

**FY 2019 NEW YORK STATE EXECUTIVE BUDGET**

**REVENUE  
ARTICLE VII LEGISLATION**

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## REVENUE ARTICLE VII LEGISLATION

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Legislative Bill Drafting Commission  
12674-01-8

S. -----  
Senate  
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IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
-----

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

**\*BUDGBI\***

(Enacts into law major components of  
legislation which are necessary to  
implement the state fiscal plan for  
the 2018-2019 state fiscal year)

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BUDGBI. REV (Executive)

AN ACT

to amend the real property tax law,  
in relation to the annual growth in  
STAR benefits (Part A); to amend the  
real property tax law, in relation  
to making the STAR income verifica-  
tion program mandatory; to amend the  
tax law, in relation to the calcu-  
lation of income for basic STAR  
purposes; to repeal subparagraphs  
(v) and (vi) of paragraph (b) of  
subdivision 4, paragraphs (b) and  
(c) of subdivision 5 and paragraph

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal:

s15 Addabbo	s03 Croci	s27 Hoylman	s25 Montgomery	s23 Savino
s52 Akshar	s50 DeFrancisco	s60 Jacobs	s40 Murphy	s41 Serino
s31 Alcantara	s18 Dilan	s09 Kaminsky	s58 O'Mara	s29 Serrano
s46 Amedore	s17 Felder	s26 Kavanagh	s62 Ortt	s51 Seward
s11 Avella	s02 Flanagan	s63 Kennedy	s21 Parker	s16 Stavisky
s36 Bailey	s55 Funke	s34 Klein	s13 Peralta	s35 Stewart-
s30 Benjamin	s59 Gallivan	s28 Krueger	s19 Persaud	Cousins
s42 Bonacic	s12 Gianaris	s24 Lanza	s07 Phillips	s49 Tedisco
s04 Boyle	s22 Golden	s39 Larkin	s61 Ranzenhofer	s53 Valesky
s44 Breslin	s47 Griffo	s01 LaValle	s48 Ritchie	s57 Young
s08 Brooks	s20 Hamilton	s45 Little	s33 Rivera	s32
s38 Carlucci	s06 Hannon	s05 Marcellino	s56 Robach	s37
s14 Comrie	s54 Helming	s43 Marchione	s10 Sanders	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

a049 Abbate	a034 DenDekker	a135 Johns	a091 Otis	a022 Solages
a092 Abinanti	a070 Dickens	a115 Jones	a132 Palmesano	a114 Stec
a084 Arroyo	a054 Dilan	a077 Joyner	a002 Palumbo	a110 Steck
a035 Aubry	a081 Dinowitz	a040 Kim	a088 Paulin	a127 Stirpe
a120 Barclay	a147 DiPietro	a131 Kolb	a009 Pellegrino	a071 Taylor
a030 Barnwell	a016 D'Urso	a105 Lalor	a141 Peoples-	a001 Thiele
a106 Barrett	a004 Englebright	a013 Lavine	Stokes	a061 Titone
a060 Barron	a133 Errigo	a134 Lawrence	a058 Perry	a031 Titus
a082 Benedetto	a109 Fahy	a050 Lentol	a023 Pheffer	a033 Vanel
a042 Bichotte	a126 Finch	a125 Lifton	Amato	a055 Walker
a079 Blake	a008 Fitzpatrick	a123 Lupardo	a086 Pichardo	a143 Wallace
a117 Blankenbush	a124 Friend	a121 Magee	a089 Pretlow	a112 Walsh
a098 Brabenc	a095 Galef	a129 Magnarelli	a073 Quart	a146 Walter
a026 Braunstein	a137 Gantt	a064 Malliotakis	a019 Ra	a041 Weinstein
a119 Brindisi	a007 Garbarino	a090 Mayer	a012 Raia	a024 Weprin
a138 Bronson	a148 Giglio	a108 McDonald	a006 Ramos	a059 Williams
a093 Buchwald	a066 Glick	a014 McDonough	a043 Richardson	a113 Woerner
a118 Butler	a150 Goodell	a101 Miller, B.	a078 Rivera	a056 Wright
a094 Byrne	a075 Gottfried	a038 Miller, M.G.	a068 Rodriguez	a096 Zebrowski
a103 Cahill	a100 Gunther	a020 Miller, M.L.	a027 Rosenthal, D.	a005
a044 Carroll	a046 Harris	a015 Montesano	a067 Rosenthal, L.	a010
a062 Castorina	a139 Hawley	a136 Morelle	a025 Rozic	a017
a047 Colton	a083 Heastie	a145 Morinello	a149 Ryan	a039
a032 Cook	a028 Hevesi	a057 Mosley	a111 Santabarbara	a074
a085 Crespo	a048 Hikind	a003 Murray	a140 Schimminger	a080
a122 Crouch	a018 Hooper	a065 Niou	a076 Seawright	a102
a021 Curran	a128 Hunter	a037 Nolan	a087 Sepulveda	a107
a063 Cusick	a029 Hyndman	a144 Norris	a052 Simon	a142
a045 Cymbrowitz	a097 Jaffee	a130 Oaks	a036 Simotas	
a053 Davila	a011 Jean-Pierre	a069 O'Donnell	a104 Skartados	
a072 De La Rosa	a116 Jenne	a051 Ortiz	a099 Skoufis	

1) Single House Bill (introduced and printed separately in either or  
both houses). Uni-Bill (introduced simultaneously in both houses and printed  
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2  
signed copies of bill and 4 copies of memorandum in support (single house);  
or 4 signed copies of bill and 8 copies of memorandum  
in support (uni-bill).

(c) of subdivision 6 of section 425 of the real property tax law relating to the school tax relief (STAR) exemption; and to repeal section 171-o of the tax law relating to income verification for a city with a population of one million or more (Part B); to amend the real property law, in relation to real property transfer reports (Part C); to amend the real property law, in relation to reports of manufactured housing park owners (Part D); to amend the general municipal law, the education law, the state finance law, the real property tax law and the tax law, in relation to making technical corrections to various statutes impacting property taxes; and to repeal subsection (bbb) of section 606 of the tax law, section 3-d of the general municipal law and section 2023-b of the education law, relating thereto (Part E); to amend the real property tax law, in relation to taxable state land (Part F); to amend the real property tax law, in relation to assessment ceilings; and to amend chapter 475 of the laws of 2013, amending the real property tax law relating to assessment ceilings for local public utility mass real property, in relation to the effectiveness thereof (Part G); to amend the tax law and the administrative code of the city of New York, in relation to extending the statute of limitations for assessing tax on amended returns (Part H); to amend the tax law, in relation to providing for employee wage reporting consistency between the department of taxation and finance and the department of labor (Part I); to amend the tax law, in relation to sales and compensating use taxes imposed on food and beverages sold by restaurants and similar establishments (Part J); to amend the tax law, in relation to allowing sharing with the comptroller information regarding unwarranted fixed and final debt (Part K); to amend the social services law, in relation to the disclosure of certain information relating to a person receiv-

ing public assistance to the commissioner of taxation and finance (Part L); to amend the tax law, in relation to establishing a conditional tax on carried interest (Part M); to amend the tax law, in relation to permitting the commissioner of taxation and finance to seek judicial review of decisions of the tax appeals tribunal (Part N); to amend the tax law and the administrative code of the city of New York, in relation to the definition of resident for tax purposes of the personal income tax (Part O); to amend the tax law, in relation to the empire state child credit (Part P); to amend the tax law, in relation to extending the hire a veteran credit for an additional two years (Part Q); to amend the labor law and the tax law, in relation to enhancing the New York youth jobs program (Part R); to amend the tax law, in relation to the temporary deferral of certain tax credits (Part S); to amend the tax law, in relation to extending the real estate transfer tax statute of limitations for refunds from two to three years and providing for consistent joint liability treatment within the real estate transfer tax (Part T); to amend the tax law, in relation to the taxation of cigars (Part U); to amend the tax law and the administrative code of the city of New York, in relation to sales and use taxes on gas and electric service; and repealing section 1105-C of the tax law relating thereto (Part V); to amend the tax law, in relation to exempting from sales and use tax certain veterinary drugs and medicines and removing the refund/credit therefor (Part W); to amend the tax law, in relation to providing relief from sales tax liability for certain partners of a limited partnership and members of a limited liability company (Part X); to amend the tax law, in relation to exempting items of food and drink when sold from certain vending machines from the sales and compensating use tax (Part Y); to amend

part A of chapter 61 of the laws of 2017, amending the tax law relating to the imposition of sales and compensating use taxes in certain counties, in relation to extending the revenue distribution provisions for the additional rates of sales and use tax of Genesee, Monroe, Onondaga and Orange counties (Part Z); to amend the tax law, in relation to imposing an internet fairness conformity tax and requiring non-collecting sellers to provide specified information to New York purchasers and to the commissioner of taxation and finance (Part AA); to amend the tax law, in relation to imposing a health tax on vapor products (Part BB); to amend the tax law, in relation to the imposition of an opioid epidemic surcharge; and to amend the state finance law, in relation to establishing the opioid prevention, treatment and recovery account (Part CC); to amend the tax law, in relation to establishing a health-care insurance windfall profit fee (Part DD); to amend the racing, pari-mutuel wagering and breeding law, in relation to adjusting the franchise payment, and authorizing night races under certain circumstances; creating an equine drug testing advisory committee; and providing for the repeal of certain provisions upon the expiration thereof (Part EE); to amend the racing, pari-mutuel wagering and breeding law, in relation to providing funds for the aftercare of retired horses (Part FF); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and

breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part GG); to amend the state finance law, in relation to the commercial gaming revenue fund; and to repeal subdivision 4 of section 97-nnmn of the state finance law relating to base year gaming revenue (Part HH); and to amend the tax law, in relation to commissions paid to the operator of a video lottery facility; to repeal certain provisions of such law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part II)

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



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

12 PART A

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

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

1 ning with the two thousand eighteen-two thousand nineteen school year,  
2 the tax savings applicable to any portion shall not exceed the tax  
3 savings for the prior year. The tax savings attributable to the basic  
4 and enhanced exemptions shall be calculated separately. It shall be the  
5 responsibility of the commissioner to calculate tax savings limitations  
6 for purposes of this subdivision.

7 § 2. This act shall take effect immediately.

8 PART B

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

12 (ii) The term "income" as used herein shall mean the "adjusted gross  
13 income" for federal income tax purposes as reported on the applicant's  
14 federal or state income tax return for the applicable income tax year,  
15 subject to any subsequent amendments or revisions, reduced by distrib-  
16 utions, to the extent included in federal adjusted gross income,  
17 received from an individual retirement account and an individual retire-  
18 ment annuity; provided that if no such return was filed for the applica-  
19 ble income tax year, "income" shall mean the adjusted gross income that  
20 would have been so reported if such a return had been filed. Provided  
21 further, that effective with exemption applications for final assessment  
22 rolls to be completed in two thousand nineteen, where an income-eligi-  
23 bility determination is wholly or partly based upon the income of one or  
24 more individuals who did not file a return for the applicable income tax  
25 year, then in order for the application to be considered complete, each  
26 such individual must file a statement with the department showing the

1 source or sources of his or her income for that income tax year, and the  
2 amount or amounts thereof, that would have been reported on such a  
3 return if one had been filed. Such statement shall be filed at such  
4 time, and in such form and manner, as may be prescribed by the depart-  
5 ment, and shall be subject to the secrecy provisions of the tax law to  
6 the same extent that a personal income tax return would be. The depart-  
7 ment shall make such forms and instructions available for the filing of  
8 such statements.

9 § 2. Subparagraph (iv) of paragraph (b) of subdivision 4 of section  
10 425 of the real property tax law, as amended by chapter 451 of the laws  
11 of 2015, is amended to read as follows:

12 (iv) (A) Effective with applications for the enhanced exemption on  
13 final assessment rolls to be completed in two thousand [three] nineteen,  
14 the application form shall indicate that [the] all owners of the proper-  
15 ty and any owners' spouses residing on the premises [may authorize the  
16 assessor to] must have their income eligibility verified annually [ther-  
17 eafter] by the [state] department [of taxation and finance, in lieu of  
18 furnishing copies of the applicable income tax return or returns with  
19 the application. If the owners of the property and any owners' spouses  
20 residing on the premises elect to participate in this program, which  
21 shall be known as the STAR income verification program, they] and must  
22 furnish their taxpayer identification numbers in order to facilitate  
23 matching with records of the department. [Thereafter, their] The income  
24 eligibility of such persons shall be verified annually by the  
25 department, and the assessor shall not request income documentation from  
26 them[, unless such department advises the assessor that they do not  
27 satisfy the applicable income eligibility requirements, or that it is  
28 unable to determine whether they satisfy those requirements]. All appli-

1 cants for the enhanced exemption and all assessing units shall be  
2 required to participate in this program, which shall be known as the  
3 STAR income verification program.

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

26 (C) Notwithstanding any provision of law to the contrary, neither an  
27 assessor nor a board of assessment review has the authority to consider  
28 an objection to the replacement or removal or denial of an exemption

1 pursuant to this subdivision, nor may such an action be reviewed in a  
2 proceeding to review an assessment pursuant to title one or one-A of  
3 article seven of this chapter. Such an action may only be challenged  
4 before the department. If a taxpayer is dissatisfied with the depart-  
5 ment's final determination, the taxpayer may appeal that determination  
6 to the state board of real property tax services in a form and manner to  
7 be prescribed by the commissioner. Such appeal shall be filed within  
8 forty-five days from the issuance of the department's final determi-  
9 nation. If dissatisfied with the state board's determination, the  
10 taxpayer may seek judicial review thereof pursuant to article seventy-  
11 eight of the civil practice law and rules. The taxpayer shall otherwise  
12 have no right to challenge such final determination in a court action,  
13 administrative proceeding or any other form of legal recourse against  
14 the commissioner, the department, the state board of real property tax  
15 services, the assessor or other person having custody or control of the  
16 assessment roll or tax roll regarding such action.

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

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

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

26 (d) Third party notice. (i) A senior citizen eligible for the enhanced  
27 exemption may request that a notice be sent to an adult third party.  
28 Such request shall be made on a form prescribed by the commissioner and

1 shall be submitted to the assessor of the assessing unit in which the  
2 eligible taxpayer resides no later than sixty days before the first  
3 taxable status date to which it is to apply. Such form shall provide a  
4 section whereby the designated third party shall consent to such desig-  
5 nation. Such request shall be effective upon receipt by the assessor.  
6 The assessor shall maintain a list of all eligible property owners who  
7 have requested notices pursuant to this paragraph and shall furnish a  
8 copy of such list to the department upon request.

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

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

22 (iii) In the case of a senior citizen who has elected to participate  
23 in the STAR income verification program, a] A notice shall be sent to  
24 the designated third party whenever the assessor or department sends a  
25 notice to the senior citizen regarding the possible removal of the  
26 enhanced STAR exemption. When the exemption is subject to removal  
27 because the commissioner has determined that the income eligibility  
28 requirement is not satisfied, such notice shall be sent to the third

1 party by the department. When the exemption is subject to removal  
2 because the assessor has determined that any other eligibility require-  
3 ment is not satisfied, such notice shall be sent to the third party by  
4 the assessor. Such notice shall read substantially as follows:

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

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

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

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

21 9-b. Duration of exemption; enhanced exemption. (a) [In the case of  
22 persons who have elected to participate in the STAR income verification  
23 program, the] The enhanced exemption, once granted, shall remain in  
24 effect until discontinued in the manner provided in this section.

25 (b) [In the case of persons who have not elected to participate in the  
26 STAR income verification program, the enhanced exemption shall apply for  
27 a term of one year. To continue receiving such enhanced exemption, a  
28 renewal application must be filed annually with the assessor on or

1 before the applicable taxable status date on a form prescribed by the  
2 commissioner. Provided, however, that if a renewal application is not so  
3 filed, the assessor shall discontinue the enhanced exemption but shall  
4 grant the basic exemption, subject to the provisions of subdivision  
5 eleven of this section.

6 (c) Whether or not the recipients of an enhanced STAR exemption have  
7 elected to participate in the STAR income verification program, the] The  
8 assessor [may review their] shall review the continued compliance of  
9 recipients of the enhanced exemption with the applicable ownership and  
10 residency requirements to the same extent as if they were receiving a  
11 basic STAR exemption.

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

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

18 14-a. Implementation of certain eligibility determinations. When a  
19 taxpayer's eligibility for exemption under this section for a school  
20 year is affected by a determination made in accordance with subparagraph  
21 (iv) of paragraph (b) of subdivision four of this section or paragraph  
22 (c) or (d) of subdivision fourteen of this section, and the determi-  
23 nation is made after the school district taxes for that school year have  
24 been levied, the provisions of this subdivision shall be applicable.

25 (a) If the determination restores or increases the taxpayer's  
26 exemption for that school year, the commissioner is authorized to remit  
27 the excess directly to the property owner upon receiving confirmation  
28 that the taxpayer's original school tax bill has been paid in full. The



1 amounts payable by the commissioner under this paragraph shall be paid  
2 from the account established for the payment of STAR benefits to late  
3 registrants pursuant to subparagraph (iii) of paragraph (a) of subdivi-  
4 sion fourteen of this section. When the commissioner implements the  
5 determination in this manner, he or she shall so notify the assessor and  
6 county director of real property tax services, but no correction shall  
7 be made to the assessment roll or tax roll for that school year, and no  
8 refund shall be issued by the school authorities to the property owner  
9 or his or her agent for the excessive amount of school taxes paid for  
10 that school year.

11 (b) If the determination removes, denies or decreases the taxpayer's  
12 exemption for that school year, the commissioner is authorized to  
13 collect the shortfall directly from the owners of the property, together  
14 with interest, by utilizing any of the procedures for collection, levy,  
15 and lien of personal income tax set forth in article twenty-two of the  
16 tax law, and any other relevant procedures referenced within the  
17 provisions of such article. When the commissioner implements the deter-  
18 mination in this manner, he or she shall so notify the assessor and  
19 county director of real property tax services, but no correction shall  
20 be made to the assessment roll or tax roll for that school year, and no  
21 corrected school tax bill shall be sent to the taxpayer for that school  
22 year.

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

24 § 10. Subparagraph (B) of paragraph 1 of subsection (eee) of section  
25 606 of the tax law, as amended by section 8 of part A of chapter 73 of  
26 the laws of 2016, is amended to read as follows:

27 (B) "Affiliated income" shall mean for purposes of the basic STAR  
28 credit, the combined income of all of the owners of the parcel who

1 resided primarily thereon as of December thirty-first of the taxable  
2 year, and of any owners' spouses residing primarily thereon as of such  
3 date, and for purposes of the enhanced STAR credit, the combined income  
4 of all of the owners of the parcel as of December thirty-first of the  
5 taxable year, and of any owners' spouses residing primarily thereon as  
6 of such date; provided that for both purposes the income to be so  
7 combined shall be the "adjusted gross income" for the taxable year as  
8 reported for federal income tax purposes, or that would be reported as  
9 adjusted gross income if a federal income tax return were required to be  
10 filed, reduced by distributions, to the extent included in federal  
11 adjusted gross income, received from an individual retirement account  
12 and an individual retirement annuity. For taxable years beginning on  
13 and after January first, two thousand nineteen, where an income-eligi-  
14 bility determination is wholly or partly based upon the income of one or  
15 more individuals who did not file a return pursuant to section six  
16 hundred fifty-one of this article for the applicable income tax year,  
17 then in order to be eligible for the credit authorized by this  
18 subsection, each such individual must file a statement with the depart-  
19 ment showing the source or sources of his or her income for that income  
20 tax year, and the amount or amounts thereof, that would have been  
21 reported on such a return if one had been filed. Such statement shall be  
22 filed at such time, and in such form and manner, as may be prescribed by  
23 the department, and shall be subject to the provisions of section six  
24 hundred ninety-seven of this article to the same extent that a return  
25 would be. The department shall make such forms and instructions avail-  
26 able for the filing of such statements. Provided further, that if the  
27 qualified taxpayer was an owner of the property during the taxable year  
28 but did not own it on December thirty-first of the taxable year, then

1 the determination as to whether the income of an individual should be  
2 included in "affiliated income" shall be based upon the ownership and/or  
3 residency status of that individual as of the first day of the month  
4 during which the qualified taxpayer ceased to be an owner of the proper-  
5 ty, rather than as of December thirty-first of the taxable year.

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

17 § 12. This act shall take effect immediately.

18 PART C

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

21 ix. Whenever there has been a transfer or acquisition of a share or  
22 shares in a cooperative housing corporation, and such share or shares  
23 come with a right to occupy a unit or apartment located in property  
24 owned by such corporation, a transfer report must be filed by the trans-  
25 feree or transferees directly with the department of taxation and  
26 finance, regardless of whether a deed is prepared, delivered or

1 recorded, as set forth in this paragraph. The fee imposed by subdivision  
2 three of this section shall not apply to transfer reports filed directly  
3 with the department of taxation and finance pursuant to this paragraph.  
4 Such report shall be in a form prescribed by the commissioner of taxa-  
5 tion and finance, must contain the information required to be included  
6 by this subdivision, and in addition, must specify the number of shares  
7 being transferred or acquired. When a real estate transfer tax return is  
8 filed with such commissioner pursuant to section fourteen hundred nine  
9 of the tax law in relation to such property, the report required by this  
10 paragraph shall be filed concurrently therewith, but in no event shall  
11 the report required by this paragraph be deemed to be a part of such  
12 real estate transfer tax return.

13 x. Whenever there has been a transfer or acquisition of a controlling  
14 interest in an entity with an interest in real property, a transfer  
15 report must be filed by the transferee or transferees directly with the  
16 department of taxation and finance, regardless of whether a deed is  
17 prepared, delivered or recorded, as set forth in this paragraph. The fee  
18 imposed by subdivision three of this section shall not apply to transfer  
19 reports filed directly with the department of taxation and finance  
20 pursuant to this paragraph. Such report shall be in a form prescribed by  
21 the commissioner of taxation and finance, must contain the information  
22 required to be included by this subdivision, and in addition, must spec-  
23 ify the percentage of the ownership interest being transferred or  
24 acquired. The transfer report shall indicate the percentage of the tran-  
25 saction that is exempt from the real estate transfer tax as a mere  
26 change in identity or form of ownership or organization where there is  
27 no change in beneficial ownership pursuant to paragraph six of subdivi-  
28 sion (b) of section fourteen hundred five of the tax law, if any. When

1 a real estate transfer tax return is filed with such commissioner pursu-  
2 ant to section fourteen hundred nine of the tax law in relation to such  
3 property, the report required by this paragraph shall be filed concur-  
4 rently therewith, but in no event shall the report required by this  
5 paragraph be deemed to be a part of such real estate transfer tax  
6 return. For purposes of this paragraph, the terms "controlling interest"  
7 and "interest in real property" shall have the same meaning as set forth  
8 in section fourteen hundred one of the tax law, provided, however, that  
9 the term "interest in real property" shall be limited to interests in  
10 real property subject to real property tax assessment such as lands,  
11 buildings, structures, and other improvements, and shall not include  
12 development rights, air space, or air rights.

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

15 PART D

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

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

25 2. On or before January first, nineteen hundred eighty-nine, each  
26 manufactured home park owner or operator shall file a registration

1 statement with the commissioner and shall thereafter file an annual  
2 registration statement on or before January first of each succeeding  
3 year, up to and including two thousand eighteen. Thereafter, each manu-  
4 factured home park owner or operator shall file quarterly registration  
5 statements with the commissioner no later than twenty-one days after the  
6 end of each calendar quarter. The commissioner, by regulation, shall  
7 provide that such registration statement shall include [only] the names  
8 of all persons owning an interest in the park, the names of all tenants  
9 of the park, all services provided by the park owner to the tenants, and  
10 such other information as the commissioner shall prescribe by regulation  
11 after consultation with the commissioner of taxation and finance;  
12 provided that in the case of a registration statement for the first  
13 calendar quarter of a year, such statement shall also include a copy of  
14 all current manufactured home park rules and regulations. The commis-  
15 sioner shall provide the commissioner of taxation and finance with a  
16 complete copy of each quarterly report no later than fifteen days after  
17 the receipt thereof.

18 3. Whenever there shall be a violation of this section, an application  
19 may be made by the commissioner of housing and community renewal in the  
20 name of the people of the state of New York to a court or justice having  
21 jurisdiction by a special proceeding to issue an injunction, and upon  
22 notice to the defendant of not less than five days, to enjoin and  
23 restrain the continuance of such violation; and if it shall appear to  
24 the satisfaction of the court or justice that the defendant has, in  
25 fact, violated this section, an injunction may be issued by such court  
26 or justice, enjoining and restraining any further violation and with  
27 respect to this subdivision, directing the filing of a registration  
28 statement. In any such proceeding, the court may make allowances to the

1 commissioner of housing and community renewal of a sum not exceeding two  
2 thousand dollars against each defendant, and direct restitution. When-  
3 ever the court shall determine that a violation of this section has  
4 occurred, the court may impose a civil penalty of not more than one  
5 thousand five hundred dollars for each violation. Such penalty shall be  
6 deposited in the manufactured home cooperative fund, created pursuant to  
7 section fifty-nine-h of the private housing finance law. In connection  
8 with any such proposed application, the commissioner of housing and  
9 community renewal is authorized to take proof and make a determination  
10 of the relevant facts and to issue subpoenas in accordance with the  
11 civil practice law and rules. The provisions of this subdivision shall  
12 not impair the rights granted under subdivision u of this section.

13 § 2. This act shall take effect immediately.

14 PART E

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

16 § 1-a. Section 3-d of the general municipal law is REPEALED.

17 § 1-b. Section 2023-b of the education law is REPEALED.

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

20 § 3-d. Certification of compliance with tax levy limit. 1. Upon the  
21 adoption of the budget of a local government unit, the chief executive  
22 officer or budget officer of such local government unit shall certify to  
23 the state comptroller and the commissioner of taxation and finance that  
24 the budget so adopted does not exceed the tax levy limit prescribed in  
25 section three-c of this article and, if the governing body of the local  
26 government unit did enact a local law or approve a resolution to over-

1 ride the tax levy limit, that such local law or resolution was subse-  
2 quently repealed. Such certification shall be made in a form and manner  
3 prescribed by the state comptroller in consultation with the commission-  
4 er of taxation and finance.

5 2. Notwithstanding any other law to the contrary, if such a certif-  
6 ication has been made and the actual tax levy of the local government  
7 unit exceeds the applicable tax levy limit, the excess amount shall be  
8 placed in reserve and used in the manner prescribed by subdivision six  
9 of section three-c of this article, even if a tax levy in excess of the  
10 tax levy limit had been authorized for the applicable fiscal year by a  
11 duly adopted local law or resolution.

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

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

19 § 2023-b. Certification of compliance with tax levy limit. 1. Upon  
20 the adoption of the budget of an eligible school district, the chief  
21 executive officer of such school district shall certify to the state  
22 comptroller, the commissioner of taxation and finance and the commis-  
23 sioner that the budget so adopted does not exceed the tax levy limit  
24 prescribed by section two thousand twenty-three-a of this part. Such  
25 certification shall be made in a form and manner prescribed by the state  
26 comptroller in consultation with the commissioner of taxation and  
27 finance and the commissioner.



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

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

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

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

22 § 5. Section 925-b of the real property tax law, as amended by chapter  
23 161 of the laws of 2006, is amended to read as follows:

24 § 925-b. Extension; certain persons sixty-five years of age or over.  
25 Notwithstanding any contrary provision of this chapter, or any general,  
26 special or local law, code or charter, the governing body of a municipal  
27 corporation other than a county may, by resolution adopted prior to the  
28 levy of any taxes on real property located within such municipal corpo-

1 ration, authorize an extension of no more than five business days for  
2 the payment of taxes without interest or penalty to any resident of such  
3 municipal corporation who has received an exemption pursuant to subdivi-  
4 sion four of section four hundred twenty-five or four hundred sixty-sev-  
5 en of this chapter, or a credit pursuant to subsection (eee) of section  
6 six hundred six of the tax law, related to a principal residence located  
7 within such municipal corporation. If such an extension is granted, and  
8 any taxes are not paid by the final date so provided, those taxes shall  
9 be subject to the same interest and penalties that would have applied if  
10 no extension had been granted.

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

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

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

25 § 7. Subparagraph (B) of paragraph 7 of subsection (eee) of section  
26 606 of the tax law, as amended by section 1 of part G of chapter 59 of  
27 the laws of 2017, is amended to read as follows:

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

11 § 7-a. Paragraph (g) of subdivision 2 of section 425 of the real prop-  
12 erty tax law, as added by section 1 of part B of chapter 389 of the laws  
13 of 1997 and as further amended by subdivision (b) of section 1 of part W  
14 of chapter 56 of the laws of 2010, is amended to read as follows:

15 (g) Computation and certification by commissioner. It shall be the  
16 responsibility of the commissioner to compute the exempt amount for each  
17 assessing unit in each county in the manner provided herein, and to  
18 certify the same to the assessor of each assessing unit and to the coun-  
19 ty director of real property tax services of each county. Such certif-  
20 ication shall be made at least twenty days before the last date  
21 prescribed by law for the filing of the tentative assessment roll.  
22 Provided, however, that where school taxes are levied on a prior year  
23 assessment roll, or on a final assessment roll that was filed more than  
24 one year after the tentative roll was filed, such certification shall be  
25 made no later than fifteen days after the publication of the data needed  
26 to compute the base figure for the enhanced STAR exemption pursuant to  
27 clause (A) of subparagraph (vi) of paragraph (b) of this subdivision,  
28 and provided further, that upon receipt of such certification, the

1 assessor shall thereupon be authorized and directed to correct the  
2 assessment roll to reflect the exempt amount so certified, or, if anothe-  
3 er person has custody or control of the assessment roll, to direct that  
4 person to make the appropriate corrections.

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

7 (A) A married couple may not receive a credit pursuant to this  
8 subsection on more than one residence during any given taxable year,  
9 unless living apart due to legal separation. Nor may a married couple  
10 receive a credit pursuant to this subsection on one residence while  
11 receiving an exemption pursuant to section four hundred twenty-five of  
12 the real property tax law on another residence, unless living apart due  
13 to legal separation.

14 § 9. This act shall take effect immediately; provided, however, that  
15 section 3-d of the general municipal law, as added by section two of  
16 this act, shall expire and be deemed repealed on the same date and in  
17 the same manner as section 1 of part A of chapter 97 of the laws of  
18 2011, expires and is deemed repealed, and provided that section 2023-b  
19 of the education law, as added by section three of this act, shall  
20 expire and be deemed repealed on the same date and in the same manner as  
21 section 2 of part A of chapter 97 of the laws of 2011, expires and is  
22 deemed repealed, and provided further that the amendments to paragraph 6  
23 of subsection (eee) of section 606 of the tax law made by section eight  
24 of this act shall take effect immediately and shall apply to taxable  
25 years beginning on or after January 1, 2016.

REPEAL NOTE: Section 606(bbb) of the Tax Law, section 3-d of the  
General Municipal Law and section 2023-b of the Education Law collec-  
tively constituted the enabling legislation for the tax freeze credit

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

1

## PART F

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

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

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

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

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

26 (c) On or before July first of each year, the comptroller shall calcu-  
27 late the amounts of taxes that are due and payable on taxable state land  
28 pursuant to this subdivision, and shall notify the commissioner of the

1 amounts so calculated. The commissioner shall thereupon transmit that  
2 information to the affected local governments and school districts. The  
3 taxes due on such lands shall be paid by the comptroller in the manner  
4 provided by subdivision one of this section.

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

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

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

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

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

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

25 (vi) When a school district receives payments of taxes on state lands  
26 pursuant to this subdivision, any actual valuation computed for such  
27 school district pursuant to paragraph c of subdivision one of section  
28 thirty-six hundred two of the education law shall include the actual

1 valuation equivalent of those payments. The commissioner shall determine  
2 such actual valuation equivalent by dividing the payment made, as  
3 reported to such commissioner by the comptroller, by the school tax rate  
4 that was applied to real property on that year's assessment roll or, if  
5 applicable, the special apportionment rate determined pursuant to  
6 section twelve hundred twenty-seven of this chapter and dividing such  
7 result by the final state equalization rate for that roll. The actual  
8 valuation equivalent shall be reported to the state comptroller and the  
9 commissioner of education, and shall be used by the commissioner of  
10 education in the determination of any state average that uses real prop-  
11 erty taxes levied against and/or actual valuation based upon the corre-  
12 sponding assessment roll. Each school district receiving payments of  
13 taxes on state lands pursuant to this subdivision shall annually report  
14 those payments to the commissioner of education, with a copy to the  
15 commissioner, as a condition to receiving any aid pursuant to section  
16 thirty-six hundred two of the education law.

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

21 § 2. This act shall take effect immediately.

22 PART G

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



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

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

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

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

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

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

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

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

5 PART H

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

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

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

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

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

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

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

13 PART I

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

17 (1) The commissioner of taxation and finance may prescribe regulations  
18 and instructions requiring returns of information to be made and filed  
19 on or before February twenty-eighth of each year as to the payment or  
20 crediting in any calendar year of amounts of six hundred dollars or more  
21 to any taxpayer under this article. Such returns may be required of any  
22 person, including lessees or mortgagors of real or personal property,  
23 fiduciaries, employers, and all officers and employees of this state, or  
24 of any municipal corporation or political subdivision of this state,  
25 having the control, receipt, custody, disposal or payment of interest,  
26 rents, salaries, wages, premiums, annuities, compensations, remunera-

1 tions, emoluments or other fixed or determinable gains, profits or  
2 income, except interest coupons payable to bearer. Information required  
3 to be furnished pursuant to paragraph four of subsection (a) of section  
4 six hundred seventy-four on a quarterly combined withholding and wage  
5 reporting return covering [the last] each calendar quarter of each year  
6 and relating to tax withheld on wages paid by an employer to an employee  
7 for [the full] each calendar [year] quarter, shall constitute the return  
8 of information required to be made under this section with respect to  
9 such wages.

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

13 (A) All employers described in paragraph one of subsection (a) of  
14 section six hundred seventy-one of this part, including those whose  
15 wages paid are not sufficient to require the withholding of tax from the  
16 wages of any of their employees, all employers required to provide the  
17 wage reporting information for the employees described in subdivision  
18 one of section one hundred seventy-one-a of this chapter, and all  
19 employers liable for unemployment insurance contributions or for  
20 payments in lieu of such contributions pursuant to article eighteen of  
21 the labor law, shall file a quarterly combined withholding, wage report-  
22 ing and unemployment insurance return detailing the preceding calendar  
23 quarter's withholding tax transactions, such quarter's wage reporting  
24 information, such quarter's withholding reconciliation information, such  
25 quarter's unemployment insurance contributions, and such other related  
26 information as the commissioner of taxation and finance or the commis-  
27 sioner of labor, as applicable, may prescribe. [In addition, the return  
28 covering the last calendar quarter of each year shall also include with-

1 holding reconciliation information for such calendar year.] Such returns  
2 shall be filed no later than the last day of the month following the  
3 last day of each calendar quarter.

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

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

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

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

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

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

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

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

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

3 PART K

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

6 § 171-z. Information sharing with the comptroller regarding unclaimed  
7 funds. 1. Notwithstanding any other law, the commissioner is authorized  
8 to release to the comptroller information regarding fixed and final  
9 unwarranted debts of taxpayers for purposes of collecting unclaimed  
10 funds from the comptroller to satisfy fixed and final unwarranted debts  
11 owed by taxpayers. For purposes of this section, the term "unwarranted  
12 debt" shall mean past-due tax liabilities, including unpaid tax, inter-  
13 est and penalty, that the commissioner is required by law to collect and  
14 that have become fixed and final such that the taxpayer no longer has  
15 any right to administrative or judicial review and a warrant has not  
16 been filed; and the term "taxpayer" shall mean any individual, corpo-  
17 ration, partnership, limited liability partnership or company, partner,  
18 member, manager, sole proprietorship, estate, trust, fiduciary or enti-  
19 ty, who or which has been identified as owing taxes to the state. This  
20 section shall not be deemed to abrogate or limit in any way the powers  
21 and authority of the comptroller to set off debts owed the state from  
22 unclaimed funds, under the constitution of the state or any other law.

23 2. The comptroller shall keep all information he or she obtains from  
24 the commissioner confidential, and any employee, agent or representative  
25 of the comptroller is prohibited from disclosing any taxpayer informa-  
26 tion received under this section to anyone other than the commissioner



1 or staff of the department or staff of the department of audit and  
2 control for the purposes described in this section.

3 § 2. This act shall take effect immediately.

4 PART L

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

8 2. All communications and information relating to a person receiving  
9 public assistance or care obtained by any social services official,  
10 service officer, or employee in the course of his or her work shall be  
11 considered confidential and, except as otherwise provided in this  
12 section, shall be disclosed only to the commissioner, or his or her  
13 authorized representative, the commissioner of labor, or his or her  
14 authorized representative, the commissioner of health, or his or her  
15 authorized representative, the commissioner of taxation and finance, or  
16 his or her authorized representative (other than the disclosure of  
17 information that has been prohibited by federal law), the welfare  
18 inspector general, or his or her authorized representative, the county  
19 board of supervisors, city council, town board or other board or body  
20 authorized and required to appropriate funds for public assistance and  
21 care in and for such county, city or town or its authorized represen-  
22 tative or, by authority of the county, city or town social services  
23 official, to a person or agency considered entitled to such information.  
24 Nothing herein shall preclude a social services official from report-  
25 ing to an appropriate agency or official, including law enforcement  
26 agencies or officials, known or suspected instances of physical or

1 mental injury, sexual abuse or exploitation, sexual contact with a minor  
2 or negligent treatment or maltreatment of a child of which the official  
3 becomes aware in the administration of public assistance and care nor  
4 shall it preclude communication with the federal immigration and natur-  
5 alization service regarding the immigration status of any individual.

6 § 2. This act shall take effect immediately.

7 PART M

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

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

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

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

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

25 (3) A partner or shareholder will not be deemed to be providing  
26 investment management services under this section if at least eighty  
27 percent of the average fair market value of the assets of the partner-

1 ship or S corporation during the taxable year consist of real estate  
2 held for rental or investment.

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

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

27 (a) (i) The term "investment income" means income, including capital  
28 gains in excess of capital losses, from investment capital, to the

1 extent included in computing entire net income, less, (A) in the  
2 discretion of the commissioner, any interest deductions allowable in  
3 computing entire net income which are directly or indirectly attribut-  
4 able to investment capital or investment income, and (B) any net capital  
5 gain included in federal taxable income that must be recharacterized as  
6 a business receipt pursuant to section forty-four of this chapter;  
7 provided, however, that in no case shall investment income exceed entire  
8 net income. (ii) If the amount of interest deductions subtracted under  
9 subparagraph (i) of this paragraph exceeds investment income, the excess  
10 of such amount over investment income must be added back to entire net  
11 income. (iii) If the taxpayer's investment income determined without  
12 regard to the interest deductions subtracted under subparagraph (i) of  
13 this paragraph comprises more than eight percent of the taxpayer's  
14 entire net income, investment income determined without regard to such  
15 interest deductions cannot exceed eight percent of the taxpayer's entire  
16 net income.

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

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

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

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

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

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

18 § 6. For taxable years beginning on or after January 1, 2018 and  
19 before January 1, 2019, (i) no addition to tax under subsection (c) of  
20 section 685 or subsection (c) of section 1085 of the tax law shall be  
21 imposed with respect to any underpayment attributable to the amendments  
22 made by this act of any estimated taxes that are required to be paid  
23 prior to the effective date of this act, provided that the taxpayer  
24 timely made those payments; and (ii) the required installment of esti-  
25 mated tax described in clause (ii) of subparagraph (B) of paragraph 3 of  
26 subsection (c) of section 685 of the tax law, and the exception to addi-  
27 tion for underpayment of estimated tax described in paragraph 1 or 2 of  
28 subsection (d) of section 1085 of the tax law, in relation to the

1 preceding year's return, shall be calculated as if the amendments made  
2 by this act had been in effect for that entire preceding year.

3 § 7. This act shall take effect upon the enactment into law by the  
4 states of Connecticut, New Jersey, Massachusetts and Pennsylvania of  
5 legislation having substantially the same effect as this act and the  
6 enactments by such states have taken effect in each state and shall  
7 apply for taxable years beginning on or after such date; provided,  
8 however, if the states of Connecticut, New Jersey, Massachusetts and  
9 Pennsylvania have already enacted such legislation, this act shall take  
10 effect immediately and shall apply for taxable years beginning on or  
11 after January 1, 2018; provided further that the commissioner of taxa-  
12 tion and finance shall notify the legislative bill drafting commission  
13 upon the enactment of such legislation by the states of Connecticut, New  
14 Jersey, Massachusetts and Pennsylvania in order that such commission may  
15 maintain an accurate and timely effective data base of the official text  
16 of the laws of the state of New York in furtherance of effectuating the  
17 provisions of section 44 of the legislative law and section 70-b of the  
18 public officers law.

19 PART N

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

22 § 2016. Judicial review. A decision of the tax appeals tribunal, which  
23 is not subject to any further administrative review, shall finally and  
24 irrevocably decide all the issues which were raised in proceedings  
25 before the division of tax appeals upon which such decision is based  
26 unless, within four months after notice of such decision is served by

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



1 proceeding in the division of tax appeals upon which such decision is  
2 based.

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

6 PART O

7 Section 1. Subparagraph (B) of paragraph 1 of subsection (b) of  
8 section 605 of the tax law, as amended by chapter 28 of the laws of  
9 1987, is amended to read as follows:

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

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

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

1 § 3. Subparagraph (B) of paragraph 1 of subdivision (b) of section  
2 11-1705 of the administrative code of the city of New York, as amended  
3 by chapter 333 of the laws of 1987, is amended to read as follows:

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

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

13 PART P

14 Section 1. Paragraph (1) of subsection (c-1) of section 606 of the tax  
15 law, as amended by section 1 of part L1 of chapter 109 of the laws of  
16 2006, is amended to read as follows:

17 (1) A resident taxpayer shall be allowed a credit as provided herein  
18 equal to the greater of one hundred dollars times the number of qualify-  
19 ing children of the taxpayer or the applicable percentage of the child  
20 tax credit allowed the taxpayer under section twenty-four of the inter-  
21 nal revenue code for the same taxable year for each qualifying child.  
22 Provided, however, in the case of a taxpayer whose federal adjusted  
23 gross income exceeds the applicable threshold amount set forth by  
24 section 24(b)(2) of the Internal Revenue Code, the credit shall only be  
25 equal to the applicable percentage of the child tax credit allowed the  
26 taxpayer under section 24 of the Internal Revenue Code for each qualify-

1 ing child. For the purposes of this subsection, a qualifying child shall  
2 be a child who meets the definition of qualified child under section  
3 24(c) of the internal revenue code and is at least four years of age.  
4 The applicable percentage shall be thirty-three percent. For purposes  
5 of this subsection, any reference to section 24 of the Internal Revenue  
6 Code shall be a reference to such section as it existed immediately  
7 prior to the enactment of Public Law 115-97.

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

10 PART Q

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

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

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

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

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

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

14 § 2. Paragraphs 1 and 2 of subsection (a-2) of section 606 of the tax  
15 law, as amended by section 2 of part I of chapter 60 of the laws of  
16 2016, are amended to read as follows:

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

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

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

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

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

15 § 3. Paragraphs 1 and 2 of subdivision (g-1) of section 1511 of the  
16 tax law, as amended by section 3 of part I of chapter 60 of the laws of  
17 2016, are amended to read as follows:

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

1 for this credit in the basis of any other credit allowed under this  
2 article.

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

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

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

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

17 § 4. This act shall take effect immediately.

18 PART R

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

22 (c) A qualified employer shall be entitled to a tax credit equal to  
23 (1) [five] seven hundred fifty dollars per month for up to six months  
24 for each qualified employee the employer employs in a full-time job or  
25 [two] three hundred [fifty] seventy-five dollars per month for up to six  
26 months for each qualified employee the employer employs in a part-time

1 job of at least twenty hours per week or ten hours per week when the  
2 qualified employee is enrolled in high school full-time, (2) [one thou-  
3 sand] fifteen hundred dollars for each qualified employee who is  
4 employed for at least an additional six consecutive months by the quali-  
5 fied employer in a full-time job or [five] seven hundred fifty dollars  
6 for each qualified employee who is employed for at least an additional  
7 six consecutive months by the qualified employer in a part-time job of  
8 at least twenty hours per week or ten hours per week when the qualified  
9 employee is enrolled in high school full-time, and (3) an additional  
10 [one thousand] fifteen hundred dollars for each qualified employee who  
11 is employed for at least an additional year after the [first year of the  
12 employee's employment] completion of the time periods and satisfaction  
13 of the conditions set forth in paragraphs one and two of this subdivi-  
14 sion by the qualified employer in a full-time job or [five] seven  
15 hundred fifty dollars for each qualified employee who is employed for at  
16 least an additional year after the [first year of the employee's employ-  
17 ment] completion of the time periods and satisfaction of the conditions  
18 set forth in paragraphs one and two of this subdivision by the qualified  
19 employer in a part-time job of at least twenty hours per week or ten  
20 hours per week when the qualified employee is enrolled in high school  
21 full time. The tax credits shall be claimed by the qualified employer as  
22 specified in subdivision thirty-six of section two hundred ten-B and  
23 subsection (tt) of section six hundred six of the tax law.

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

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



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

27 (1) agree to allow the department of taxation and finance to share its  
28 tax information with the commissioner. However, any information shared

1 as a result of this agreement shall not be available for disclosure or  
2 inspection under the state freedom of information law, and

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

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

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

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

25 (e-1)(1) To receive an annual final certificate of tax credit, the  
26 qualified employer must annually submit, on or before January thirty-  
27 first of the calendar year subsequent to the payment of wages paid to an  
28 eligible employee, a report to the commissioner, in a form prescribed by

1 the commissioner. The report must demonstrate that the employer has  
2 satisfied all eligibility requirements and provided all the information  
3 necessary for the commissioner to compute an actual amount of credit  
4 allowed.

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

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

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

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

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

19 (e-2) In determining the amount of credit for purposes of the annual  
20 final certificate of tax credit, the portion of the credit described in  
21 paragraph one of subdivision (c) of this section shall be allowed for  
22 the calendar year in which the wages are paid to the qualified employee,  
23 the portion of the credit described in paragraph two of subdivision (c)  
24 of this section shall be allowed for the calendar year in which the  
25 additional six consecutive month period ends, and the portion of the  
26 credit described in paragraph three of subdivision (c) of this section  
27 shall be allowed for the calendar year in which the additional year of  
28 consecutive employment ends after the completion of the time periods and

1 satisfaction of the conditions set forth in paragraphs one and two of  
2 subdivision (c) of this section. If the qualified employer's taxable  
3 year is a calendar year, the employer shall be entitled to claim the  
4 credit as calculated on the annual final certificate of tax credit on  
5 the calendar year return for which the annual final certificate of tax  
6 credit was issued. If the qualified employer's taxable year is a fiscal  
7 year, the employer shall be entitled to claim the credit as calculated  
8 on the annual final certificate of tax credit on the return for the  
9 fiscal year that encompasses the date on which the annual final certif-  
10 icate of tax credit is issued.

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

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

1 (a) A taxpayer that has been certified by the commissioner of labor as  
2 a qualified employer pursuant to section twenty-five-a of the labor law  
3 shall be allowed a credit against the tax imposed by this article equal  
4 to (i) [five] seven hundred fifty dollars per month for up to six months  
5 for each qualified employee the employer employs in a full-time job or  
6 [two] three hundred [fifty] seventy-five dollars per month for up to six  
7 months for each qualified employee the employer employs in a part-time  
8 job of at least twenty hours per week or ten hours per week when the  
9 qualified employee is enrolled in high school full-time, (ii) [one thou-  
10 sand] fifteen hundred dollars for each qualified employee who is  
11 employed for at least an additional six consecutive months by the quali-  
12 fied employer in a full-time job or [five] seven hundred fifty dollars  
13 for each qualified employee who is employed for at least an additional  
14 six consecutive months by the qualified employer in a part-time job of  
15 at least twenty hours per week or ten hours per week when the qualified  
16 employee is enrolled in high school full-time, and (iii) an additional  
17 [one thousand] fifteen hundred dollars for each qualified employee who  
18 is employed for at least an additional year after the [first year of the  
19 employee's employment] completion of the time periods and satisfaction  
20 of the conditions set forth in subparagraphs (i) and (ii) of this para-  
21 graph by the qualified employer in a full-time job or [five] seven  
22 hundred fifty dollars for each qualified employee who is employed for at  
23 least an additional year after the [first year of the employee's employ-  
24 ment] completion of the time periods and satisfaction of the conditions  
25 set forth in subparagraphs (i) and (ii) of this paragraph by the quali-  
26 fied employer in a part-time job of at least twenty hours per week or  
27 ten hours per week when the qualified employee is enrolled in high  
28 school full-time. For purposes of this subdivision, the term "qualified

1 employee" shall have the same meaning as set forth in subdivision (b) of  
2 section twenty-five-a of the labor law. The portion of the credit  
3 described in subparagraph (i) of this paragraph shall be allowed for the  
4 taxable year in which the wages are paid to the qualified employee, the  
5 portion of the credit described in subparagraph (ii) of this paragraph  
6 shall be allowed in the taxable year in which the additional six month  
7 period ends, and the portion of the credit described in subparagraph  
8 (iii) of this paragraph shall be allowed in the taxable year in which  
9 the additional year after the first year of employment ends.

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

12 (a) A taxpayer that has been certified by the commissioner of labor as  
13 a qualified employer pursuant to section twenty-five-a of the labor law  
14 and received an annual final certificate of tax credit from such commis-  
15 sioner shall be allowed a credit against the tax imposed by this article  
16 equal to [(i) seven hundred fifty dollars per month for up to six months  
17 for each qualified employee the employer employs in a full-time job or  
18 three hundred seventy-five dollars per month for up to six months for  
19 each qualified employee the employer employs in a part-time job of at  
20 least twenty hours per week or ten hours per week when the qualified  
21 employee is enrolled in high school full-time, (ii) fifteen hundred  
22 dollars for each qualified employee who is employed for at least an  
23 additional six consecutive months by the qualified employer in a full-  
24 time job or seven hundred fifty dollars for each qualified employee who  
25 is employed for at least an additional six consecutive months by the  
26 qualified employer in a part-time job of at least twenty hours per week  
27 or ten hours per week when the qualified employee is enrolled in high  
28 school full-time, and (iii) an additional fifteen hundred dollars for

1 each qualified employee who is employed for at least an additional year  
2 after the completion of the time periods and satisfaction of the condi-  
3 tions set forth in subparagraphs (i) and (ii) of this paragraph by the  
4 qualified employer in a full-time job or seven hundred fifty dollars for  
5 each qualified employee who is employed for at least an additional year  
6 after the completion of the time periods and satisfaction of the condi-  
7 tions set forth in subparagraphs (i) and (ii) of this paragraph by the  
8 qualified employer in a part-time job of at least twenty hours per week  
9 or ten hours per week when the qualified employee is enrolled in high  
10 school full-time. For purposes of this subdivision, the term "qualified  
11 employee" shall have the same meaning as set forth in subdivision (b) of  
12 section twenty-five-a of the labor law. The portion of the credit  
13 described in subparagraph (i) of this paragraph shall be allowed for the  
14 taxable year in which the wages are paid to the qualified employee, the  
15 portion of the credit described in subparagraph (ii) of this paragraph  
16 shall be allowed in the taxable year in which the additional six month  
17 period ends, and the portion of the credit described in subparagraph  
18 (iii) of this paragraph shall be allowed in the taxable year in which  
19 the additional year after the first year of employment ends] the amount  
20 listed on the annual final certificate of tax credit issued by the  
21 commissioner of labor pursuant to section twenty-five-a of the labor  
22 law. If the qualified employer's taxable year is a calendar year, the  
23 employer shall be entitled to claim the credit as calculated on the  
24 annual final certificate of tax credit on the calendar year return for  
25 which the annual final certificate of tax credit was issued. If the  
26 qualified employer's taxable year is a fiscal year, the employer shall  
27 be entitled to claim the credit as calculated on the annual final  
28 certificate of tax credit on the return for the fiscal year that encom-

1 passes the date on which the annual final certificate of tax credit is  
2 issued. For the purposes of this subdivision, the term "qualified  
3 employee" shall have the same meaning as set forth in subdivision (b) of  
4 section twenty-five-a of the labor law.

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

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

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

24 (1) A taxpayer that has been certified by the commissioner of labor as  
25 a qualified employer pursuant to section twenty-five-a of the labor law  
26 shall be allowed a credit against the tax imposed by this article equal  
27 to (A) [five] seven hundred fifty dollars per month for up to six months  
28 for each qualified employee the employer employs in a full-time job or



1 [two] three hundred [fifty] seventy-five dollars per month for up to six  
2 months for each qualified employee the employer employs in a part-time  
3 job of at least twenty hours per week or ten hours per week when the  
4 qualified employee is enrolled in high school full-time, and (B) [one  
5 thousand] fifteen hundred dollars for each qualified employee who is  
6 employed for at least an additional six consecutive months by the quali-  
7 fied employer in a full-time job or [five] seven hundred fifty dollars  
8 for each qualified employee who is employed for at least an additional  
9 six consecutive months by the qualified employer in a part-time job of  
10 at least twenty hours per week or ten hours per week when the qualified  
11 employee is enrolled in high school full-time, and (C) an additional  
12 [one thousand] fifteen hundred dollars for each qualified employee who  
13 is employed for at least an additional year after the [first year of the  
14 employee's employment] completion of the time periods and satisfaction  
15 of the conditions set forth in subparagraphs A and B of this subsection  
16 by the qualified employer in a full-time job or [five] seven hundred  
17 fifty dollars for each qualified employee who is employed for at least  
18 an additional year after the [first year of the employee's employment]  
19 completion of the time periods and satisfaction of the conditions set  
20 forth in subparagraphs A and B of this subsection by the qualified  
21 employer in a part-time job of at least twenty hours per week or ten  
22 hours per week when the qualified employee is enrolled in high school  
23 full-time. A taxpayer that is a partner in a partnership, member of a  
24 limited liability company or shareholder in an S corporation that has  
25 been certified by the commissioner of labor as a qualified employer  
26 pursuant to section twenty-five-a of the labor law shall be allowed its  
27 pro rata share of the credit earned by the partnership, limited liabil-  
28 ity company or S corporation. For purposes of this subsection, the term

1 "qualified employee" shall have the same meaning as set forth in subdi-  
2 vision (b) of section twenty-five-a of the labor law. The portion of the  
3 credit described in subparagraph (A) of this paragraph shall be allowed  
4 for the taxable year in which the wages are paid to the qualified  
5 employee, the portion of the credit described in subparagraph (B) of  
6 this paragraph shall be allowed in the taxable year in which the addi-  
7 tional six month period ends, and the portion of the credit described in  
8 subparagraph (C) of this paragraph shall be allowed in the taxable year  
9 in which the additional year after the first year of employment ends.

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

12 (1) A taxpayer that has been certified by the commissioner of labor as  
13 a qualified employer pursuant to section twenty-five-a of the labor law  
14 and received an annual final certificate of tax credit from such commis-  
15 sioner shall be allowed a credit against the tax imposed by this article  
16 equal to [(A) seven hundred fifty dollars per month for up to six months  
17 for each qualified employee the employer employs in a full-time job or  
18 three hundred seventy-five dollars per month for up to six months for  
19 each qualified employee the employer employs in a part-time job of at  
20 least twenty hours per week or ten hours per week when the qualified  
21 employee is enrolled in high school full-time, and (B) fifteen hundred  
22 dollars for each qualified employee who is employed for at least an  
23 additional six consecutive months by the qualified employer in a full-  
24 time job or seven hundred fifty dollars for each qualified employee who  
25 is employed for at least an additional six consecutive months by the  
26 qualified employer in a part-time job of at least twenty hours per week  
27 or ten hours per week when the qualified employee is enrolled in high  
28 school full-time, and (C) an additional fifteen hundred dollars for each

1 qualified employee who is employed for at least an additional year after  
2 the completion of the time periods and satisfaction of the conditions  
3 set forth in subparagraphs A and B of this subsection by the qualified  
4 employer in a full-time job or seven hundred fifty dollars for each  
5 qualified employee who is employed for at least an additional year after  
6 the completion of the time periods and satisfaction of the conditions  
7 set forth in subparagraphs A and B of this subsection by the qualified  
8 employer in a part-time job of at least twenty hours per week or ten  
9 hours per week when the qualified employee is enrolled in high school  
10 full-time] the amount listed on the annual final certificate of tax  
11 credit issued by the commissioner of labor pursuant to section twenty-  
12 five-a of the labor law. A taxpayer that is a partner in a partnership,  
13 member of a limited liability company or shareholder in an S corporation  
14 that has [been certified by] received its annual final certificate of  
15 tax credit from the commissioner of labor as a qualified employer pursu-  
16 ant to section twenty-five-a of the labor law shall be allowed its pro  
17 rata share of the credit earned by the partnership, limited liability  
18 company or S corporation. [For purposes of this subsection, the term  
19 "qualified employee" shall have the same meaning as set forth in subdi-  
20 vision (b) of section twenty-five-a of the labor law. The portion of the  
21 credit described in subparagraph (A) of this paragraph shall be allowed  
22 for the taxable year in which the wages are paid to the qualified  
23 employee, the portion of the credit described in subparagraph (B) of  
24 this paragraph shall be allowed in the taxable year in which the addi-  
25 tional six month period ends, and the portion of the credit described in  
26 subparagraph (C) of this paragraph shall be allowed in the taxable year  
27 in which the additional year after the first year of employment ends.]  
28 If the qualified employer's taxable year is a calendar year, the employ-

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

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

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

27 § 10. This act shall take effect immediately, provided however that  
28 (i) section one of this act shall apply to tax years beginning on or

1 after January 1, 2018; (ii) sections four and seven of this act shall  
2 apply to tax years beginning on or after January 1, 2018 and before  
3 January 1, 2019; and (iii) sections two, three, five, six, eight, and  
4 nine of this act shall take effect January 1, 2019 and shall apply to  
5 tax years beginning on or after January 1, 2019.

6 PART S

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

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

20 (b) To determine the amount of each tax credit allowed for the taxable  
21 year to be used, refunded or credited as an overpayment the taxpayer  
22 shall multiply the amount of each credit subject to deferral that would  
23 have been used, refunded or credited as an overpayment in the absence of  
24 this section by a fraction, the numerator of which is two million  
25 dollars, and the denominator of which is the total amount of the taxpay-  
26 er's credits subject to deferral pursuant to subdivision three of this

1 section that would have been used, refunded or credited as an overpay-  
2 ment for the taxable year in the absence of this section. The product is  
3 the amount of such credit that is not subject to deferral and thus  
4 allowed to be used, refunded or credited as an overpayment for the taxa-  
5 ble year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 Section [210(40)] 210-B(38) credit for companies who provide transpor-  
14 tation to individuals with disabilities

15 Section 210-B(11) agricultural property tax credit

16 Section 210-B(35) economic transformation and facility redevelopment  
17 credit

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

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

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

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

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

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

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

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

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



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

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

3 Section 606(pp) historic homeownership rehabilitation credit

4 Section 1511(k) credit for certain investments in certified capital  
5 companies

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

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

21 2. The amounts of refundable credits that are deferred pursuant to  
22 section thirty-three of this article in taxable years beginning on or  
23 after January first, two thousand [ten] eighteen and before January  
24 first, two thousand [thirteen] twenty-one shall be accumulated and  
25 constitute the taxpayer's temporary deferral refundable payout credit.  
26 In the taxable year beginning on or after January first, two thousand  
27 [thirteen] twenty-one and before January first, two thousand [fourteen]  
28 twenty-two, the taxpayer shall be allowed to claim a credit equal to

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

12 § 3. This act shall take effect immediately.

13 PART T

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

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

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

24 (b) Notwithstanding the provisions of subdivision (a) of section four-  
25 teen hundred four of this article, the additional tax imposed by this  
26 section shall be paid by the grantee. If the grantee [is exempt from

1 such tax, the grantor shall have the duty to pay the tax] has failed to  
2 pay the tax imposed by this article at the time required by section  
3 fourteen hundred ten of this article or if the grantee is exempt from  
4 such tax, the grantor shall have the duty to pay the tax. Where the  
5 grantor has the duty to pay the tax because the grantee has failed to  
6 pay, such tax shall be the joint and several liability of the grantor  
7 and the grantee.

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

11 PART U

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

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

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

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

4 PART V

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

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

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

13 § 3. Subparagraph (xi) of paragraph 4 of subdivision (a) of section  
14 1210 of the tax law, as amended by section 2 of part WW of chapter 60 of  
15 the laws of 2016, is amended to read as follows:

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

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

25 (8) [makes inapplicable section eleven hundred five-C of the tax law,  
26 and] imposes tax on receipts from every sale, other than sales for

1 resale, of gas service or electric service of whatever nature, including  
2 the transportation, transmission or distribution of gas or electricity,  
3 even if sold separately, at the rate set forth in subdivision (a) of  
4 this section.

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

9 PART W

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

12 (f) (1) Services rendered by a veterinarian licensed and registered as  
13 required by the education law which constitute the practice of veteri-  
14 nary medicine as defined in said law, including hospitalization for  
15 which no separate boarding charge is made, shall not be subject to tax  
16 under paragraph (3) of subdivision (c) of section eleven hundred five,  
17 but the exemption allowed by this subdivision shall not apply to other  
18 services provided by a veterinarian to pets and other animals, includ-  
19 ing, but not limited to, boarding, grooming and clipping. Articles of  
20 tangible personal property designed for use in some manner relating to  
21 domestic animals or poultry, when sold by such a veterinarian, shall not  
22 be subject to tax under subdivision (a) of section eleven hundred five  
23 or under section eleven hundred ten. However, the sale of any such arti-  
24 cles of tangible personal property to a veterinarian shall not be deemed  
25 a sale for resale within the meaning of [pargraph] paragraph (4) of

1 subdivision (b) of section eleven hundred one and shall not be exempt  
2 from retail sales tax.

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

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

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

1 ing it into or assembling it with other tangible personal property),  
2 processing, printing or imprinting such property and such property is  
3 then shipped to a point outside this state for use outside this state,  
4 [(5) on the sale to or use by a veterinarian of drugs or medicine if  
5 such drugs or medicine are used by such veterinarian in rendering  
6 services, which are exempt pursuant to subdivision (f) of section eleven  
7 hundred fifteen of this chapter, to livestock or poultry used in the  
8 production for sale of tangible personal property by farming or if such  
9 drugs or medicine are sold to a person qualifying for the exemption  
10 provided for in paragraph (6) of subdivision (a) of section eleven  
11 hundred fifteen of this chapter for use by such person on such livestock  
12 or poultry,] or (6) on the sale of tangible personal property purchased  
13 for use in constructing, expanding or rehabilitating industrial or  
14 commercial real property (other than property used or to be used exclu-  
15 sively by one or more registered vendors primarily engaged in the retail  
16 sale of tangible personal property) located in an area designated as an  
17 empire zone pursuant to article eighteen-B of the general municipal law,  
18 but only to the extent that such property becomes an integral component  
19 part of the real property. (For the purpose of clause (3) of the preced-  
20 ing sentence, the term "pre-existing lump sum or unit price construction  
21 contract" shall mean a contract for the construction of improvements to  
22 real property under which the amount payable to the contractor or  
23 subcontractor is fixed without regard to the costs incurred by him in  
24 the performance thereof, and which (i) was irrevocably entered into  
25 prior to the date of the enactment of this article or the enactment of a  
26 law increasing the rate of tax imposed under this article, or (ii)  
27 resulted from the acceptance by a governmental agency of a bid accompa-  
28 nied by a bond or other performance guaranty which was irrevocably

1 submitted prior to such date.) Where the tax on the sale or use of such  
2 tangible personal property has been paid to the vendor, to qualify for  
3 such refund or credit, such tangible personal property must be incorpo-  
4 rated into real property as required in clause (1) above, reshipped as  
5 required in clause (2) above, used in the manner described in clauses  
6 (3), (4) [, (5)] and (6) above within three years after the date such tax  
7 was payable to the tax commission by the vendor pursuant to section  
8 eleven hundred thirty-seven. Where the tax on the sale or use of such  
9 tangible personal property was paid by the applicant for the credit or  
10 refund directly to the tax commission, to qualify for such refund or  
11 credit, such tangible personal property must be incorporated into real  
12 property as required in clause (1) above, reshipped as required in  
13 clause (2) above, used in the manner described in clauses (3), (4) [,  
14 (5)] and (6) above within three years after the date such tax was paya-  
15 ble to the tax commission by such applicant pursuant to this article. An  
16 application for a refund or credit pursuant to this section must be  
17 filed with such commission within the time provided by subdivision (a)  
18 of section eleven hundred thirty-nine. Such application shall be in such  
19 form as the tax commission may prescribe. Where an application for cred-  
20 it has been filed, the applicant may immediately take such credit on the  
21 return which is due coincident with or immediately subsequent to the  
22 time that he files his application for credit. However, the taking of  
23 the credit on the return shall be deemed to be part of the application  
24 for credit and shall be subject to the provisions in respect to applica-  
25 tions for credit in section eleven hundred thirty-nine as provided in  
26 subdivision (e) of such section. With respect to a sale or use described  
27 in clause (3) above where a pre-existing lump sum or unit price  
28 construction contract was irrevocably entered into prior to the date of



1 the enactment of this article or the bid accompanied by the performance  
2 guaranty was irrevocably submitted to the governmental agency prior to  
3 such date, the purchaser or user shall be entitled to a refund or credit  
4 only of the amount by which the tax on such sale or use imposed under  
5 this article plus any tax imposed under the authority of article twen-  
6 ty-nine exceeds the amount computed by applying against such sale or use  
7 the local rate of tax, if any, in effect at the time such contract was  
8 entered into or such bid was submitted.

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

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

18 PART X

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

21 (1) "Persons required to collect tax" or "person required to collect  
22 any tax imposed by this article" shall include: every vendor of tangible  
23 personal property or services; every recipient of amusement charges; and  
24 every operator of a hotel. Said terms shall also include any officer,  
25 director or employee of a corporation or of a dissolved corporation, any  
26 employee of a partnership, any employee or manager of a limited liabil-

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

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

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

26 (2) Notwithstanding any other provision of this article: (i) The  
27 commissioner shall grant the relief described in subparagraph (iii) of  
28 this paragraph to a limited partner of a limited partnership (but not a

1 partner of a limited liability partnership) or a member of a limited  
2 liability company if such limited partner or member demonstrates to the  
3 satisfaction of the commissioner that such limited partner's or member's  
4 ownership interest and the percentage of the distributive share of the  
5 profits and losses of such limited partnership or limited liability  
6 company are each less than fifty percent, and such limited partner or  
7 member was not under a duty to act for such limited partnership or  
8 limited liability company in complying with any requirement of this  
9 article. Provided, however, the commissioner may deny an application for  
10 relief to any such limited partner or member who the commissioner finds  
11 has acted on behalf of such limited partnership or limited liability  
12 company in complying with any requirement of this article or has been  
13 convicted of a crime provided in this chapter or who has a past-due  
14 liability, as such term is defined in section one hundred seventy-one-v  
15 of this chapter.

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

27 (iii) A limited partner of a limited partnership or member of a limit-  
28 ed liability company, who meets the requirements set forth in this para-

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

26 § 3. This act shall take effect immediately.

1 Section 1. Paragraph 1 of subdivision (a) of section 1115 of the tax  
2 law, as amended by section 1 of part II of chapter 59 of the laws of  
3 2014, is amended to read as follows:

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

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

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

3 PART Z

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

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

16 § 2. Section 2 of subpart Z of part A of chapter 61 of the laws of  
17 2017, amending the tax law relating to the imposition of sales and  
18 compensating use taxes by the county of Monroe, is amended to read as  
19 follows:

20 § 2. Notwithstanding the provisions of subdivisions (b) and (c) of  
21 section 1262 and section 1262-g of the tax law, net collections, as such  
22 term is defined in section 1262 of the tax law, derived from the imposi-  
23 tion of sales and compensating use taxes by the county of Monroe at the  
24 additional rate of one percent as authorized pursuant to clause (25) of  
25 subparagraph (i) of the opening paragraph of section 1210 of the tax  
26 law, as amended by section one of this act, which are in addition to the

1 current net collections derived from the imposition of such taxes at the  
2 three percent rate authorized by the opening paragraph of section 1210  
3 of the tax law, shall be distributed and allocated as follows: for the  
4 period of December 1, 2017 through November 30, [2019] 2020 in cash,  
5 five percent to the school districts in the area of the county outside  
6 the city of Rochester, three percent to the towns located within the  
7 county, one and one-quarter percent to the villages located within the  
8 county, and ninety and three-quarters percent to the city of Rochester  
9 and county of Monroe. The amount of the ninety and three-quarters  
10 percent to be distributed and allocated to the city of Rochester and  
11 county of Monroe shall be distributed and allocated to each so that the  
12 combined total distribution and allocation to each from the sales tax  
13 revenues pursuant to sections 1262 and 1262-g of the tax law and this  
14 section shall result in the same total amount being distributed and  
15 allocated to the city of Rochester and county of Monroe. The amount so  
16 distributed and allocated to the county shall be used for county  
17 purposes. The foregoing cash payments to the school districts shall be  
18 allocated on the basis of the enrolled public school pupils, thereof, as  
19 such term is used in subdivision (b) of section 1262 of the tax law,  
20 residing in the county of Monroe. The cash payments to the towns located  
21 within the county of Monroe shall be allocated on the basis of the ratio  
22 which the population of each town, exclusive of the population of any  
23 village or portion thereof located within a town, bears to the total  
24 population of the towns, exclusive of the population of the villages  
25 located within such towns. The cash payments to the villages located  
26 within the county shall be allocated on the basis of the ratio which the  
27 population of each village bears to the total population of the villages  
28 located within the county. The term population as used in this section

1 shall have the same meaning as used in subdivision (b) of section 1262  
2 of the tax law.

3 § 3. Section 3 of subpart EE of part A of chapter 61 of the laws of  
4 2017, amending the tax law relating to extending the authorization of  
5 the county of Onondaga to impose an additional rate of sales and compen-  
6 sating use taxes, is amended to read as follows:

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

18 § 4. Section 2 of subpart GG of part A of chapter 61 of the laws of  
19 2017, amending the tax law relating to extending the authority of the  
20 county of Orange to impose an additional rate of sales and compensating  
21 use taxes, is amended to read as follows:

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



1 entered into pursuant to the authority of subdivision (c) of section  
2 1262 of the tax law.

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

5 PART AA

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

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

11 (1) Marketplace provider. A person who, pursuant to an agreement with  
12 a marketplace seller, facilitates sales of tangible personal property by  
13 such marketplace seller or sellers. A person "facilitates a sale of  
14 tangible personal property" for purposes of this paragraph when the  
15 person meets both of the following conditions: (i) such person provides  
16 the forum in which, or by means of which, the sale takes place or the  
17 offer of sale is accepted, including a shop, store, booth, catalog, an  
18 internet website, or similar forum; and (ii) such person or an affiliate  
19 of such person collects the receipts paid by a customer to a marketplace  
20 seller for a sale of tangible personal property, or contracts with a  
21 third party to collect such receipts. For purposes of this paragraph,  
22 two persons are affiliated if one person has an ownership interest of  
23 more than five percent, whether direct or indirect, in the other, or  
24 where an ownership interest of more than five percent, whether direct or  
25 indirect, is held in each of such persons by another person or by a  
26 group of other persons that are affiliated persons with respect to each

1 other. Notwithstanding anything in this paragraph, a person who facili-  
2 tates sales exclusively by means of the internet is not a marketplace  
3 provider for a sales tax quarter when such person can show that it has  
4 facilitated less than one hundred million dollars of sales annually for  
5 every calendar year after two thousand sixteen.

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

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

14 (1) "Persons required to collect tax" or "person required to collect  
15 any tax imposed by this article" shall include: every vendor of tangible  
16 personal property or services; every recipient of amusement charges;  
17 [and] every operator of a hotel, and every marketplace provider with  
18 respect to sales of tangible personal property it facilitates as  
19 described in paragraph one of subdivision (e) of section eleven hundred  
20 one of this article. Said terms shall also include any officer, director  
21 or employee of a corporation or of a dissolved corporation, any employee  
22 of a partnership, any employee or manager of a limited liability compa-  
23 ny, or any employee of an individual proprietorship who as such officer,  
24 director, employee or manager is under a duty to act for such corpo-  
25 ration, partnership, limited liability company or individual proprietor-  
26 ship in complying with any requirement of this article; and any member  
27 of a partnership or limited liability company. Provided, however, that  
28 any person who is a vendor solely by reason of clause (D) or (E) of

1 subparagraph (i) of paragraph (8) of subdivision (b) of section eleven  
2 hundred one shall not be a "person required to collect any tax imposed  
3 by this article" until twenty days after the date by which such person  
4 is required to file a certificate of registration pursuant to section  
5 eleven hundred thirty-four of this part.

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

8 (1)(1) A marketplace provider with respect to a sale of tangible  
9 personal property it facilitates: (i) shall have all the obligations and  
10 rights of a vendor under this article and article twenty-nine of this  
11 chapter and under any regulations adopted pursuant thereto, including,  
12 but not limited to, the duty to obtain a certificate of authority, to  
13 collect tax, file returns, remit tax, and the right to accept a certif-  
14 icate or other documentation from a customer substantiating an exemption  
15 or exclusion from tax, the right to receive the refund authorized by  
16 subdivision (e) of this section and the credit allowed by subdivision  
17 (f) of section eleven hundred thirty-seven of this part subject to the  
18 provisions of such subdivisions; and (ii) shall keep such records and  
19 information and cooperate with the commissioner to ensure the proper  
20 collection and remittance of tax imposed, collected or required to be  
21 collected under this article and article twenty-nine of this chapter.

22 (2) A marketplace seller who is a vendor is relieved from the duty to  
23 collect tax in regard to a particular sale of tangible personal property  
24 subject to tax under subdivision (a) of section eleven hundred five of  
25 this article and shall not include the receipts from such sale in its  
26 taxable receipts for purposes of section eleven hundred thirty-six of  
27 this part if, in regard to such sale: (i) the marketplace seller can  
28 show that such sale was facilitated by a marketplace provider from whom

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

23 (3) The commissioner may, in his or her discretion: (i) develop a  
24 standard provision, or approve a provision developed by a marketplace  
25 provider, in which the marketplace provider obligates itself to collect  
26 the tax on behalf of all the marketplace sellers for whom such market-  
27 place provider facilitates sales of tangible personal property, with  
28 respect to all sales that it facilitates for such sellers where delivery

1 occurs in the state; and (ii) provide by regulation or otherwise that  
2 the inclusion of such provision in the publicly-available agreement  
3 between the marketplace provider and marketplace seller will have the  
4 same effect as a marketplace seller's acceptance of a certificate of  
5 collection from such marketplace provider under paragraph two of this  
6 subdivision.

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

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

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

20 (4) The return of a vendor of tangible personal property or services  
21 shall show such vendor's receipts from sales and the number of gallons  
22 of any motor fuel or diesel motor fuel sold and also the aggregate value  
23 of tangible personal property and services and number of gallons of such  
24 fuels sold by the vendor, the use of which is subject to tax under this  
25 article, and the amount of tax payable thereon pursuant to the  
26 provisions of section eleven hundred thirty-seven of this part. The  
27 return of a recipient of amusement charges shall show all such charges  
28 and the amount of tax thereon, and the return of an operator required to

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

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

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

24 16. To enforce the penalties imposed on non-collecting sellers and  
25 non-collecting marketplace providers provided by subdivision (i) of  
26 section eleven hundred forty-five of this part by commencing a proceed-  
27 ing under article seventy-two of the civil practice law and rules. This  
28 means enforcing such penalties is in addition to any other lawful means

1 the commissioner may use to enforce such penalties. The venue for such  
2 proceeding shall be Albany county.

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

5 § 1135-a. Reporting requirements. (a) (1) The following definitions  
6 apply to the taxes imposed by this article and pursuant to the authority  
7 of article twenty-nine of this chapter:

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

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

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

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

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

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

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

17 (C) Except as provided in paragraphs four and five of this subdivi-  
18 sion, a non-collecting seller shall provide an annual statement of  
19 purchases to each New York purchaser for purchases of tangible personal  
20 property delivered to a location in this state from such seller during  
21 the calendar year covered by the statement. Such annual statement shall  
22 include: (i) a statement that sales or use tax was not collected on the  
23 purchaser's transactions in the prior calendar year and that the  
24 purchaser may be required to remit such tax directly to the commission-  
25 er; (ii) a list of transactions entered into during the prior calendar  
26 year by such purchaser for delivery to a location into this state show-  
27 ing, the date of each purchase, a general description of each item  
28 purchased, and the amount paid for each item, including any shipping or



1 delivery charges; (iii) instructions for obtaining additional informa-  
2 tion regarding whether and how to remit the sales or use tax to the  
3 commissioner; and (iv) a statement that such sellers may be required to  
4 annually report the aggregate dollar value of the purchaser's purchases  
5 to the commissioner. Such statement shall be sent to each New York  
6 purchaser on or before January thirty-first of each year, starting in  
7 the year two thousand twenty, covering sales made in the prior calendar  
8 year. Such statement shall be sent by mail in an envelope bearing the  
9 statement "important tax information" to the New York purchaser's last  
10 known address as defined by subparagraph (D) of paragraph one of this  
11 subdivision, unless the purchaser's last known address is an e-mail  
12 address, in which case the statement is to be sent by e-mail, the  
13 subject line of which shall state "important tax information".

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

24 (3) A non-collecting seller shall keep records of the information  
25 described in subparagraphs (A), (B) and (C) of paragraph two of this  
26 subdivision, along with proof that it has provided purchasers with any  
27 per-purchase notices or annual statements of purchases required. The  
28 non-collecting seller shall keep such records for such periods and in

1 such manner as prescribed for records required to be maintained under  
2 subdivisions (a) and (g) of section eleven hundred thirty-five of this  
3 part, or as the commissioner may otherwise require by regulation. The  
4 non-collecting seller shall make those records available for inspection  
5 and examination at any time upon demand by the commissioner.

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

11 (5) The requirements in subparagraphs (B), (C) and (D) of paragraph  
12 two of this subdivision do not apply to a non-collecting seller in  
13 regard to a particular sale of tangible personal property subject to tax  
14 under subdivision (a) of section eleven hundred five of this article if,  
15 the non-collecting seller can show that such sale was facilitated by:  
16 (A) a marketplace provider from whom such non-collecting seller has  
17 received in good faith a properly completed certificate of collection as  
18 described in paragraph two of subdivision (1) of section eleven hundred  
19 thirty-two of this part; or (B) a non-collecting marketplace provider  
20 who fulfilled the requirements of subparagraphs (B), (C) and (D) of  
21 paragraph two of this subdivision on its behalf.

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

26 (2) Non-collecting marketplace providers shall also provide notice to  
27 all non-collecting sellers for whom they facilitate sales of tangible

1 personal property that is delivered to a location in this state, such  
2 notice shall include the following information:

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

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

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

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

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

25 (i) (1) Every person required to file an information return by section  
26 eleven hundred thirty-five-a or subdivision (i) of section eleven  
27 hundred thirty-six of this part, or an annual statement or notice  
28 required by section eleven hundred thirty-five-a of this part who [(A)]

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

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

26 (3) In no event will the penalty imposed by paragraph one of this  
27 subdivision, or the aggregate of the penalties imposed under paragraphs  
28 one and two of this subdivision, exceed ten thousand dollars for any

1 annual filing period [as described by paragraph three of subdivision (i)  
2 of section eleven hundred thirty-six of this part].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 facie evidence that such person is a dealer in tobacco products in this  
2 state and subject to the requirements of this article.

3 § 8. Subdivision 3 of section 474 of the tax law, as added by chapter  
4 61 of the laws of 1989, is amended to read as follows:

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

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

22 (i) In addition to any other penalty imposed by this article, the  
23 commissioner may (A) impose a penalty of not more than six hundred  
24 dollars for each two hundred cigarettes, or fraction thereof, in excess  
25 of one thousand cigarettes in unstamped or unlawfully stamped packages  
26 in the possession or under the control of any person or (B) impose a  
27 penalty of not more than two hundred dollars for each ten unaffixed  
28 false, altered or counterfeit cigarette tax stamps, imprints or

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

1 products dealer; provided, however, that any such penalty imposed shall  
2 not exceed fifteen thousand dollars in the aggregate.

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

7 (I) not less than twenty-five dollars but not more than one hundred  
8 dollars for each fifty cigars [or], one pound of tobacco or one hundred  
9 milliliters of vapor product, or fraction thereof, in excess of two  
10 hundred fifty cigars [or], five pounds of tobacco or five hundred milli-  
11 liters of vapor product knowingly in the possession or knowingly under  
12 the control of any person, with respect to which the tobacco products  
13 tax has not been paid or assumed by a distributor or tobacco products  
14 dealer; and (II) not less than fifty dollars but not more than two  
15 hundred dollars for each fifty cigars [or], one pound of tobacco or one  
16 hundred milliliters of vapor product, or fraction thereof, in excess of  
17 five hundred cigars [or], ten pounds of tobacco or one thousand millili-  
18 ters of vapor product knowingly in the possession or knowingly under the  
19 control of any person, with respect to which the tobacco products tax  
20 has not been paid or assumed by a distributor or tobacco products deal-  
21 er; provided, however, that any such penalty imposed under this clause  
22 shall not exceed ten thousand dollars in the aggregate.

23 (I) not less than twenty-five dollars but not more than one hundred  
24 dollars for each fifty cigars [or], one pound of tobacco or one hundred  
25 milliliters of vapor product, or fraction thereof, in excess of fifty  
26 cigars [or], one pound of tobacco or one hundred milliliters of vapor  
27 product knowingly in the possession or knowingly under the control of  
28 any person, with respect to which the tobacco products tax has not been

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

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

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

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

25 (a) Any person who willfully attempts in any manner to evade or defeat  
26 the taxes imposed by article twenty of this chapter or payment thereof  
27 on (i) ten thousand cigarettes or more, (ii) twenty-two thousand cigars  
28 or more, [or] (iii) four hundred forty pounds of tobacco or more, (iv)

1 forty-four thousand milliliters of vapor product or more or has previ-  
2 ously been convicted two or more times of a violation of paragraph one  
3 of this subdivision shall be guilty of a class E felony.

4 (h) (1) Any dealer, other than a distributor appointed by the commis-  
5 sioner [of taxation and finance] under article twenty of this chapter,  
6 who shall knowingly transport or have in his custody, possession or  
7 under his control more than ten pounds of tobacco [or], more than five  
8 hundred cigars or more than one thousand milliliters of vapor product  
9 upon which the taxes imposed by article twenty of this chapter have not  
10 been assumed or paid by a distributor appointed by the commissioner [of  
11 taxation and finance] under article twenty of this chapter, or other  
12 person treated as a distributor pursuant to section four hundred seven-  
13 ty-one-d of this chapter, shall be guilty of a misdemeanor punishable by  
14 a fine of not more than five thousand dollars or by a term of imprison-  
15 ment not to exceed thirty days.

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

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

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

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

24 (a) Any person who, while not appointed as a distributor of tobacco  
25 products pursuant to the provisions of article twenty of this chapter,  
26 imports or causes to be imported into the state more than fifty cigars  
27 [or], more than one pound of tobacco[,], or more than one hundred milli-  
28 liters of vapor product for sale within the state, or produces, manufac-

1 tures or compounds tobacco products within the state shall be guilty of  
2 a misdemeanor punishable by a fine of not more than five thousand  
3 dollars or by a term of imprisonment not to exceed thirty days. If,  
4 within any ninety day period, one thousand or more cigars [or five  
5 hundred], twenty pounds or more of tobacco or two thousand milliliters  
6 or more of vapor product are imported or caused to be imported into the  
7 state for sale within the state or are produced, manufactured or  
8 compounded within the state by any person while not appointed as a  
9 distributor of tobacco products, such person shall be guilty of a misde-  
10 meanor. Provided further, that any person who has twice been convicted  
11 under this section shall be guilty of a class E felony for any subse-  
12 quent violation of this section, regardless of the amount of tobacco  
13 products involved in such violation.

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

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

27 (a) Whenever a police officer designated in section 1.20 of the crimi-  
28 nal procedure law or a peace officer designated in subdivision four of

1 section 2.10 of such law, acting pursuant to his special duties, shall  
2 discover any tobacco products in excess of five hundred cigars [or], ten  
3 pounds of tobacco or one thousand milliliters of vapor product which are  
4 being imported for sale in the state where the person importing or caus-  
5 ing such tobacco products to be imported has not been appointed as a  
6 distributor pursuant to section four hundred seventy-two of this chap-  
7 ter, such police officer or peace officer is hereby authorized and  
8 empowered forthwith to seize and take possession of such tobacco  
9 products. Such tobacco products seized by a police officer or peace  
10 officer shall be turned over to the commissioner. Such seized tobacco  
11 products shall be forfeited to the state. All tobacco products forfeited  
12 to the state shall be destroyed or used for law enforcement purposes,  
13 except that tobacco products that violate, or are suspected of violat-  
14 ing, federal trademark laws or import laws shall not be used for law  
15 enforcement purposes. If the commissioner determines the tobacco  
16 products may not be used for law enforcement purposes, the commissioner  
17 must, within a reasonable time thereafter, upon publication in the state  
18 registry of a notice to such effect before the day of destruction,  
19 destroy such forfeited tobacco products. The commissioner may, prior to  
20 any destruction of tobacco products, permit the true holder of the  
21 trademark rights in the tobacco products to inspect such forfeited  
22 products in order to assist in any investigation regarding such tobacco  
23 products.

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

26 (b) Any peace officer designated in subdivision four of section 2.10  
27 of the criminal procedure law, acting pursuant to his special duties, or  
28 any police officer designated in section 1.20 of the criminal procedure



1 law may seize any vehicle or other means of transportation used to  
2 import tobacco products in excess of five hundred cigars [or], ten  
3 pounds of tobacco or one thousand milliliters of vapor product for sale  
4 where the person importing or causing such tobacco products to be  
5 imported has not been appointed a distributor pursuant to section four  
6 hundred seventy-two of this chapter, other than a vehicle or other means  
7 of transportation used by any person as a common carrier in transaction  
8 of business as such common carrier, and such vehicle or other means of  
9 transportation shall be subject to forfeiture as hereinafter in this  
10 section provided.

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

15 PART CC

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

18 ARTICLE 20-C

19 OPIOID EPIDEMIC SURCHARGE

20 Section 492. Definitions.

21 493. Imposition of surcharge.

22 494. Returns to be secret.

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

25 1. "Opioid" shall mean an "opiate" as defined by subdivision twenty-  
26 three of section thirty-three hundred two of the public health law, and

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

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

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

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

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

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

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

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

17 2. Every establishment liable for the surcharge imposed by this arti-  
18 cle shall file with the commissioner a return, on forms prescribed by  
19 the commissioner, indicating the total morphine milligram equivalent of  
20 opioids it sold in the state, the total morphine milligram equivalent of  
21 such opioids that are subject to the surcharge imposed by this article,  
22 the amount of surcharge due thereon, and such further information as the  
23 commissioner may require. Such returns shall be due on or before the  
24 twentieth day of each month, and shall cover all opioid sales in the  
25 state made in the month prior, except that the first return required to  
26 be filed pursuant to this section shall be due on or before January  
27 twentieth, two thousand nineteen and shall cover all opioid sales occur-  
28 ring in the period between the effective date of this article and Decem-

1 ber thirty-first, two thousand eighteen. Every establishment required  
2 to file a return under this section shall, at the time of filing such  
3 return, pay to the commissioner the total amount of surcharge due for  
4 the period covered by such return. If a return is not filed when due,  
5 the surcharge shall be due on the day on which the return is required to  
6 be filed. The commissioner may require that the returns and payments  
7 required by this article be filed or paid electronically.

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

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

1 provided an application therefor is filed with the commissioner within  
2 two years from the time the erroneous payment was made.

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

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

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

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

15 § 494. Returns to be secret. 1. Except in accordance with proper judi-  
16 cial order or as in this section or otherwise provided by law, it shall  
17 be unlawful for the commissioner, any officer or employee of the depart-  
18 ment, or any officer or person who, pursuant to this section, is permit-  
19 ted to inspect any return or report or to whom a copy, an abstract or a  
20 portion of any return or report is furnished, or to whom any information  
21 contained in any return or report is furnished, or any person engaged or  
22 retained by such department on an independent contract basis or any  
23 person who in any manner may acquire knowledge of the contents of a  
24 return or report filed pursuant to this article to divulge or make known  
25 in any manner the contents or any other information relating to the  
26 business of an establishment contained in any return or report required  
27 under this article. The officers charged with the custody of such  
28 returns or reports shall not be required to produce any of them or

1 evidence of anything contained in them in any action or proceeding in  
2 any court, except on behalf of the state, the state department of  
3 health, the state department of education or the commissioner in an  
4 action or proceeding under the provisions of this chapter or on behalf  
5 of the state or the commissioner in any other action or proceeding  
6 involving the collection of a tax due under this chapter to which the  
7 state or the commissioner is a party or a claimant or on behalf of any  
8 party to any action or proceeding under the provisions of this article,  
9 when the returns or the reports or the facts shown thereby are directly  
10 involved in such action or proceeding, in any of which events the court  
11 may require the production of, and may admit in evidence so much of said  
12 returns or reports or of the facts shown thereby as are pertinent to the  
13 action or proceeding and no more. Nothing herein shall be construed to  
14 prohibit the commissioner, in his or her discretion, from allowing the  
15 inspection or delivery of a certified copy of any return or report filed  
16 under this article, or from providing any information contained in any  
17 such return or report, by or to a duly authorized officer or employee of  
18 the state department of health or the state department of education; nor  
19 to prohibit the inspection or delivery of a certified copy of any return  
20 or report filed under this article, or the provision of any information  
21 contained therein, by or to the attorney general or other legal repre-  
22 sentatives of the state when an action shall have been recommended or  
23 commenced pursuant to this chapter in which such returns or reports or  
24 the facts shown thereby are directly involved; nor to prohibit the  
25 commissioner from providing or certifying to the division of budget or  
26 the comptroller the total number of returns or reports filed under this  
27 article in any reporting period and the total collections received ther-  
28 efrom; nor to prohibit the inspection of the returns or reports required

1 under this article by the comptroller or duly designated officer or  
2 employee of the state department of audit and control, for purposes of  
3 the audit of a refund of any surcharge paid by an establishment or other  
4 person under this article; nor to prohibit the delivery to an establish-  
5 ment, or a duly authorized representative of such establishment, a  
6 certified copy of any return or report filed by such establishment  
7 pursuant to this article, nor to prohibit the publication of statistics  
8 so classified as to prevent the identification of particular returns or  
9 reports and the items thereof.

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

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

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

18 § 1825. Violation of secrecy provisions of the tax law.--Any person  
19 who violates the provisions of [subdivision (b) of section twenty-one,]  
20 subdivision one of section two hundred two, subdivision eight of section  
21 two hundred eleven, subdivision (a) of section three hundred fourteen,  
22 subdivision one or two of section four hundred thirty-seven, section  
23 four hundred eighty-seven, section four hundred ninety-four, subdivision  
24 one or two of section five hundred fourteen, subsection (e) of section  
25 six hundred ninety-seven, subsection (a) of section nine hundred nine-  
26 ty-four, subdivision (a) of section eleven hundred forty-six, section  
27 twelve hundred eighty-seven, section twelve hundred ninety-six, subdivi-  
28 sion (a) of section fourteen hundred eighteen, subdivision (a) of



1 section fifteen hundred eighteen, subdivision (a) of section fifteen  
2 hundred fifty-five of this chapter, and subdivision (e) of section  
3 11-1797 of the administrative code of the city of New York shall be  
4 guilty of a misdemeanor.

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

7 § 97-aaaaa. Opioid prevention, treatment and recovery account. 1.  
8 There is hereby established in the joint custody of the state comp-  
9 troller and the commissioner of taxation and finance an account of the  
10 miscellaneous special revenue account to be known as the "opioid  
11 prevention, treatment and recovery account".

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

16 3. The opioid prevention, treatment and recovery account shall consist  
17 of moneys appropriated for the purpose of such account, moneys trans-  
18 ferred to such account pursuant to law, contributions consisting of  
19 promises or grants of any money or property of any kind or value, or any  
20 other thing of value, including grants or other financial assistance  
21 from any agency of government and moneys required by the provisions of  
22 this section or any other law to be paid into or credited to this  
23 account. The account shall also consist of moneys received from any  
24 litigation or enforcement actions initiated against opioid pharmaceu-  
25 tical manufacturers, distributors and wholesalers.

26 4. Moneys of the opioid prevention, treatment and recovery account,  
27 when allocated, shall be available, subject to the approval of the  
28 director of the budget, to support programs operated by the New York

1 state office of alcoholism and substance abuse services or agencies  
2 certified, authorized, approved or otherwise funded by the New York  
3 state office of alcoholism and substance abuse services to provide  
4 opioid treatment, recovery and prevention and education services; and to  
5 provide support for the prescription monitoring program registry if  
6 established.

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

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

25 7. The moneys, when allocated, shall be paid out of the opioid  
26 prevention, treatment and recovery account, pursuant to subdivision four  
27 of this section, and subject to the approval of the director of the  
28 budget, on the audit and warrant of the comptroller on vouchers certi-

1 fied or approved by (a) the commissioner of the office of alcoholism and  
2 substance abuse services or his or her designee; or (b) the commissioner  
3 of the department of health or his or her designee.

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

5 PART DD

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

8 § 1521. Healthcare insurance windfall profit fee. (a) In addition to  
9 all taxes, surcharges, and fees imposed under this chapter, the insur-  
10 ance law, the financial services law, and the public health law, there  
11 is hereby imposed for each taxable year beginning after December thir-  
12 ty-first, two thousand seventeen, a fourteen percent surcharge on the  
13 net underwriting gain from the sale of health insurance written on risks  
14 located or resident within this state of every corporation (1) author-  
15 ized to transact an insurance business in this state, or (2) that is a  
16 health maintenance organization required to obtain a certificate of  
17 authority under article forty-four of the public health law.

18 (b) For purposes of this section, the term "health insurance" shall  
19 mean comprehensive hospital and medical expense insurance including,  
20 without limitation, comprehensive coverage issued by a health mainte-  
21 nance organization, disability income insurance, accident insurance,  
22 medicare supplement insurance, specified disease insurance, dental  
23 insurance, vision insurance, stop-loss insurance, fixed indemnity insur-  
24 ance, and hospital indemnity insurance.

25 (c)(1) For each taxable year, the "net underwriting gain from the sale  
26 of health insurance written on risks located or resident within this

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

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

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

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

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

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

17 (2) If the superintendent of financial services ascertains that the  
18 amount of surcharge imposed under this section as shown on the return of  
19 any corporation is less than the amount of surcharge disclosed by his or  
20 her examination, he or she shall propose, in writing, to the commission-  
21 er the issuance of a notice of deficiency for the amount due. If a  
22 corporation fails to file a return with the superintendent of financial  
23 services within the time required for the filing of such return (with  
24 regard to any extension of time for the filing thereof), the superinten-  
25 dent of financial services shall make an estimate of the amount of  
26 surcharge due for the period in respect to which such corporation failed  
27 to file the return. The estimate shall be made from any available infor-  
28 mation which is in the possession or may come into the possession of the

1 superintendent of financial services and he or she shall propose, in  
2 writing, to the commissioner the issuance of a notice of deficiency for  
3 the amount of such estimated surcharge. Any proposal pursuant to this  
4 paragraph shall set forth the basis thereof and the details of its  
5 computation.

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

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

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

25 (h) (1) Every corporation subject to the surcharge in subdivision (a)  
26 of this section, shall annually, on or before the fifteenth day of the  
27 third month following the close of its taxable year, transmit to the  
28 superintendent of financial services a return in a form prescribed by

1 the superintendent of financial services setting forth such information  
2 as such superintendent may prescribe and every corporation which ceases  
3 to be subject to the surcharge imposed by this section shall transmit to  
4 the superintendent of financial services a return on the date of such  
5 cessation or at such other time as such superintendent may require  
6 covering each year or period for which no return was theretofore filed.  
7 A copy of each return required under this subdivision shall also be  
8 transmitted to the commissioner at or before the times specified for  
9 filing such returns with the commissioner.

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

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

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

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

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

26 (i) (1) To the extent the surcharge imposed by this section shall not  
27 have been previously paid, the surcharge, or the balance thereof, shall



1 be payable to the superintendent of financial services in full at the  
2 time the corporation's return is required to be filed.

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

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

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

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

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



1 accounts, segregated accounts as per audited financial statements and  
2 cash on hand needed to fund the on-track pari-mutuel operations through  
3 the vault, (ii) less [forty-five] ninety days of operating expenses  
4 pursuant to generally accepted accounting principles which shall be an  
5 average calculated by dividing the current year's annual budget by the  
6 number of days in such year and multiplying that number by [forty-five]  
7 ninety.

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

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

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

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

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

26 § 4. This act shall take effect immediately; provided, however, that  
27 the amendments to section 203 of the racing, pari-mutuel wagering and  
28 breeding law made by section two of this act shall expire and be deemed

1 repealed 4 years after the first night of racing conducted after sunset  
2 pursuant to this act; provided that the New York Racing Association  
3 shall notify the legislative bill drafting commission of the date of  
4 such night of racing in order that the commission may maintain an accu-  
5 rate and timely effective data base of the official text of the laws of  
6 the state of New York in furtherance of effectuating the provisions of  
7 section 44 of the legislative law and section 70-b of the public offi-  
8 cers law.

9 PART FF

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

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

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

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

22 § 3. This act shall take effect immediately.

23 PART GG

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

5 (a) Any racing association or corporation or regional off-track  
6 betting corporation, authorized to conduct pari-mutuel wagering under  
7 this chapter, desiring to display the simulcast of horse races on which  
8 pari-mutuel betting shall be permitted in the manner and subject to the  
9 conditions provided for in this article may apply to the commission for  
10 a license so to do. Applications for licenses shall be in such form as  
11 may be prescribed by the commission and shall contain such information  
12 or other material or evidence as the commission may require. No license  
13 shall be issued by the commission authorizing the simulcast transmission  
14 of thoroughbred races from a track located in Suffolk county. The fee  
15 for such licenses shall be five hundred dollars per simulcast facility  
16 and for account wagering licensees that do not operate either a simul-  
17 cast facility that is open to the public within the state of New York or  
18 a licensed racetrack within the state, twenty thousand dollars per year  
19 payable by the licensee to the commission for deposit into the general  
20 fund. Except as provided in this section, the commission shall not  
21 approve any application to conduct simulcasting into individual or group  
22 residences, homes or other areas for the purposes of or in connection  
23 with pari-mutuel wagering. The commission may approve simulcasting into  
24 residences, homes or other areas to be conducted jointly by one or more  
25 regional off-track betting corporations and one or more of the follow-  
26 ing: a franchised corporation, thoroughbred racing corporation or a  
27 harness racing corporation or association; provided (i) the simulcasting  
28 consists only of those races on which pari-mutuel betting is authorized

1 by this chapter at one or more simulcast facilities for each of the  
2 contracting off-track betting corporations which shall include wagers  
3 made in accordance with section one thousand fifteen, one thousand  
4 sixteen and one thousand seventeen of this article; provided further  
5 that the contract provisions or other simulcast arrangements for such  
6 simulcast facility shall be no less favorable than those in effect on  
7 January first, two thousand five; (ii) that each off-track betting  
8 corporation having within its geographic boundaries such residences,  
9 homes or other areas technically capable of receiving the simulcast  
10 signal shall be a contracting party; (iii) the distribution of revenues  
11 shall be subject to contractual agreement of the parties except that  
12 statutory payments to non-contracting parties, if any, may not be  
13 reduced; provided, however, that nothing herein to the contrary shall  
14 prevent a track from televising its races on an irregular basis primari-  
15 ly for promotional or marketing purposes as found by the commission. For  
16 purposes of this paragraph, the provisions of section one thousand thir-  
17 teen of this article shall not apply. Any agreement authorizing an  
18 in-home simulcasting experiment commencing prior to May fifteenth, nine-  
19 teen hundred ninety-five, may, and all its terms, be extended until June  
20 thirtieth, two thousand [eighteen] nineteen; provided, however, that any  
21 party to such agreement may elect to terminate such agreement upon  
22 conveying written notice to all other parties of such agreement at least  
23 forty-five days prior to the effective date of the termination, via  
24 registered mail. Any party to an agreement receiving such notice of an  
25 intent to terminate, may request the commission to mediate between the  
26 parties new terms and conditions in a replacement agreement between the  
27 parties as will permit continuation of an in-home experiment until June  
28 thirtieth, two thousand [eighteen] nineteen; and (iv) no in-home simul-

1 casting in the thoroughbred special betting district shall occur without  
2 the approval of the regional thoroughbred track.

3 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section  
4 1007 of the racing, pari-mutuel wagering and breeding law, as amended by  
5 section 2 of part 00 of chapter 59 of the laws of 2017, is amended to  
6 read as follows:

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

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

23 The provisions of this section shall govern the simulcasting of races  
24 conducted at thoroughbred tracks located in another state or country on  
25 any day during which a franchised corporation is conducting a race meet-  
26 ing in Saratoga county at Saratoga thoroughbred racetrack until June  
27 thirtieth, two thousand [eighteen] nineteen and on any day regardless of  
28 whether or not a franchised corporation is conducting a race meeting in



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

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

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

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

25 The provisions of this section shall govern the simulcasting of races  
26 conducted at thoroughbred tracks located in another state or country on  
27 any day during which a franchised corporation is not conducting a race  
28 meeting in Saratoga county at Saratoga thoroughbred racetrack until June

1 thirtieth, two thousand [eighteen] nineteen. Every off-track betting  
2 corporation branch office and every simulcasting facility licensed in  
3 accordance with section one thousand seven that have entered into a  
4 written agreement with such facility's representative horsemen's organ-  
5 ization as approved by the commission, one thousand eight or one thou-  
6 sand nine of this article shall be authorized to accept wagers and  
7 display the live full-card simulcast signal of thoroughbred tracks  
8 (which may include quarter horse or mixed meetings provided that all  
9 such wagering on such races shall be construed to be thoroughbred races)  
10 located in another state or foreign country, subject to the following  
11 provisions; provided, however, no such written agreement shall be  
12 required of a franchised corporation licensed in accordance with section  
13 one thousand seven of this article:

14 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel  
15 wagering and breeding law, as amended by section 6 of part 00 of chapter  
16 59 of the laws of 2017, is amended to read as follows:

17 Notwithstanding any other provision of this chapter, for the period  
18 July twenty-fifth, two thousand one through September eighth, two thou-  
19 sand [seventeen] eighteen, when a franchised corporation is conducting a  
20 race meeting within the state at Saratoga Race Course, every off-track  
21 betting corporation branch office and every simulcasting facility  
22 licensed in accordance with section one thousand seven (that has entered  
23 into a written agreement with such facility's representative horsemen's  
24 organization as approved by the commission), one thousand eight or one  
25 thousand nine of this article shall be authorized to accept wagers and  
26 display the live simulcast signal from thoroughbred tracks located in  
27 another state, provided that such facility shall accept wagers on races  
28 run at all in-state thoroughbred tracks which are conducting racing

1 programs subject to the following provisions; provided, however, no such  
2 written agreement shall be required of a franchised corporation licensed  
3 in accordance with section one thousand seven of this article.

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

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

19 § 8. Section 54 of chapter 346 of the laws of 1990, amending the  
20 racing, pari-mutuel wagering and breeding law and other laws relating to  
21 simulcasting and the imposition of certain taxes, as amended by section  
22 8 of part 00 of chapter 59 of the laws of 2017, is amended to read as  
23 follows:

24 § 54. This act shall take effect immediately; provided, however,  
25 sections three through twelve of this act shall take effect on January  
26 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-  
27 ing law, as added by section thirty-eight of this act, shall expire and  
28 be deemed repealed on July 1, [2018] 2019; and section eighteen of this

1 act shall take effect on July 1, 2008 and sections fifty-one and fifty-  
2 two of this act shall take effect as of the same date as chapter 772 of  
3 the laws of 1989 took effect.

4 § 9. Paragraph (a) of subdivision 1 of section 238 of the racing,  
5 pari-mutuel wagering and breeding law, as amended by section 9 of part  
6 00 of chapter 59 of the laws of 2017, is amended to read as follows:

7 (a) The franchised corporation authorized under this chapter to  
8 conduct pari-mutuel betting at a race meeting or races run thereat shall  
9 distribute all sums deposited in any pari-mutuel pool to the holders of  
10 winning tickets therein, provided such tickets be presented for payment  
11 before April first of the year following the year of their purchase,  
12 less an amount which shall be established and retained by such fran-  
13 chised corporation of between twelve to seventeen per centum of the  
14 total deposits in pools resulting from on-track regular bets, and four-  
15 teen to twenty-one per centum of the total deposits in pools resulting  
16 from on-track multiple bets and fifteen to twenty-five per centum of the  
17 total deposits in pools resulting from on-track exotic bets and fifteen  
18 to thirty-six per centum of the total deposits in pools resulting from  
19 on-track super exotic bets, plus the breaks. The retention rate to be  
20 established is subject to the prior approval of the gaming commission.  
21 Such rate may not be changed more than once per calendar quarter to be  
22 effective on the first day of the calendar quarter. "Exotic bets" and  
23 "multiple bets" shall have the meanings set forth in section five  
24 hundred nineteen of this chapter. "Super exotic bets" shall have the  
25 meaning set forth in section three hundred one of this chapter. For  
26 purposes of this section, a "pick six bet" shall mean a single bet or  
27 wager on the outcomes of six races. The breaks are hereby defined as the  
28 odd cents over any multiple of five for payoffs greater than one dollar

1 five cents but less than five dollars, over any multiple of ten for  
2 payoffs greater than five dollars but less than twenty-five dollars,  
3 over any multiple of twenty-five for payoffs greater than twenty-five  
4 dollars but less than two hundred fifty dollars, or over any multiple of  
5 fifty for payoffs over two hundred fifty dollars. Out of the amount so  
6 retained there shall be paid by such franchised corporation to the  
7 commissioner of taxation and finance, as a reasonable tax by the state  
8 for the privilege of conducting pari-mutuel betting on the races run at  
9 the race meetings held by such franchised corporation, the following  
10 percentages of the total pool for regular and multiple bets five per  
11 centum of regular bets and four per centum of multiple bets plus twenty  
12 per centum of the breaks; for exotic wagers seven and one-half per  
13 centum plus twenty per centum of the breaks, and for super exotic bets  
14 seven and one-half per centum plus fifty per centum of the breaks. For  
15 the period June first, nineteen hundred ninety-five through September  
16 ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be  
17 three per centum and such tax on multiple wagers shall be two and one-  
18 half per centum, plus twenty per centum of the breaks. For the period  
19 September tenth, nineteen hundred ninety-nine through March thirty-  
20 first, two thousand one, such tax on all wagers shall be two and six-  
21 tenths per centum and for the period April first, two thousand one  
22 through December thirty-first, two thousand [eighteen] nineteen, such  
23 tax on all wagers shall be one and six-tenths per centum, plus, in each  
24 such period, twenty per centum of the breaks. Payment to the New York  
25 state thoroughbred breeding and development fund by such franchised  
26 corporation shall be one-half of one per centum of total daily on-track  
27 pari-mutuel pools resulting from regular, multiple and exotic bets and  
28 three per centum of super exotic bets provided, however, that for the

1 period September tenth, nineteen hundred ninety-nine through March thir-  
2 ty-first, two thousand one, such payment shall be six-tenths of one per  
3 centum of regular, multiple and exotic pools and for the period April  
4 first, two thousand one through December thirty-first, two thousand  
5 [eighteen] nineteen, such payment shall be seven-tenths of one per  
6 centum of such pools.

7 § 10. This act shall take effect immediately.

8 PART HH

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

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

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

14 PART II

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

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

22 (A) when a vendor track is located within development zone one as  
23 defined by section thirteen hundred ten of the racing, pari-mutuel  
24 wagering and breeding law, at a rate of thirty-nine and one-half percent

1 of the total revenue wagered at the vendor track after payout for prizes  
2 pursuant to this chapter;

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

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

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

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

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



1 clause, Seneca and Wayne counties shall be deemed to be located within  
2 region six of development zone two.

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

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

21 (F) Notwithstanding any provision of law to the contrary, any opera-  
22 tors of a vendor track or the operators of any other video lottery  
23 gaming facility eligible to receive a capital award as of December thir-  
24 ty-first, two thousand seventeen shall deposit from their vendor fee  
25 into a segregated account an amount equal to four percent of the first  
26 sixty-two million five hundred thousand dollars of revenue wagered at  
27 the vendor track after payout for prizes pursuant to this chapter to be  
28 used exclusively for capital investments, except for Aqueduct, which

1 shall deposit into a segregated account an amount equal to one percent  
2 of all revenue wagered at the video lottery gaming facility after payout  
3 for prizes pursuant to this chapter until the earlier of the designation  
4 of one thousand video lottery devices as hosted pursuant to paragraph  
5 four of subdivision a of section sixteen hundred seventeen-a of this  
6 article or April first, two thousand nineteen, when at such time four  
7 percent of all revenue wagered at the video lottery gaming facility  
8 after payout for prizes pursuant to this chapter shall be deposited into  
9 a segregated account for capital investments. Vendor tracks and video  
10 lottery gaming facilities shall be permitted to withdraw funds for  
11 projects approved by the commission to improve the facilities of the  
12 vendor track or video lottery gaming facility which enhance or maintain  
13 the video lottery gaming facility including, but not limited to hotels,  
14 other lodging facilities, entertainment facilities, retail facilities,  
15 dining facilities, events arenas, parking garages and other improvements  
16 and amenities customary to a gaming facility, provided, however, the  
17 vendor tracks and video lottery gaming facilities shall be permitted to  
18 withdraw funds for unreimbursed capital awards approved prior to the  
19 effective date of this subparagraph. Any proceeds from the divestiture  
20 of any assets acquired through these capital funds or any prior capital  
21 award must be deposited into this segregated account, provided that if  
22 the vendor track or video lottery gaming facility ceases use of such  
23 asset for gaming purposes or transfers the asset to a related party,  
24 such vendor track or video lottery gaming facility shall deposit an  
25 amount equal to the fair market value of that asset into the account. In  
26 the event a vendor track or video lottery gaming facility ceases gaming  
27 operations, any balance in the account along with an amount equal to the  
28 value of all remaining assets acquired through this fund or prior capi-

1 tal awards shall be returned to the state for deposit into the state  
2 lottery fund for education aid, except for Aqueduct, which shall return  
3 to the state for deposit into the state lottery fund for education aid  
4 all amounts in excess of the amount needed to fund a project pursuant to  
5 an agreement with the operator to construct an expansion of the facili-  
6 ty, hotel, and convention and exhibition space requiring a minimum capi-  
7 tal investment of three hundred million dollars and any subsequent  
8 amendments to such agreement. The comptroller or his legally authorized  
9 representative is authorized to audit any and all expenditures made out  
10 of these segregated capital accounts. Notwithstanding the preceding, a  
11 vendor track located in Ontario county may withdraw up to two million  
12 dollars from this account for the purpose of constructing a turf course  
13 at the vendor track.

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

22 (H) Notwithstanding any provision of law to the contrary, the operator  
23 of a vendor track or the operator of any other video lottery gaming  
24 facility shall fund a marketing and promotion program out of the  
25 vendor's fee. Each operator shall submit an annual marketing plan for  
26 the review and approval of the commission and any other required docu-  
27 ments detailing promotional activities as prescribed by the commission.  
28 The commission shall have the right to reject any advertisement or

1 promotion that does not properly represent the mission or interests of  
2 the lottery or its programs.

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

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

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

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