two hundred eight~~] of this chapter. **Except as provided in subsection (b) of this section, an eligible S corporation is a New York S corporation.**

(b) [~~Requirements of election~~] **Treatment of qualified New York manufacturers as New York C corporations**. [~~An election~~] **An eligible S corporation that meets the requirements of subparagraph (vi) of paragraph (a) of subdivision one of section two hundred ten of this chapter to be a qualified New York manufacturer may be treated as a New York C corporation subject to tax under article nine-A of this chapter. Treatment** under **this** subsection [~~(a) of this section~~] **as a New York C corporation** shall be made on such form and in such manner as the [~~tax commission~~] **commissioner** may prescribe by regulation or instruction.

(1) [~~When made~~] **Timing**. [~~An election~~] **To be treated** under **this** subsection [~~(a) of this section may be made at any time during the preceding taxable year of the corporation or at any time during the taxable year of the corporation and on or before the fifteenth day of the third month of such taxable year.~~

~~(2) Certain elections made during first two and one-half months. If an election made under subsection (a) of this section is made for any taxable year of the corporation during such year and on or before the fifteenth day of the third month of such year, such election shall be treated as made for the following taxable year if~~

~~(A) on one or more days in such taxable year before the day on which the election was made the corporation did not meet the requirements of subsection (b) of section thirteen hundred sixty-one of the internal revenue code or~~

~~(B) one or more of the shareholders who held stock in the corporation during such taxable year and before the election was made did not consent to the election.~~

~~(3) Elections made after first two and one-half months. If an election under subsection (a) of this section is made for any taxable year of the corporation and such election is made after the fifteenth day of the third month of such taxable year and on or before the fifteenth day of the third month of the following taxable year, such election shall be treated as made for the following taxable year.~~

~~(4) Taxable years of two and one-half months or less. For purposes of this subsection, an election for a taxable year made not later than two months and fifteen days after the first day of the taxable year shall be treated as timely made during such year.~~

~~(5) Authority to treat late elections, etc., as timely. If (A) an election under subsection (a) of this section is made for any taxable year (determined without regard to paragraph three of this subsection) after the date prescribed by this subsection for making such election for such taxable year, or if no such election is made for any taxable year, and~~

~~(B) the commissioner determines that there was reasonable cause for failure to timely make such election, then~~

~~(C) the commissioner may treat such an election as timely made for such taxable year (and paragraph three of this subsection shall not apply).~~

~~(6) Years for which effective. An election under subsection (a) of this section shall be effective for the taxable year of the corporation for which it is made and for all succeeding taxable years of the corporation until such election is terminated under subsection (c) of this section.~~] as a New York C corporation for a taxable year, the corporation shall file a report as a New York C corporation under article nine-A of this chapter for such year. Such treatment shall be effective as of the first day of the taxable year covered by such report.

(c) Termination. [~~An election~~] (1) Treatment of a federal S corporation as a New York S corporation under subsection (a) of this section, and treatment of a federal S corporation as a New York C corporation under subsection [~~(a)~~] (b) of this section shall cease to be effective

[~~(1)~~] on the day an election to be an S corporation ceases to be effective for federal income tax purposes pursuant to subsection (d) of section thirteen hundred sixty-two of the internal revenue code[~~, or~~

~~(2) if shareholders holding more than one-half of the shares of stock of the corporation on the day on which the revocation is made revoke such election in the manner the tax commission may prescribe by regulation,~~

~~(A) on the first day of the taxable year of the corporation, if the revocation is made during such taxable year and on or before the fifteenth day of the third month thereof, or~~

~~(B) on the first day of the following taxable year of the corporation, if the revocation is made during the taxable year but after the fifteenth day of the third month thereof, or~~

~~(C) on and after the date so specified, if the revocation specifies a date for revocation which is on or after the day on which the revocation is made, or~~

~~(3) if any person who was not a shareholder of the corporation on the day on which the election is made becomes a shareholder in the corporation and affirmatively refuses to consent to such election in the manner the tax commission may prescribe by regulation, on the day such person becomes a shareholder~~] and, in such case, the corporation shall be treated as a New York C corporation subject to tax under article nine-A of this chapter.

(2) Treatment of a federal S corporation as a New York C corporation under subsection (b) of this section shall cease to be effective if the corporation no longer meets the requirements to be considered a qualified New York manufacturer under subparagraph (vi) of paragraph (a) of subdivision one of section two hundred ten of this chapter for the taxa-

ble year, and in such case the corporation shall be treated as a New York S corporation subject to subsection (a) of this section.

(d) [~~New York~~] S termination year. In the case of [~~a New York~~] an S termination year, the amount of any item of S corporation income, loss and deduction and reductions for taxes (as described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code) required to be taken account of under this article shall be adjusted in the same manner that the S corporation's items which are included in the shareholder's federal adjusted gross income are adjusted under subsection (s) of section six hundred twelve.

(e) [~~Inadvertent invalid elections. If (1) an election under subsection (a) of this section was not effective for the taxable year for which made (determined without regard to paragraph two of subsection (b) of this section) by reason of a failure to obtain shareholder consents,~~

~~(2) the commissioner determines that the circumstances resulting in such ineffectiveness were inadvertent,~~

~~(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness, steps were taken to acquire the required shareholder consents, and~~

~~(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as a New York S corporation) as may be required by the commissioner with respect to such period,~~

~~(5) then, notwithstanding the circumstances resulting in such ineffectiveness, such corporation shall be treated as a New York S corporation during the period specified by the commissioner.~~] Qualified subchapter S subsidiaries ("QSSS"). If a New York S corporation has elected to treat its wholly owned subsidiary as a qualified subchapter S subsidiary for federal income tax purposes under paragraph three of subsection (b) of section thirteen hundred sixty-one of the internal revenue code, such election shall be applicable for New York state tax purposes, and

(1) the assets, liabilities, income, deductions, property, payroll, receipts, capital, credits, and all other tax attributes and elements of economic activity of the subsidiary shall be deemed to be those of the parent corporation,

(2) transactions between the parent corporation and the subsidiary, including the payment of interest and dividends, shall not be taken into account, and

(3) general executive officers of the subsidiary shall be deemed to be general executive officers of the parent corporation.

(f) Validated federal elections. If [~~(1) an election under subsection (a) of this section was made for a taxable year or years of a corporation, which years occur with or within the period for which~~] the federal S election of [~~such~~] an eligible S corporation has been validated pursuant to the provisions of subsection (f) of section thirteen hundred sixty-two of the internal revenue code, [~~and~~

~~(2) the corporation, and each person who was a shareholder in the corporation at any time during such taxable year or years agrees to make such adjustments (consistent with the treatment of the corporation as a New York S corporation) as may be required by the commissioner with respect to such year or years,~~

~~(3) then~~] such corporation shall be treated as a New York S corporation, subject to subsection (a) of this section, during [~~such~~] the year or years for which such election has been validated except if the

eligible S corporation is treated as a New York C corporation under subsection (b) of this section.

(g) [~~Transitional rule. Any election made under this section (as in effect for taxable years beginning before January first, nineteen hundred eighty-three) shall be treated as an election made under subsection (a) of this section.~~

~~(h) Cross reference. For definitions relating to S corporations, see subdivision one-A of section two hundred eight of this chapter.~~

~~(i) Mandated New York S corporation election. (1) Notwithstanding the provisions in subsection (a) of this section, in the case of an eligible S corporation for which the election under subsection (a) of this section is not in effect for the current taxable year, the shareholders of an eligible S corporation are deemed to have made that election effective for the eligible S corporation's entire current taxable year, if the eligible S corporation's investment income for the current taxable year is more than fifty percent of its federal gross income for such year. In determining whether an eligible S corporation is deemed to have made that election, the income of a qualified subchapter S subsidiary owned directly or indirectly by the eligible S corporation shall be included with the income of the eligible S corporation.~~

~~(2) For the purposes of this subsection, the term "eligible S corporation" has the same definition as in subsection (a) of this section.~~

~~(3) For the purposes of this subsection, the term "investment income" means the sum of an eligible S corporation's gross income from interest, dividends, royalties, annuities, rents and gains derived from dealings in property, including the corporation's share of such items from a partnership, estate or trust, to the extent such items would be includable in federal gross income for the taxable year.~~

~~(4)~~] Rules related to change in status. (1) Net operating losses. Any net operating loss carryforward that otherwise would have been allowed under subparagraph (ix) of paragraph (a) of subdivision one of section two hundred ten of this chapter for a New York C corporation that becomes a New York S corporation shall be held in abeyance and be available to such taxpayer if such taxpayer is treated as a New York C corporation because its election to be a federal S corporation is terminated or by operation of subsection (b) of this section. However, the taxpayer's years as a New York S corporation shall be counted for purposes of computing any time period applicable to the allowance of any net operating loss.

(2) Credit carryforwards. Any carryforwards of credits allowed under section two hundred ten-B of this chapter for a New York C corporation that becomes a New York S corporation shall be held in abeyance and be available to such taxpayer if such taxpayer is treated as a New York C corporation because its election to be a federal S corporation is terminated or by operation of subsection (b) of this section. However, the taxpayer's years as a New York S corporation shall be counted for purposes of computing any time period applicable to the allowance of any credit carryforward.

(3) Estimated tax payments. When making estimated tax payments required to be made under this chapter in the current tax year, the eligible S corporation and its shareholders may rely on the eligible S corporation's filing status for the prior year. If the eligible S corporation's filing status changes from the prior tax year the corporation or the shareholders, as the case may be, which made the payments shall be entitled to a refund of such estimated tax payments. No additions to tax with respect to any required declarations or payments of estimated

tax imposed under this chapter shall be imposed on the corporation or shareholders, whichever is the taxpayer for the current taxable year, if the corporation or the shareholders file such declarations and make such estimated tax payments by January fifteenth of the following calendar year, regardless of whether the taxpayer's tax year is a calendar or a fiscal year.

(h) Excluded corporation. For purposes of this section an excluded corporation shall be as defined in paragraph (k) of subdivision nine of section two hundred eight of this chapter.

§ 16. Transition rules. Any prior net operating loss conversion subtraction that otherwise would have been allowed under subparagraph (viii) of paragraph (a) of subdivision one of section two hundred ten of the tax law for the taxable years beginning on or after January 1, 2024, to any taxpayer that was a New York C corporation for a taxable year beginning on or after January 1, 2023, and before January 1, 2024, and that becomes a New York S corporation for a taxable year beginning on or after January 1, 2024, as a result of the amendments made by this act, shall be held in abeyance and be available to such taxpayer if such taxpayer is treated as a New York C corporation because its election to be a federal S corporation is terminated or by operation of subsection (b) of section six hundred sixty of the tax law. However, the taxpayer's years as a New York S corporation shall be counted for purposes of computing the twenty-year time period specified in subclause four of clause (B) of subparagraph (viii) of paragraph (a) of subdivision one of section two hundred ten of the tax law applicable to the allowance of the prior net operating loss conversion subtraction.

§ 17. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2024.

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

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