

**2012-13 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  
12674-01-2

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  
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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 2012-2013 state fiscal year)

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Rev Art VII - pull together

AN ACT

to amend chapter 540 of the laws of  
1992, amending the real property tax  
law relating to oil and gas charges,  
in relation to the effective date of  
such chapter (Part A); to amend the  
real property tax law, the tax law,  
the administrative code of the city  
of New York and the state finance  
law, in relation to the suspension  
of STAR exemptions and related bene-  
fits of persons who are delinquent  
in the payment of outstanding state

IN SENATE

Senate introducer's signature

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

s20 Adams	s44 Farley	s58 Kennedy	s54 Nozzolio	s28 Serrano
s15 Addabbo	s02 Flanagan	s34 Klein	s53 O'Mara	s51 Seward
s55 Alesi	s08 Fuschillo	s26 Krueger	s37 Oppenheimer	s09 Skelos
s11 Avella	s59 Gallivan	s24 Lanza	s21 Parker	s14 Smith
s40 Ball	s12 Gianaris	s39 Larkin	s13 Peralta	s25 Squadron
s42 Bonacic	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s46 Breslin	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart- Cousins
s38 Carlucci	s60 Grisanti	s45 Little	s48 Ritchie	s49 Valesky
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s33 Rivera	s57 Young
s32 Diaz	s36 Hassell- Thompson	s07 Martins	s56 Robach	s03 Zeldin
s17 Dilan		s62 Maziarz	s41 Saland	s27
s29 Duane	s10 Huntley	s43 McDonald	s19 Sampson	
s31 Espaillat	s04 Johnson	s18 Montgomery	s23 Savino	

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	a107 Crouch	a095 Jaffee	a052 Millman	a012 Saladino
a092 Abinanti	a014 Curran	a057 Jeffries	a015 Montesano	a113 Sayward
a105 Amedore	a063 Cusick	a135 Johns	a132 Morelle	a029 Scarborough
a084 Arroyo	a045 Cymbrowitz	a112 Jordan	a039 Moya	a016 Schimel
a035 Aubry	a034 DenDekker	a099 Katz	a003 Murray	a140 Schimminger
a124 Barclay	a081 Dinowitz	a074 Kavanagh	a037 Nolan	a064 Silver
a040 Barron	a114 Duprey	a065 Kellner	a128 Oaks	a027 Simanowitz
a082 Benedetto	a004 Englebright	a129 Kolb	a069 O'Donnell	a036 Simotas
a122 Blankenbush	a054 Espinal	a025 Lancman	a051 Ortiz	a146 Smardz
a055 Boyland	a071 Farrell	a091 Latimer	a136 Palmesano	a079 Stevenson
a008 Boyle	a123 Finch	a013 Lavine	a088 Paulin	a011 Sweeney
a026 Braunstein	a007 Fitzpatrick	a050 Lentol	a141 Peoples- Stokes	a110 Tedisco
a044 Brennan	a137 Friend	a125 Lifton	a058 Perry	a115 Tenney
a116 Brindisi	a143 Gabryszak	a072 Linares	a087 Pretlow	a002 Thiele
a131 Bronson	a090 Galef	a127 Lopez, P.	a073 Quart	a061 Titone
a046 Brook-Krasny	a133 Gantt	a053 Lopez, V.	a021 Ra	a031 Titus
a147 Burling	a077 Gibson	a001 Losquadro	a097 Rabbitt	a062 Tobacco
a117 Butler	a149 Giglio	a126 Lupardo	a009 Raia	a148 Walter
a101 Cahill	a066 Glick	a111 Magee	a006 Ramos	a041 Weinstein
a096 Calhoun	a023 Goldfeder	a120 Magnarelli	a134 Reilich	a020 Weisenberg
a043 Camara	a150 Goodell	a059 Maisel	a109 Reilly	a024 Weprin
a106 Canestrari	a075 Gottfried	a060 Malliotakis	a078 Rivera, J.	a070 Wright
a089 Castelli	a005 Graf	a030 Markey	a080 Rivera, N.	a094 Zebrowski
a086 Castro	a098 Gunther	a019 McDonough	a076 Rivera, P.	a093
a138 Ceretto	a130 Hanna	a104 McEneny	a119 Roberts	a100
a033 Clark	a139 Hawley	a017 McKevitt	a056 Robinson	a103
a047 Colton	a083 Heastie	a108 McLaughlin	a068 Rodriguez	a145
a010 Conte	a028 Hevesi	a022 Meng	a067 Rosenthal	
a032 Cook	a048 Hikind	a121 Miller, D.	a118 Russell	
a142 Corwin	a018 Hooper	a102 Miller, J.	a144 Ryan	
a085 Crespo	a042 Jacobs	a038 Miller, M.		

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).

tax liabilities (Part B); to amend the tax law, in relation to reforming excise tax on tobacco products, imposing a fixed rate of tax on loose tobacco, and imposing a retail tax on cigars (Part C); to amend chapter 109 of the laws of 2006, amending the tax law relating to providing exemptions, reimbursements and credits from various taxes for certain alternative fuels, in relation to extending the alternative fuels tax exemptions (Part D); to amend the tax law, in relation to making technical amendments to the tax treatment of diesel fuel to reflect industry practice (Part E); to amend the tax law, in relation to the power of the commissioner of taxation and finance to refuse to issue a certificate of authority to collect the sales and compensating use taxes imposed by article 28 of the tax law and pursuant to the authority of article 29 of the tax law (Part F); to amend the tax law and part U of chapter 61 of the laws of 2011, amending the real property tax law, the general municipal law, the public officers law, the tax law, the abandoned property law, the state finance law and the administrative code of the city of New York, relating to establishing standards for electronic real property tax administration, allowing the department of taxation and finance to use electronic communication means to furnish tax notices and other documents, mandatory electronic filing of tax documents, debit cards issued for tax refunds, improving sales tax compliance and repealing certain provisions of the tax law and the administrative code of the city of New York relating thereto, in relation to making permanent, provisions relating to mandatory electronic filing of tax documents and improving sales tax compliance; and to repeal certain provisions of the tax law and the administrative code of the city of New York relating thereto (Part G); to amend the tax law, in relation to the personal income tax credits for

solar energy systems equipment and the sales and use tax exemption provided for such equipment (Part H); to amend the tax law, in relation to extending the empire state commercial production tax credit; and to amend part V of chapter 62 of the laws of 2006 relating to the empire state commercial production tax credit, in relation to the effectiveness thereof (Part I); to amend the public housing law, in relation to the credit against income tax for persons or entities investing in low-income housing (Part J); to amend the tax law, in relation to extending the biofuel production tax credit; and to amend part X of chapter 62 of the laws of 2006, amending the tax law relating to providing tax credits for biofuel production plants, in relation to the effectiveness thereof (Part K); to amend chapter 58 of the laws of 2006, relating to providing an enhanced earned income tax credit, in relation to the effectiveness thereof (Part L); to amend the civil practice law and rules and the debtor and creditor law, in relation to prohibiting banking institutions from deducting levy processing fees from tax and child support levy proceeds (Part M); to amend the tax law, in relation to tax rates and exclusions under the metropolitan commuter transportation mobility tax for professional employer organizations and to amend part B of chapter 56 of the laws of 2011 amending the tax law relating to the tax rates and exclusions under the metropolitan commuter transportation mobility tax, in relation to the effectiveness thereof (Part N); 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; to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part O); and to amend the tax law, in relation to the distribution of revenue collected from the corporate and utilities taxes imposed under sections 183 and 184 of the tax law (Part P)

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 2012-2013  
3 state fiscal year. Each component is wholly contained within a Part  
4 identified as Parts A through P. 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. Section 2 of chapter 540 of the laws of 1992, amending the  
14 real property tax law relating to oil and gas charges, as amended by  
15 section 1 of part II of chapter 56 of the laws of 2009, is amended to  
16 read as follows:

17 § 2. This act shall take effect immediately and shall be deemed to  
18 have been in full force and effect on and after April 1, 1992; provided,  
19 however that any charges imposed by section 593 of the real property tax  
20 law as added by section one of this act shall first be due for values  
21 for assessment rolls with tentative completion dates after July 1, 1992,  
22 and provided further, that this act shall remain in full force and  
23 effect until March 31, [2012] 2015, at which time section 593 of the  
24 real property tax law as added by section one of this act shall be  
25 repealed.



1 § 2. This act shall take effect immediately and shall be deemed to  
2 have been in full force and effect on and after April 1, 2012.

3 PART B

4 Section 1. Subdivision 3 of section 425 of the real property tax law  
5 is amended by adding a new paragraph (f) to read as follows:

6 (f) Compliance with state tax obligations. The property's eligibility  
7 for the STAR exemption must not be suspended pursuant to section one  
8 hundred seventy-one-y of the tax law due to the past-due state tax  
9 liabilities of one or more of its owners. Notwithstanding any provision  
10 of law to the contrary, where a property's eligibility for a STAR  
11 exemption has been suspended pursuant to such section, the following  
12 provisions shall be applicable:

13 (i) The property shall be ineligible for a basic or enhanced STAR  
14 exemption effective with the next school year commencing after the issu-  
15 ance of notice by the department of the suspension of its eligibility  
16 for the STAR exemption, even if the notice was issued after the applica-  
17 ble taxable status date. If a STAR exemption has been granted to such a  
18 property on a tentative or final assessment roll, the assessor or other  
19 person having custody of that roll is hereby authorized and directed to  
20 immediately remove that STAR exemption from the roll.

21 (ii) Any challenge to the factual or legal basis behind the suspension  
22 of a property's eligibility for a STAR exemption pursuant to section one  
23 hundred seventy-one-y of the tax law must be presented to the department  
24 in the manner prescribed by such section. Neither an assessor nor a  
25 board of assessment review has the authority to consider such a chal-  
26 lenge.

1 (iii) The property shall remain ineligible for the STAR exemption  
2 until the department notifies the assessor that the suspension of its  
3 eligibility has been lifted. Once the assessor has been so notified, the  
4 exemption may be resumed on a prospective basis only, provided that the  
5 eligibility requirements of this section are otherwise satisfied.

6 (iv) In the case of a cooperative apartment or mobile home receiving a  
7 STAR exemption pursuant to paragraph (k) or (l) of subdivision two of  
8 this section, a suspension of a STAR exemption due to a taxpayer's past-  
9 due state tax liabilities shall only apply to the STAR exemption on the  
10 cooperative apartment or mobile home owned, or deemed to be owned, by  
11 that taxpayer.

12 § 2. The tax law is amended by adding a new section 171-y to read as  
13 follows:

14 § 171-y. Enforcement of delinquent state tax liabilities through the  
15 suspension of eligibility for STAR exemptions. 1. The commissioner is  
16 hereby authorized to develop a program to collect delinquent state tax  
17 liabilities from taxpayers through the suspension of the eligibility of  
18 properties for STAR exemptions where one or more of the property owners  
19 have past-due state tax liabilities. For the purposes of this section,  
20 the term "state tax liability" means any tax (including but not limited  
21 to local sales and income taxes), surcharge, penalty, interest charge or  
22 fee administered by the commissioner that is owed by a taxpayer; the  
23 term "past-due state tax liabilities" means any state tax liability or  
24 liabilities which have become fixed and final such that the taxpayer no  
25 longer has any right to administrative or judicial review and for which  
26 the taxpayer has not made payment arrangements for that liability satis-  
27 factory to the commissioner; the term "taxpayer" shall mean the individ-  
28 ual responsible for the payment of any of the past-due state tax liabil-

1 ities; and the term "STAR exemption" means the exemption from real  
2 property taxation authorized by section four hundred twenty-five of the  
3 real property tax law.

4 2. The commissioner shall establish procedures for the administration  
5 of this program, which shall include the following provisions:

6 (a) The criteria for identifying taxpayers with past-due state tax  
7 liabilities.

8 (b) The procedures by which the department shall determine whether  
9 properties owned by such taxpayers are receiving the STAR exemption.

10 (c) The procedures by which the department shall notify such taxpayers  
11 that the eligibility of their properties for the STAR exemption will be  
12 suspended unless they either satisfy their past-due state tax liabil-  
13 ities or make payment arrangements satisfactory to the commissioner by a  
14 date to be specified in the notice.

15 (d) The procedures by which the department shall notify assessors of  
16 properties whose eligibility for STAR exemptions has been suspended due  
17 to the past-due state tax liabilities of one or more property owners.

18 (e) The procedures by which taxpayers may act to lift such suspensions  
19 on a prospective basis by either satisfying their past-due state tax  
20 liabilities or making payment arrangements satisfactory to the commis-  
21 sioner.

22 (f) The procedures by which the department shall notify assessors when  
23 the suspension of a property's eligibility for the STAR exemption has  
24 been lifted.

25 (g) The procedures by which the department and assessors shall coordi-  
26 nate and execute their obligations pursuant to this section and para-  
27 graph (f) of subdivision three of section four hundred twenty-five of  
28 the real property tax law.

1 (h) Any other matter as the department shall deem necessary to carry  
2 out the provisions of this section.

3 3. The department shall notify the taxpayer at least forty-five days  
4 prior to the date the department intends to inform the assessor of the  
5 suspension of the eligibility for the STAR exemption of property which  
6 is wholly or partially owned by the taxpayer.

7 (a) Such notice shall include a statement that the department will  
8 notify the assessor of the suspension of the eligibility for the STAR  
9 exemption of property wholly or partially owned by the taxpayer unless  
10 the taxpayer fully satisfies the outstanding state tax liabilities or  
11 otherwise makes payment arrangements satisfactory to the commissioner in  
12 accordance with law. However, in any case where a taxpayer fails to  
13 comply with the terms of an installment payment agreement as described  
14 herein more than once within a twelve month period, the commissioner may  
15 immediately notify the assessor of the suspension of the property's  
16 eligibility for the STAR exemption.

17 (b) Such notice shall also include the information necessary for the  
18 taxpayer to pay the past-due liability, make payment arrangements or  
19 otherwise request additional information.

20 (c) Such notice shall also state that the taxpayer's right to protest  
21 the notice is limited to raising issues that constitute a mistake of  
22 fact as defined in subdivision five of this section.

23 (d) Such notice shall also include a statement that the suspension of  
24 the property's STAR exemption will continue until the taxpayer has  
25 satisfied his or her past-due state tax liabilities or has made payment  
26 arrangements satisfactory to the commissioner, and that the property  
27 will be permanently ineligible for the STAR exemption for any school

1 years that commence while its eligibility for the STAR exemption is  
2 suspended.

3 (e) Such notice may also include any other information that the  
4 commissioner deems necessary.

5 4. If the taxpayer fails to satisfy his or her past-due state tax  
6 liabilities or make satisfactory payment arrangements by the date speci-  
7 fied in the notice, the department shall notify the assessor of the  
8 suspension of the property's eligibility for the STAR exemption.

9 5. Notwithstanding any other provision of law, the notice issued by  
10 the department pursuant to this section for the purpose of suspending  
11 the property's eligibility for the STAR exemption may only be challenged  
12 before the department on the grounds of a mistake of fact as defined in  
13 this subdivision and the taxpayer will have no right to commence a court  
14 action, administrative proceeding or any other form of legal recourse  
15 against the department or assessor regarding such suspension. For the  
16 purposes of this subdivision, "mistake of fact" is limited to claims  
17 that: (i) the individual notified is not the taxpayer at issue; (ii) the  
18 past-due state tax liabilities were satisfied; or (iii) the department  
19 incorrectly found that the taxpayer has failed to comply with the terms  
20 of an installment payment agreement more than once within a twelve month  
21 period for the purposes of subdivision three of this section. However,  
22 nothing in this subdivision is intended to limit a taxpayer from seeking  
23 relief from joint and several liability pursuant to section six hundred  
24 fifty-four of this chapter to the extent that he or she is eligible  
25 pursuant to that subdivision or establishing to the department that the  
26 enforcement of the underlying tax liabilities has been stayed by the  
27 filing of a petition pursuant to the Bankruptcy Code of 1978 (Title  
28 Eleven of the United States Code).

1 6. Notwithstanding any provision of law to the contrary, the depart-  
2 ment shall furnish the appropriate assessor with the name and address of  
3 any taxpayer who owns property which has become ineligible for the STAR  
4 exemption pursuant to this section and paragraph (f) of subdivision  
5 three of section four hundred twenty-five of the real property tax law  
6 and a description of such property.

7 7. Activities to collect state tax liabilities undertaken by the  
8 department pursuant to this section shall not in any way limit, restrict  
9 or impair the department from exercising any other authority to collect  
10 or enforce past-due state tax liabilities under any other applicable  
11 provision of law. The amount by which a taxpayer's property tax liabil-  
12 ity increases as a result of the loss of the STAR exemption pursuant to  
13 paragraph (f) of subdivision three of section four hundred twenty-five  
14 of the real property tax law and this section may not be applied in any  
15 way as an offset against the amount of the taxpayer's past-due state tax  
16 liability.

17 § 3. Subsection (e) of section 697 of the tax law is amended by adding  
18 a new paragraph 3-b to read as follows:

19 (3-b) Notwithstanding the provisions of paragraph one of this  
20 subsection, the commissioner may disclose to assessors the information  
21 described in section one hundred seventy-one-y of this chapter that is  
22 necessary in the commissioner's discretion for the proper identification  
23 of a taxpayer with past-due state tax liabilities who owns property with  
24 a STAR exemption that is subject to suspension pursuant to such section  
25 and paragraph (f) of subdivision three of section four hundred twenty-  
26 five of the real property tax law.

27 § 4. The tax law is amended by adding a new section 1304-E to read as  
28 follows:

1     § 1304-E. Recalculation of tax rate for taxpayers with past-due state  
2 tax liabilities. When a taxpayer owes a past-due state tax liability, as  
3 that term is defined in section one hundred seventy-one-y of this chap-  
4 ter, on the last day of the taxable year, the tax rate applicable to  
5 such taxpayer under section thirteen hundred four of this article for  
6 the taxable year shall be recalculated by the commissioner so as to  
7 eliminate the reduction to such tax rate made by chapter three hundred  
8 eighty-nine of the laws of nineteen hundred ninety-seven, as adjusted.  
9 Such recalculation shall be treated as a mathematical error and the  
10 commissioner may issue a notice and demand to the taxpayer for the  
11 amount due as a result of such recalculation. The amount by which a  
12 taxpayer's income tax liability increases as a result of the recalcu-  
13 lation of the applicable tax rate pursuant to this section may not be  
14 applied in any way as an offset against the amount of the taxpayer's  
15 past-due state tax liability.

16     § 5. Paragraph 1 of subsection (e) of section 1310 of the tax law, as  
17 amended by section 3 of part A of chapter 56 of the laws of 1998, is  
18 amended to read as follows:

19     (1) For taxable years beginning after nineteen hundred ninety-seven, a  
20 state school tax reduction credit shall be allowed as provided in the  
21 following tables. The credit shall be allowed against the taxes author-  
22 ized by this article reduced by the credits permitted by this article.  
23 If the credit exceeds the tax as so reduced, the taxpayer may receive,  
24 and the comptroller, subject to a certificate of the commissioner, shall  
25 pay as an overpayment, without interest, the amount of such excess. For  
26 purposes of this subsection, no credit shall be granted to (A) an indi-  
27 vidual with respect to whom a deduction under subsection (c) of section  
28 one hundred fifty-one of the internal revenue code is allowable to

1 another taxpayer for the taxable year, or (B) a taxpayer who owes a  
2 past-due state tax liability, as that term is defined in section one  
3 hundred seventy-one-y of this chapter, on the last day of the taxable  
4 year. If a taxpayer with a past-due state tax liability claims this  
5 credit, any amount owed as a result of the denial of this credit shall  
6 be treated as a mathematical error and the commissioner may issue a  
7 notice and demand to the taxpayer for such amount. The amount by which a  
8 taxpayer's income tax liability increases as a result of the loss of the  
9 tax credit pursuant to this section may not be applied in any way as an  
10 offset against the amount of the taxpayer's past-due state tax  
11 liability.

12 § 6. The administrative code of the city of New York is amended by  
13 adding a new section 11-1704.2 to read as follows:

14 § 11-1704.2 Recalculation of tax rate for taxpayers with past-due  
15 state tax liabilities. When a taxpayer owes a past-due state tax liabil-  
16 ity, as that term is defined in section one hundred seventy-one-y of the  
17 tax law, on the last day of the taxable year, the tax rate applicable to  
18 such taxpayer under section 11-1701 of this subchapter for the taxable  
19 year shall be recalculated by the commissioner of taxation and finance  
20 so as to eliminate the reduction to such tax rate made by chapter three  
21 hundred eighty-nine of the laws of nineteen hundred ninety-seven, as  
22 adjusted. Such recalculation shall be treated as a mathematical error  
23 and the commissioner of taxation and finance may issue a notice and  
24 demand to the taxpayer for the amount due as a result of such recalcu-  
25 lation. The amount by which a taxpayer's income tax liability increases  
26 as a result of the recalculation of the applicable tax rate pursuant to  
27 this section may not be applied in any way as an offset against the  
28 amount of the taxpayer's past-due state tax liability.



1 § 7. Paragraph 1 of subdivision (c) of section 11-1706 of the adminis-  
2 trative code of the city of New York, as amended by section 6 of part A  
3 of chapter 56 of the laws of 1998, is amended to read as follows:

4 (1) For taxable years beginning after nineteen hundred ninety-seven, a  
5 state school tax reduction credit shall be allowed as provided in the  
6 following tables. The credit shall be allowed against the taxes author-  
7 ized by this article reduced by the credits permitted by this article.  
8 If the credit exceeds the tax as so reduced, the taxpayer may receive,  
9 and the comptroller, subject to a certificate of the commissioner, shall  
10 pay as an overpayment, without interest, the amount of such excess. For  
11 purposes of this subdivision, no credit shall be granted to (A) an indi-  
12 vidual with respect to whom a deduction under subsection (c) of section  
13 one hundred fifty-one of the internal revenue code is allowable to  
14 another taxpayer for the taxable year, or (B) a taxpayer who owes a  
15 past-due state tax liability, as that term is defined in section one  
16 hundred seventy-one-y of the tax law, on the last day of the taxable  
17 year. If a taxpayer with a past-due state tax liability claims this  
18 credit, any amount owed as a result of the denial of this credit shall  
19 be treated as a mathematical error and the commissioner of taxation and  
20 finance may issue a notice and demand to the taxpayer for such amount.  
21 The amount by which a taxpayer's income tax liability increases as a  
22 result of the loss of the tax credit pursuant to this section may not be  
23 applied in any way as an offset against the amount of the taxpayer's  
24 past-due state tax liability.

25 § 8. Paragraph (a) of subdivision 3 of section 54-f of the state  
26 finance law, as added by section 139 of part A of chapter 389 of the  
27 laws of 1997, is amended to read as follows:

1 (a) The amount of such reimbursement shall be estimated by the commis-  
2 sioner of taxation and finance on or before December first of the year  
3 preceding the state fiscal year during which such amount is to be paid  
4 begins. The commissioner shall use the best available information at his  
5 or her disposal to estimate such amount. In addition to such methods and  
6 information the commissioner may use in making such estimate, he or she  
7 shall consult with the city department of finance during the preparation  
8 of the determination of such amount. Such reimbursement shall disregard  
9 the amount of benefits recalculated pursuant to section thirteen hundred  
10 four-E of the tax law and credits denied pursuant to paragraph one of  
11 subsection (e) of section thirteen hundred ten of the tax law.

12 § 9. This act shall take effect immediately; provided however that  
13 sections four through seven of this act shall apply to taxable years  
14 beginning on or after January 1, 2012.

15 PART C

16 Section 1. The article heading of article 20 of the tax law, as  
17 amended by chapter 71 of the laws of 1959, is amended to read as  
18 follows:

19 TAX ON CIGARETTES, CIGARS AND TOBACCO PRODUCTS

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

23 2. "Tobacco products." Any [cigar, including a little cigar, or]  
24 tobacco, other than cigarettes and cigars, intended for consumption [by  
25 smoking, chewing, or as snuff].

1 § 3. Subdivision 6 of section 470 of the tax law, as added by chapter  
2 61 of the laws of 1989, is amended to read as follows:

3 6. ["Wholesale price." The established price for which a manufacturer  
4 sells tobacco products to a distributor, before the allowance of any  
5 discount, trade allowance, rebate or other reduction.

6 In the absence of such an established price, a manufacturer's invoice  
7 price of any tobacco product shall be presumptive evidence of the whole-  
8 sale price of such tobacco product, and in its absence the price at  
9 which such tobacco products were purchased shall be presumed to be the  
10 wholesale price, unless evidence of a lower wholesale price shall be  
11 established or any industry standard of markups relating to the purchase  
12 price in relation to the wholesale price shall be established.] "Loose  
13 tobacco." Any tobacco products, other than snuff and little cigars.

14 § 4. Subdivision 8 of section 470 of the tax law, as amended by  
15 section 1 of part K of chapter 61 of the laws of 2005, is amended to  
16 read as follows:

17 8. "Wholesale dealer." Any person who (a) sells cigarettes, cigars or  
18 tobacco products to retail dealers or other persons for purposes of  
19 resale, or (b) owns, operates or maintains one or more cigarette, cigar  
20 or tobacco product vending machines in, at or upon premises owned or  
21 occupied by any other person, or (c) sells cigarettes, cigars or tobacco  
22 products to an Indian nation or tribe or to a reservation cigarette  
23 seller on a qualified reservation.

24 § 5. Subdivision 9 of section 470 of the tax law, as amended by chap-  
25 ter 61 of the laws of 1989, is amended to read as follows:

26 9. "Retail dealer." Any person other than a wholesale dealer engaged  
27 in selling cigarettes, cigars or tobacco products.

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

3 12. "Distributor." Any person who imports or causes to be imported  
4 into this state any cigar or tobacco product (in excess of fifty cigars  
5 or one pound of tobacco) for sale, or who manufactures any cigar or  
6 tobacco product in this state, and any person within or without the  
7 state who is authorized by the commissioner [of taxation and finance] to  
8 make returns and pay the tax on cigars or tobacco products sold, shipped  
9 or delivered by [him] such person to any person in the state.

10 § 7. Subdivision 18 of section 470 of the tax law, as added by section  
11 1 of part QQ-1 of chapter 57 of the laws of 2008, is amended to read as  
12 follows:

13 18. "Snuff." Any finely cut, ground, or powdered tobacco that is not  
14 intended to be smoked. Snuff includes both moist and dry snuff, and any  
15 smokeless tobacco product similar in composition and makeup to snuff.  
16 Snuff does not include chewing tobaccos such as plug or twist tobacco.

17 § 8. Subdivision 19 of section 470 of the tax law, as amended by  
18 section 17 of part D of chapter 134 of the laws of 2010, is amended to  
19 read as follows:

20 19. "Cigar." Any roll of tobacco wrapped in leaf tobacco or in any  
21 substance containing tobacco (other than any roll of tobacco that is a  
22 cigarette as defined in subdivision one of this section). "Cigar" shall  
23 not include[, except where expressly excluded,] any little cigar.

24 § 9. Section 470 of the tax law is amended by adding a new subdivision  
25 20 to read as follows:

26 20. "Receipt." The amount received in or by reason of any sale, condi-  
27 tional or otherwise, of cigars. Receipt is expressed in money, whether  
28 paid in cash, credit or property of any kind or nature, and shall be

1 determined without any deduction therefrom on account of federal excise  
2 taxes, manufacturer's coupons, the cost of the service sold or the cost  
3 of materials, labor or services used or other costs, interest or  
4 discount paid or any other expenses whatsoever.

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

8 (a) Such tax on loose tobacco [products other than snuff and little  
9 cigars] shall be at the rate of [seventy-five percent of the wholesale  
10 price] four dollars and fifty-three cents per ounce and a proportionate  
11 rate on any fractional parts of an ounce. Such tax shall be computed  
12 based on the net weight as listed by the manufacturer, and is intended  
13 to be imposed only once upon the sale of any loose tobacco [products  
14 other than snuff and little cigars].

15 § 11. Section 471-b of the tax law is amended by adding a new subdivi-  
16 sion 4 to read as follows:

17 4. The tax imposed by this section shall not apply to cigars on or  
18 after, June first, two thousand twelve.

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

24 (a) There is hereby imposed and shall be paid a tax on all tobacco  
25 products used in the state by any person, except that no such tax shall  
26 be imposed (1) if the tax provided in section four hundred seventy-one-b  
27 of this article is paid, or (2) on the use of tobacco products which are  
28 exempt from the tax imposed by said section, or (3) on the use of [two

1 hundred fifty cigars or less, or] five pounds or less of tobacco other  
2 than roll-your-own tobacco[,] or thirty-six ounces or less of roll-your-  
3 own tobacco brought into the state on, or in the possession of, any  
4 person.

5 (i) Such tax on loose tobacco [products other than snuff and little  
6 cigars] shall be at the rate of [seventy-five percent of the wholesale  
7 price] four dollars and fifty-three cents per ounce and a proportionate  
8 rate on any fractional parts of an ounce. Such tax shall be computed  
9 based on the net weight as listed by the manufacturer.

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

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

19 § 13. The tax law is amended by adding a new section 471-f to read as  
20 follows:

21 § 471-f. Imposition of cigar tax. 1. There is hereby imposed and there  
22 shall be paid a tax of fifty percent upon the receipts from every retail  
23 sale of cigars, except that no tax shall be imposed on cigars sold under  
24 such circumstances that this state is without power to impose such tax,  
25 or sold to the United States, or sold to or by a voluntary unincorporat-  
26 ed organization of the armed forces of the United States operating a  
27 place for the sale of goods pursuant to regulations promulgated by the  
28 appropriate executive agency of the United States, to the extent

1 provided in such regulations and policy statements of such an agency  
2 applicable to such sales. Such tax is intended to be imposed only once  
3 upon the sale of any cigars. It shall be presumed that all cigars within  
4 the state are subject to tax until the contrary is established, and the  
5 burden of proof that any cigars are not taxable hereunder shall be upon  
6 the person in possession thereof.

7 2. It is intended that the ultimate incidence of and liability for the  
8 tax shall be upon the consumer, and that any retail dealer who shall pay  
9 the tax to the commissioner shall collect the tax from the purchaser or  
10 consumer.

11 3. The distributor shall be liable under section four hundred seven-  
12 ty-one-h of this article for the prepayment of the cigar tax on cigars  
13 which he or she imports or causes to be imported into the state, or  
14 which he or she manufactures in the state, and every distributor author-  
15 ized by the commissioner to make returns and prepay the cigar tax on  
16 cigars sold, shipped or delivered by him or her to any person in the  
17 state shall be liable for the prepayment of the cigar tax on all cigars  
18 so sold, shipped or delivered.

19 4. Separate statement of tax. Distributors, wholesale dealers, and  
20 retail dealers required to collect or pass through the tax imposed by  
21 this section shall state, charge, and show that tax separately from the  
22 price or charge, and also separately from any other tax imposed by this  
23 article or other law on any sales slip, invoice, receipt, or other  
24 statement or memorandum of the price or charge, paid or payable, given  
25 to the customer.

26 § 14. The tax law is amended by adding a new section 471-g to read as  
27 follows:

1 § 471-g. Use tax on cigars. (a) There is hereby imposed on all cigars  
2 used in the state by any person, except that no such tax shall be  
3 imposed (1) if the tax provided in section four hundred seventy-one-f of  
4 this article is paid, or (2) on the use of cigars which are exempt from  
5 the tax imposed by said section, or (3) on the use of fifty cigars or  
6 less brought into the state on, or in the possession of, any person.  
7 There is hereby imposed and there shall be paid a tax of fifty percent  
8 upon all receipts paid or required to be paid from every retail sale of  
9 cigars.

10 (b) Within twenty-four hours after liability for the tax accrues, each  
11 such person shall file with the commissioner a return in such form as  
12 the commissioner may prescribe together with a remittance of the tax  
13 shown to be due thereon. For purposes of this article, the word "use"  
14 means the exercise of any right or power actual or constructive and  
15 shall include but is not limited to the receipt, storage or any keeping  
16 or retention for any length of time, but shall not include possession  
17 for sale. All the other provisions of this article, if not inconsistent,  
18 shall apply to the administration and enforcement of the tax imposed by  
19 this section in the same manner as if the language of said provisions  
20 had been incorporated in full into this section.

21 § 15. The tax law is amended by adding a new section 471-h to read as  
22 follows:

23 § 471-h. Prepayment of cigar tax. (a)(1) Every distributor shall pay,  
24 as a prepayment on account of the taxes imposed by section four hundred  
25 seventy-one-f of this article and pursuant to the authority of this  
26 article, a tax on cigars possessed for sale or use in this state, except  
27 no tax shall be required to be prepaid on cigars sold under circum-  
28 stances that this state is without power to impose such prepayment or



1 sold to the United States or sold to or by a voluntary unincorporated  
2 organization of the armed forces of the United States operating a place  
3 for the sale of goods pursuant to regulations promulgated by the appro-  
4 priate executive agency of the United States, to the extent provided in  
5 such regulations and written policy statements of such an agency appli-  
6 cable to such sales.

7 (2) The commissioner may, in the commissioner's discretion, require  
8 any distributor to file with the department a bond issued by a surety  
9 company approved by the superintendent of financial services as to  
10 solvency and responsibility and authorized to transact business in the  
11 state or other security acceptable to the commissioner, in such amount  
12 as the commissioner may fix, to secure the payment of any sums due from  
13 such distributor pursuant to this section. If securities are deposited  
14 as security under this subdivision, such securities shall be kept in the  
15 custody of the commissioner and may be sold by the commissioner if it  
16 becomes necessary to do so in order to recover any sums due from such  
17 distributor pursuant to this section, but no such sale shall be had  
18 until after such distributor shall have had an opportunity to litigate  
19 the validity of any prepayment of tax if it elects to do so. Upon any  
20 such sale, the surplus, if any, above the sums due under this section  
21 shall be returned to such distributor.

22 (3) Where cigars are imported or caused to be imported into the state,  
23 or manufactured in the state, the amount of the cigar tax required to be  
24 prepaid pursuant to this section shall be twenty cents on each cigar.

25 (b) Except as otherwise provided in this section, the taxes required  
26 to be prepaid pursuant to this section shall be administered and  
27 collected in a like manner as the taxes imposed by sections four hundred  
28 seventy-one-f and four hundred seventy-one-g of this article. All the

1 provisions of this article relating to or applicable to the adminis-  
2 tration, collection and disposition of the taxes imposed by such  
3 sections shall apply to the tax required to be prepaid under this  
4 section so far as such provisions can be made applicable to such prepay-  
5 ments of tax with such limitations as set forth in this article and such  
6 modifications as may be necessary in order to adapt such language to the  
7 tax so imposed. Such provisions shall apply with the same force and  
8 effect as if the language of those provisions had been set forth in full  
9 in this section except to the extent that any provision is either incon-  
10 sistent with a provision of this section or is not relevant to the tax  
11 required to be prepaid by this section. For purposes of this section,  
12 any reference in this article to the tax or taxes imposed by sections  
13 four hundred seventy-one-f and four hundred seventy-one-g of this arti-  
14 cle shall be deemed to refer to the tax required to be prepaid pursuant  
15 to this section unless a different meaning is clearly required.

16 (c) Nothing in this article shall be construed to require the payment  
17 of the tax required to be prepaid pursuant to this section more than  
18 once upon cigars possessed for sale or used within the state. When the  
19 prepaid tax imposed pursuant to this section is paid, it shall have been  
20 so paid on account of the taxes imposed by sections four hundred seven-  
21 ty-one-f or four hundred seventy-one-g of this article and pursuant to  
22 the authority of this article with respect to the retail sale or the use  
23 of cigars. Nothing in this section shall modify or affect the taxes  
24 imposed by sections four hundred seventy-one-f and four hundred seven-  
25 ty-one-g of this article as applied to receipts from the sale, or to the  
26 use, of such cigars.

27 (d) The distributor shall be liable for the prepaid tax on cigars  
28 which he or she imports or causes to be imported into the state, or

1 which he or she manufactures in the state, and every distributor author-  
2 ized by the commissioner to make returns and pay the prepaid tax on  
3 cigars sold, shipped or delivered by him or her to any person in the  
4 state shall be liable for the prepaid tax on all cigars so sold, shipped  
5 or delivered.

6 § 16. The tax law is amended by adding a new section 471-i to read as  
7 follows:

8 § 471-i. Refunds and credits with respect to cigars.

9 (a) Retail dealer. (1) A retail dealer of cigars who or which is  
10 required to collect the taxes imposed by section four hundred seventy-  
11 one-f of this article shall be allowed a refund or credit against the  
12 amount of tax collected and required to be remitted to the commissioner  
13 pursuant to the provisions of section four hundred seventy-one-f of this  
14 article upon the retail sale of cigars in the amount of the tax on such  
15 cigars prepaid by or passed through to and included in the price paid by  
16 such retail dealer pursuant to the provisions of section four hundred  
17 seventy-one-h of this article.

18 (2) A refund or credit shall also be allowed such retail dealer for  
19 the tax prepaid by or passed through to and included in the price paid  
20 by such retail dealer upon any cigars pursuant to the provisions of  
21 section four hundred seventy-one-f of this article if such cigars are  
22 sold at retail by such retail dealer under circumstances where the taxes  
23 imposed by section four hundred seventy-one-f of this article and pursu-  
24 ant to the authority of this article are not required by the provisions  
25 of this article to be collected and remitted upon receipts from a retail  
26 sale thereof.

27 (b) Export, destruction, tax paid in error. Whenever any cigars upon  
28 which the prepaid tax imposed by section four hundred seventy-one-h of

1 this article has been paid have been sold and shipped to another state  
2 for sale or use there or have become unfit for use or unsalable, or have  
3 been destroyed, or whenever the commissioner shall have determined that  
4 any tax required to be prepaid by such section four hundred  
5 seventy-one-h of this article shall have been paid in error, the  
6 distributor or dealer, as the case may be, shall be entitled to a refund  
7 or credit of the actual amount of prepaid tax so paid with respect to  
8 cigars which will not be possessed for sale or use in this state.

9 (c) Refunds of the tax required to be prepaid pursuant to the  
10 provisions of section four hundred seventy-one-h of this article shall  
11 be allowed only to the extent such tax paid by or passed through to the  
12 retail dealer, or the purchaser or user, exceeds the amount of tax  
13 required to be collected from such person or required to be remitted by  
14 the provisions of this article.

15 (d) A refund or credit shall be allowed under this section only to the  
16 extent that the tax required to be prepaid pursuant to section four  
17 hundred seventy-one-h of this article has been prepaid by or passed  
18 through to such retail dealer, purchaser or user, but only to the extent  
19 that the tax imposed by section four hundred seventy-one-f of this arti-  
20 cle together with the tax imposed by section four hundred seventy-one-g  
21 of this article required to be paid, collected and remitted has been  
22 paid, collected and remitted.

23 (e) Such refunds and credits shall be subject to the provisions of  
24 section four hundred seventy-six of this article as if such section was  
25 incorporated in full into this section and had expressly referred to the  
26 refunds and credits authorized by this section including the periods of  
27 limitations on payments and applications to the commissioner; provided,  
28 however, that, as provided in section four hundred seventy-six of this

1 article, no interest shall be allowed or paid upon any refund made or  
2 credit allowed pursuant to subdivisions (a) and (b) of this section. The  
3 commissioner shall process applications for refund as expeditiously as  
4 possible.

5 § 17. The tax law is amended by adding a new section 471-j to read as  
6 follows:

7 § 471-j. Special provision as to imposition of taxes on certain  
8 cigars. If a person shall receive any cigars, upon which cigars this  
9 state was without power to impose the taxes under this article, and such  
10 person shall thereafter possess such cigars for sale or use any such  
11 cigars in such manner and under such circumstances as may subject the  
12 same to the taxing power of this state with respect to such possession  
13 for sale or use, such person shall be liable for the tax imposed by  
14 section four hundred seventy-one-f or four hundred seventy-one-g of this  
15 article, as the case may be with respect to such sale or use, and shall  
16 make the same reports and returns, pay the same taxes and be subject to  
17 all other provisions of this article relating to distributors or retail  
18 dealers, except that such a person shall not be subject to the  
19 provisions of sections four hundred seventy-two and four hundred eighty  
20 of this article if such person does not offer cigars for sale.

21 § 18. The tax law is amended by adding a new section 471-k to read as  
22 follows:

23 § 471-k. Collection of tax from customer; filing of returns and  
24 payment.

25 (a)(1) Every retail dealer shall collect the tax imposed by section  
26 four hundred seventy-one-f of this article from the customer when  
27 collecting the receipt to which it applies. Each customer shall be given  
28 some indicia of sale, including sales slip, invoice, receipt or other

1 statement or memorandum of the price, upon which the tax shall be stat-  
2 ed, charged and shown separately.

3 (2) Except as otherwise provided in this section, all the provisions  
4 of article twenty-eight of this chapter relating to the personal liabil-  
5 ity for the tax, administration and collection and determination of tax,  
6 including section eleven hundred thirty-eight of this chapter relating  
7 to determination of tax but not including section eleven hundred forty-  
8 five of this chapter, shall apply to the tax imposed by section four  
9 hundred seventy-one-f of this article in the same manner and with the  
10 same force and effect as if the language of such provisions of such  
11 article twenty-eight had been incorporated in full into this article,  
12 except to the extent that any such provision is either inconsistent with  
13 a provision of this section or is not relevant thereto and with such  
14 other modifications as may be necessary to adapt the language of such  
15 provisions to the provisions of this section. Provided, however all  
16 taxes, interest and penalties collected or received by the commissioner  
17 under sections four hundred seventy-one-f, four hundred seventy-one-g,  
18 and four hundred seventy-one-h of this article shall be deposited and  
19 disposed of pursuant to section four hundred eighty-two of this article.  
20 Provided, the commissioner may require returns to be filed with him or  
21 her at such times and containing such information as he or she may  
22 prescribe.

23 (b) (1) (i) No person shall purchase cigars in this state, excluding a  
24 purchase at retail, unless the tax required to be prepaid by section  
25 four hundred seventy-one-h of this article has been assumed by a  
26 distributor registered under this article in accordance with a certif-  
27 ication under this paragraph or paid by such distributor, and, in each  
28 of such instances, is passed through to such purchaser. In addition to

1 any other civil and criminal penalties which may apply, any person who  
2 purchases cigars in violation of this subparagraph shall be jointly and  
3 severally liable to pay the tax required to be prepaid by section four  
4 hundred seventy-one-h of this article with respect to such cigars.

5 (ii) For the purpose of the proper administration of this article and  
6 to prevent evasion of the tax on cigars imposed by and pursuant to this  
7 article, it shall be presumed that all cigars imported, manufactured or  
8 sold, received or possessed in the state is intended for use, distrib-  
9 ution, storage or sale in the state and subject to the tax required to  
10 be prepaid by section four hundred seventy-one-h of this article until  
11 the contrary is established. It shall be further presumed that all  
12 cigars so imported, manufactured, sold, received or possessed in the  
13 state by any person are subject to the tax required to be prepaid under  
14 section four hundred seventy-one-h of this article and such person is  
15 responsible for such prepayment. The burden of proving that any cigars  
16 are not so subject shall be upon the person so responsible for such  
17 prepayment with respect to such cigars.

18 (iii) Upon each sale of cigars, other than a sale at retail, the sell-  
19 er must give to the purchaser and the purchaser shall receive, at the  
20 time of delivery of such cigars, a certification containing such infor-  
21 mation as the commissioner shall require which shall include a statement  
22 to the effect (A) if such seller is a distributor registered under this  
23 article, that he or she has assumed the payment of or paid the tax  
24 required to be prepaid by section four hundred seventy-one-h of this  
25 article and, in each case, is passing through such tax or (B) that such  
26 seller is passing through such tax which was so previously assumed or  
27 paid by an identified distributor or wholesale dealer registered under  
28 this article, and passed through to him or her.

1 (iv) If the certification required by this paragraph has been  
2 furnished to the purchaser by the seller at delivery and accepted in  
3 good faith, the burden of proving that the tax required to be paid by  
4 section four hundred seventy-one-h of this article was assumed or paid  
5 by a distributor registered under this article and passed through shall  
6 be solely on the seller.

7 (v) Where the certification required under this paragraph is not  
8 furnished by the seller at delivery of cigars, it shall be presumed that  
9 the tax required to be prepaid by section four hundred seventy-one-h of  
10 this article has not been assumed or paid by a distributor registered as  
11 such under this article and that the purchaser in such case is jointly  
12 and severally liable for the tax.

13 § 19. Subdivision 3 of section 472 of the tax law, as added by chapter  
14 61 of the laws of 1989 and as further amended by section 104 of part A  
15 of chapter 62 of the laws of 2011, is amended to read as follows:

16 3. The commissioner [of taxation and finance] may appoint dealers in  
17 cigars and tobacco products, manufacturers of cigars and tobacco  
18 products and other persons within or without the state as distributors  
19 and may authorize them to make returns and to pay the tax on cigars and  
20 tobacco products sold, shipped or delivered by them to any person in the  
21 state. The commissioner may, in his or her discretion, require the  
22 deposit of a bond issued by a surety company approved by the superinten-  
23 dent of financial services as to solvency and responsibility and author-  
24 ized to transact business in this state, or other security acceptable to  
25 the commissioner in an amount and form satisfactory to him or her as a  
26 condition of appointing any such person as a distributor. If securities  
27 are deposited as security under this subdivision, such securities shall  
28 be kept in the custody of the commissioner [of taxation and finance] and



1 may be sold by the commissioner if it becomes necessary so to do in  
2 order to recover any sums due from such distributor pursuant to this  
3 article, but no such sale shall be had until after such distributor  
4 shall have had an opportunity to litigate the validity of any tax if it  
5 elects so to do. Upon any such sale, the surplus, if any, above the sums  
6 due under this article shall be returned to such distributor.

7 § 20. Section 473-a of the tax law, as added by chapter 61 of the laws  
8 of 1989, is amended to read as follows:

9 § 473-a. Returns and payment of cigars prepaid and tobacco products  
10 [tax] taxes by distributors. 1. (a) Every distributor shall, on or  
11 before the twentieth day of each month, file with the commissioner [of  
12 taxation and finance] a return on forms to be prescribed and furnished  
13 by the commissioner, showing the quantity and [wholesale price] weight  
14 of all tobacco products or quantity of cigars imported or caused to be  
15 imported into the state by him or her or manufactured in the state by  
16 him or her, during the preceding calendar month. Every distributor  
17 authorized by the commissioner to make returns and pay the tax on cigars  
18 or tobacco products sold, shipped or delivered by him or her to any  
19 person in the state shall file a return showing the quantity and [whole-  
20 sale price] weight of all tobacco products so sold, shipped or delivered  
21 during the preceding calendar month. Provided, however, the commissioner  
22 may, if he or she deems it necessary in order to insure the payment of  
23 the taxes imposed by this article, require returns to be made at such  
24 times and covering such periods as he or she may deem necessary, and, by  
25 regulation, may permit the filing of returns on a quarterly, semi-annual  
26 or annual basis, or may waive the filing of returns by a distributor for  
27 such time and upon such terms as he or she may deem proper if satisfied  
28 that no tax imposed by this article is or will be payable by him or her

1 during the time for which returns are waived. Such returns shall contain  
2 such further information as the commissioner may require.

3 (b) Every distributor shall, on or before the twentieth day of each  
4 month, file with the commissioner a return on forms to be prescribed and  
5 furnished by the commissioner, showing the quantity of all cigars  
6 imported or caused to be imported into the state by him or her or manu-  
7 factured in the state by him or her, during the preceding calendar  
8 month. Every distributor authorized by the commissioner to make returns  
9 and pay the cigar prepaid tax on cigars sold, shipped or delivered by  
10 him or her to any person in the state shall file a return showing the  
11 quantity of all cigars so sold, shipped or delivered during the preced-  
12 ing calendar month. Provided, however, the commissioner may, if he or  
13 she deems it necessary in order to insure the payment of the cigar  
14 prepaid tax imposed by this article, require returns to be made at such  
15 times and covering such periods as he or she may deem necessary, and, by  
16 regulation, may permit the filing of returns on a quarterly, semi-annual  
17 or annual basis, or may waive the filing of returns by a distributor for  
18 such time and upon such terms as he or she may deem proper if satisfied  
19 that no cigar prepaid tax imposed by this article is or will be payable  
20 by him or her during the time for which returns are waived. Such returns  
21 shall contain such further information as the commissioner may require.

22 2. Every distributor shall pay to the commissioner with the filing of  
23 such return the tax on cigars or tobacco products for such month imposed  
24 under this article.

25 § 21. Subdivisions 2, 3 and 4 of section 474 of the tax law, subdivi-  
26 sion 2 as amended by chapter 552 of the laws of 2008, subdivision 3 as  
27 added and subdivision 4 as amended by chapter 61 of the laws of 1989,  
28 are amended to read as follows:

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

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

1 4. At the time of delivering cigarettes to any person each agent or  
2 wholesale dealer, and at the time of delivering cigars or tobacco  
3 products to any person each distributor or wholesale dealer of cigars or  
4 tobacco products, shall make a true duplicate invoice showing the date  
5 of delivery, the number of packages and number of cigarettes contained  
6 therein, in each shipment of cigarettes delivered, and the items and  
7 quantity and [wholesale price] weight of each item in each shipment of  
8 tobacco products or quantity of cigars delivered, and the name of the  
9 purchaser to whom delivery is made, and shall retain the same for a  
10 period of three years subject to the use and inspection of the commis-  
11 sioner [of taxation and finance]. Each dealer shall procure and retain  
12 invoices showing the number of packages and number of cigarettes  
13 contained therein, in each shipment of cigarettes received by him or  
14 her, and the items and quantity and [wholesale price] weight of each  
15 item in each shipment of cigars or tobacco products received by him or  
16 her, the date thereof, and the name of the shipper, and shall retain the  
17 same for a period of three years subject to the use and inspection of  
18 the commissioner [of taxation and finance]. The commissioner [of taxa-  
19 tion and finance] by regulation may provide that whenever cigarettes,  
20 cigars or tobacco products are shipped into the state, the railroad  
21 company, express company, trucking company or other public carrier  
22 transporting any shipment thereof shall file with the commissioner [of  
23 taxation and finance] a copy of the freight bill within ten days after  
24 the delivery in the state of each shipment. All dealers shall maintain  
25 and keep for a period of three years such other records of cigarettes,  
26 cigars or tobacco products received, sold or delivered within the state  
27 as may be required by the commissioner [of taxation and finance]. The  
28 commissioner [of taxation and finance] is hereby authorized to examine

1 the books, papers, invoices and other records of any person in  
2 possession, control or occupancy of any premises where cigarettes,  
3 cigars or tobacco products are placed, stored, sold or offered for sale,  
4 and the equipment of any such person pertaining to the stamping of ciga-  
5 rettes or the sale and delivery of cigarettes, cigars or tobacco  
6 products taxable under this article, as well as the stock of cigarettes,  
7 cigars or tobacco products in any such premises or vehicle. To verify  
8 the accuracy of the tax imposed and assessed by this article, each such  
9 person is hereby directed and required to give to the commissioner [of  
10 taxation and finance] or his or her duly authorized representatives, the  
11 means, facilities and opportunity for such examinations as are herein  
12 provided for and required.

13 § 22. The section heading of section 475 of the tax law, as amended by  
14 chapter 227 of the laws of 1956, is amended to read as follows:

15 General powers of the [tax commission] commissioner.

16 § 23. Section 476 of the tax law, as amended by chapter 61 of the laws  
17 of 1989, is amended to read as follows:

18 § 476. Refunds; sales of stamps. Whenever any cigarettes upon which  
19 stamps have been placed or cigars or tobacco products upon which the tax  
20 has been paid have been sold and shipped into another state for sale or  
21 use there or have become unfit for use and consumption or unsalable, or  
22 have been destroyed, or whenever the commissioner [of taxation and  
23 finance] shall have determined that any tax imposed by this article  
24 shall have been paid in error, the agent, dealer or cigar or tobacco  
25 products distributor, as the case may be, shall be entitled to a refund  
26 of the actual amount of tax so paid, provided application therefor is  
27 filed with the commissioner [of taxation and finance] within two years  
28 after the stamps were affixed to such cigarettes or the tax was paid

1 upon such cigars or tobacco products, except if an agreement under the  
2 provisions of section four hundred seventy-eight of this article  
3 (extending the period for determination of tax imposed by this article)  
4 is made within the two-year period for the filing of an application for  
5 refund provided for in this section, the period for filing an applica-  
6 tion for refund shall not expire prior to six months after the expira-  
7 tion of the period within which a determination may be made pursuant to  
8 the agreement or any extension thereof. If the commissioner [of taxation  
9 and finance] is satisfied that any dealer is entitled to a refund he or  
10 she shall issue to such dealer stamps of sufficient value to cover the  
11 refund of the tax on cigarettes or may, subject to audit by the comp-  
12 troller, make a refund of the tax on cigarettes or on cigars or tobacco  
13 products. No person shall sell or offer for sale any stamp or stamps  
14 issued under this article except by written permission of the commis-  
15 sioner [of taxation and finance]. The commissioner [of taxation and  
16 finance] may redeem unused stamps lawfully in possession of any person.  
17 The commissioner [of taxation and finance] may prescribe necessary rules  
18 and regulations concerning refunds, sales of stamps, and redemptions  
19 under the provisions of this article.

20 § 24. Paragraph (d) of subdivision 1 of section 480 of the tax law, as  
21 added by chapter 629 of the laws of 1996, is amended to read as follows:

22 (d) Each applicant shall file satisfactory proof that it will maintain  
23 a secure separate warehousing facility for the purpose of receiving and  
24 distributing cigarettes, cigars or tobacco products and conducting its  
25 wholesale business. Such proof shall consist of a copy of a deed, or a  
26 copy of an executed lease for a minimum period of two years, to a sepa-  
27 rate, secure warehouse. If the applicant carries on another business in

1 conjunction with the warehouse facility, the other business shall also  
2 be identified.

3 § 25. Paragraph (j) of subdivision 1 of section 480 of the tax law, as  
4 amended by chapter 629 of the laws of 1996, is amended to read as  
5 follows:

6 (j) The commissioner may for cause refuse to issue, or may suspend or  
7 revoke a wholesaler's license, or may forbid a retail dealer to continue  
8 selling cigarettes, cigars or tobacco products or may forbid a person  
9 required to be appointed as a distributor of cigars or tobacco products  
10 who has not been so appointed from selling cigarettes, cigars or tobacco  
11 products, after an opportunity for hearing has been afforded. A  
12 violation of any provision of this article or of any regulation issued  
13 under it shall be cause to forbid a retail dealer to continue selling  
14 cigarettes, cigars or tobacco products.

15 § 26. Paragraph (k) of subdivision 1 of section 480 of the tax law, as  
16 amended by chapter 262 of the laws of 2000, is amended to read as  
17 follows:

18 (k) No agent shall sell cigarettes and no distributor shall sell  
19 cigars or tobacco products to an unlicensed wholesale dealer, or to a  
20 wholesale dealer whose license has been suspended or revoked, or to a  
21 retail dealer who is not registered under section four hundred eighty-a  
22 of this article, or whose registration has been suspended or revoked,  
23 and no wholesale dealer shall sell cigarettes, cigars or tobacco  
24 products to a retail dealer who is not registered under section four  
25 hundred eighty-a of this article, or whose registration has been  
26 suspended or revoked, and no retail dealer shall sell cigarettes, cigars  
27 or tobacco products unless such dealer is registered under section four  
28 hundred eighty-a of this article.

1 § 27. Paragraph (1) of subdivision 1 of section 480 of the tax law, as  
2 added by chapter 629 of the laws of 1996, is amended to read as follows:

3 (1) Paragraphs (b), (c) and (g) of this subdivision shall not apply to  
4 the filing of an application for a license as a wholesale dealer that is  
5 based solely upon the ownership, operation or maintenance of one or more  
6 cigarette, cigar or tobacco products vending machines in, at or upon  
7 premises owned or occupied by another person, or that is based solely  
8 upon the sale of cigars or tobacco products for resale, or that is based  
9 upon both the ownership, operation or maintenance of one or more ciga-  
10 rette, cigar or tobacco products vending machines in, at or upon prem-  
11 ises owned or occupied by another person and the sale of cigars or  
12 tobacco products for resale.

13 § 28. Subparagraph (iv) of paragraph (b) of subdivision 3 of section  
14 480 of the tax law, as amended by chapter 61 of the laws of 1989, is  
15 amended to read as follows:

16 (iv) Has knowingly aided and abetted the sale of cigarettes, cigars or  
17 tobacco products by a person which such licensee or controlling person  
18 knows (A) has not been licensed by the commissioner [of taxation and  
19 finance] and (B) is a wholesale dealer pursuant to the terms of subdivi-  
20 sion eight of section four hundred seventy of this [chapter] article.

21 § 29. Subdivision 4 of section 480 of the tax law, as amended by chap-  
22 ter 61 of the laws of 1989, is amended to read as follows:

23 4. If the commissioner [of taxation and finance] considers it neces-  
24 sary for the proper administration of the cigarette tax, cigar tax or  
25 tobacco products tax imposed by this article or the cigarette marketing  
26 standards contained in article twenty-A of this chapter he or she may  
27 require every person under this article who holds a license to file a  
28 new application for a license in such form and at such time as the



1 commissioner may prescribe and to surrender such license. The commis-  
2 sioner may require such filing and such surrender not more often than  
3 once every three years. Upon the filing of such application with the  
4 proper fee and the surrender of such license, the commissioner shall  
5 issue, within such time as he or she may prescribe, a new license to  
6 each applicant.

7 § 30. Paragraphs (a) and (b) of subdivision 1 of section 480-a of the  
8 tax law, as added by chapter 190 of the laws of 1990, are amended to  
9 read as follows:

10 (a) [On and after January first, nineteen hundred ninety-one, every]  
11 Every retail dealer shall publicly display a certificate of registration  
12 from the department in each place of business in this state through  
13 which it sells cigarettes, cigars or tobacco products at retail. A  
14 retail dealer who has no regular place of business shall publicly  
15 display such certificate on each of its carts, stands, trucks or other  
16 merchandising devices through which it sells cigarettes, cigars or  
17 tobacco products in this state.

18 (b) Every person who owns or, if the owner is not the operator, then  
19 any person who operates one or more vending machines through which ciga-  
20 rettes, cigars or tobacco products are sold in this state, regardless of  
21 whether located on the premises of the vending machine owner or, if the  
22 owner is not the operator, then the premises of the operator or the  
23 premises of any other person, must register each such vending machine  
24 with the department. [On and after January first, nineteen hundred nine-  
25 ty-one, a] A vending machine registration certificate, in such form as  
26 may be prescribed by the commissioner [of taxation and finance], shall  
27 be affixed to each vending machine through which cigarettes, cigars or  
28 tobacco products are sold in this state.

1 § 31. Paragraphs (a) and (b) of subdivision 2 of section 480-a of the  
2 tax law, as amended by section 1 of part T of chapter 61 of the laws of  
3 2011, are amended to read as follows:

4 (a) (i) Every retail dealer and every person owning or, if the owner  
5 is not the operator, then any person operating one or more vending  
6 machines through which cigarettes, cigars or tobacco products are sold  
7 in this state, who is required under section eleven hundred thirty-six  
8 of this chapter to file a return for the quarterly period ending on the  
9 last day of August of each year, [nineteen hundred ninety or for the  
10 quarterly period ending on the last day of August in any year thereaft-  
11 er,] must file an application for registration under this section with  
12 that quarterly return, in such form as shall be prescribed by the  
13 commissioner.

14 (ii) Each retail dealer must pay an application fee with the quarterly  
15 return of three hundred dollars for each retail place of business in  
16 this state through which it sells cigarettes, cigars or tobacco  
17 products.

18 (iii) Every person who owns or, if the owner is not the operator, then  
19 any person who operates one or more vending machines through which ciga-  
20 rettes, cigars or tobacco products are sold in this state, regardless of  
21 whether located on the premises of the vending machine owner or, if the  
22 owner is not the operator, then the premises of the operator or the  
23 premises of any other person, must pay an application fee with the quar-  
24 terly return of one hundred dollars for each vending machine. The  
25 department will issue a registration certificate, as prescribed by the  
26 commissioner, after receipt of a registration application and the appro-  
27 priate registration fee, prior to the next succeeding January first.

1 (b) Every retail dealer and every person who owns or, if the owner is  
2 not the operator, then any person who operates one or more vending  
3 machines through which cigarettes, cigars or tobacco products are sold  
4 in this state who commences business after the last day of August[,  
5 nineteen hundred ninety,] or who commences selling cigarettes, cigars or  
6 tobacco products at retail through a new or different place of business  
7 in this state after such date, or who commences selling cigarettes,  
8 cigars or tobacco products through new or different vending machines  
9 after such date, must file with the commissioner an application for  
10 registration, in a form prescribed by him or her, at least thirty days  
11 prior to commencing business or commencing sales. Each application must  
12 be accompanied by an application fee of three hundred dollars for each  
13 retail place of business and one hundred dollars for each vending  
14 machine to be registered. The department, within ten days after receipt  
15 of an application for registration under this paragraph and payment of  
16 the proper fee for application for registration, will issue a registra-  
17 tion certificate, as prescribed by the commissioner, for each retail  
18 place of business or cigarette, cigar or tobacco products vending  
19 machine registered.

20 § 32. Paragraph (d) of subdivision 2 of section 480-a of the tax law,  
21 as amended by chapter 760 of the laws of 1992, is amended to read as  
22 follows:

23 (d) Except as otherwise provided in this section, all the provisions  
24 of article twenty-eight of this chapter relating to the personal liabil-  
25 ity for the tax, administration, collection and determination of tax,  
26 and deposit and disposition of revenue, including section eleven hundred  
27 thirty-eight of this chapter relating to determination of tax and  
28 section eleven hundred forty-five of this chapter (but only paragraphs

1 one and two of subdivision (a) of such section) relating to penalties  
2 and interest for failure to file a return or pay tax within the time  
3 required, shall apply to the applications for registration and the fees  
4 for filing such applications required by this section and the penalty  
5 imposed pursuant to subdivision three of this section, as if such appli-  
6 cations were returns required under section eleven hundred thirty-six of  
7 this chapter and such filing fees, penalties and interest were taxes  
8 required to be paid pursuant to such article twenty-eight, in the same  
9 manner and with the same force and effect as if the language of such  
10 provisions of such article twenty-eight had been incorporated in full  
11 into this article, except to the extent that any such provision is  
12 either inconsistent with a provision of this section or is not relevant  
13 thereto and with such other modifications as may be necessary to adapt  
14 the language of such provisions to the provisions of this section.  
15 [Section] Any reference to a certificate of authority should be read to  
16 mean a certificate of registration for the purpose of this section.  
17 Paragraphs one through three of subdivision a and subdivisions b and c  
18 of section eleven hundred thirty-four of [such article twenty-eight]  
19 this chapter shall not apply to this section as well as any language  
20 contained in such section referring to an officer, director, partner or  
21 employee of such person, and, where such person is a limited liability  
22 company, also a member or manager of such person, in the officer's,  
23 director's, partner's, member's, manager's or employee's capacity as a  
24 person required to collect tax on behalf of such person or another  
25 person. Provided, however, that the commissioner [of taxation and  
26 finance] shall refund or credit an application fee paid with respect to  
27 the registration of a vending machine or a retail place of business in  
28 this state through which cigarettes, cigars or tobacco products were to

1 be sold if, prior to the beginning of the calendar year with respect to  
2 which such registration relates, the certificate of registration  
3 described in paragraph (a) of this subdivision is returned to the  
4 department [of taxation and finance], or if such certificate has been  
5 destroyed, the retail dealer or vending machine operator satisfactorily  
6 accounts to the commissioner for the missing certificate, but such vend-  
7 ing machine or retail place of business may not be used to sell ciga-  
8 rettes, cigars or tobacco products in this state during such calendar  
9 year, unless it is re-registered. The provisions of section eleven  
10 hundred thirty-nine of this chapter shall apply to the refund or credit  
11 authorized by the preceding sentence and for such purposes, such refund  
12 or credit shall be deemed a refund of tax paid in error provided, howev-  
13 er, no interest shall be allowed or paid on any such refund.

14 § 33. Paragraph (b) of subdivision 3 of section 480-a of the tax law,  
15 as amended by section 125-a of part C of chapter 58 of the laws of 2009,  
16 is amended to read as follows:

17 (b) Any person who owns or, if the owner is not the operator, then any  
18 person who operates one or more vending machines through which ciga-  
19 rettes, cigars or tobacco products are sold in this state and who  
20 violates the provisions of this section, after due notice and an oppor-  
21 tunity for a hearing, for a first violation is liable for a civil fine  
22 not less than seven hundred fifty dollars but not to exceed two thousand  
23 dollars and for a second or subsequent violation within three years  
24 following a prior finding of violation be liable for a civil fine not  
25 less than two thousand dollars but not to exceed six thousand dollars.

26 § 34. Clause (B) of subparagraph (i) of paragraph (a) of subdivision 1  
27 of section 481 of the tax law, as amended by chapter 61 of the laws of  
28 1989, is amended to read as follows:

1 (B) If a tax on cigarettes, cigars or on tobacco products under this  
2 article is not paid when due by any other person, the person liable for  
3 the payment of such tax shall be subject to a penalty of fifty per  
4 centum of the amount of such tax determined to be due as provided in  
5 this article plus one per centum of such amount for each month or frac-  
6 tion thereof during which such failure to pay continues after the expi-  
7 ration of the first month after such tax became due.

8 § 35. Subparagraph (i) of paragraph (b) of subdivision 1 of section  
9 481 of the tax law, as amended by chapter 604 of the laws of 2008, is  
10 amended to read as follows:

11 (i) In addition to any other penalty imposed by this article, the  
12 commissioner may (A) impose a penalty of not more than one hundred fifty  
13 dollars for each two hundred cigarettes, or fraction thereof, in excess  
14 of one thousand cigarettes in unstamped or unlawfully stamped packages  
15 in the possession or under the control of any person or (B) impose a  
16 penalty of not more than two hundred dollars for each ten unaffixed  
17 false, altered or counterfeit cigarette tax stamps, imprints or  
18 impressions, or fraction thereof, in the possession or under the control  
19 of any person. In addition, the commissioner may impose a penalty of not  
20 more than seventy-five dollars for each fifty cigars or one pound of  
21 tobacco, or fraction thereof, in excess of [two hundred] fifty cigars or  
22 five pounds of tobacco in the possession or under the control of any  
23 person and a penalty of not more than one hundred fifty dollars for each  
24 fifty cigars or pound of tobacco, or fraction thereof, in excess of five  
25 hundred cigars or ten pounds of tobacco in the possession or under the  
26 control of any person, with respect to which the cigar or tobacco  
27 products tax has not been paid or assumed by a distributor or cigar or  
28 tobacco products dealer; provided, however, that any such penalty

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

14 § 36. Clauses (B) and (C) of subparagraph (ii) of paragraph (b) of  
15 subdivision 1 of section 481 of the tax law, as added by chapter 262 of  
16 the laws of 2000, are amended to read as follows:

17 (B) (I) not less than twenty-five dollars but not more than one hundred  
18 dollars for each fifty cigars or one pound of tobacco, or fraction ther-  
19 eof, in excess of [two hundred] fifty cigars or five pounds of tobacco  
20 knowingly in the possession or knowingly under the control of any  
21 person, with respect to which the cigar or tobacco products tax has not  
22 been paid or assumed by a distributor or cigar or tobacco products deal-  
23 er; and

24 (II) not less than fifty dollars but not more than two hundred dollars  
25 for each fifty cigars or pound of tobacco, or fraction thereof, in  
26 excess of [five] one hundred cigars or ten pounds of tobacco knowingly  
27 in the possession or knowingly under the control of any person, with  
28 respect to which the cigar or tobacco products tax has not been paid or

1 assumed by a distributor or cigar or tobacco products dealer; provided,  
2 however, that any such penalty imposed under this clause shall not  
3 exceed ten thousand dollars in the aggregate.

4 (C) (I) not less than twenty-five dollars but not more than one hundred  
5 dollars for each fifty cigars or one pound of tobacco, or fraction ther-  
6 eof, in excess of fifty cigars or one pound of tobacco knowingly in the  
7 possession or knowingly under the control of any person, with respect to  
8 which the cigar or tobacco products tax has not been paid or assumed by  
9 a distributor or cigar or tobacco products dealer; and

10 (II) not less than fifty dollars but not more than two hundred dollars  
11 for each fifty cigars or pound of tobacco, or fraction thereof, in  
12 excess of [two hundred fifty] one hundred cigars or five pounds of  
13 tobacco knowingly in the possession or knowingly under the control of  
14 any person, with respect to which the cigar or tobacco products tax has  
15 not been paid or assumed by a distributor or a cigar or tobacco products  
16 dealer; provided, however, that any such penalty imposed under this  
17 clause shall not exceed twenty thousand dollars in the aggregate.

18 § 37. Subdivision 2 of section 481 of the tax law, as amended by chap-  
19 ter 61 of the laws of 1989 and paragraph (a) as amended by chapter 552  
20 of the laws of 2008, is amended to read as follows:

21 2. (a) The possession within this state of more than four hundred  
22 cigarettes in unstamped or unlawfully stamped packages, or more than  
23 [two hundred] fifty cigars, or more than five pounds of tobacco other  
24 than roll-your-own tobacco, or more than thirty-six ounces of roll-your-  
25 own tobacco by any person other than an agent or distributor, as the  
26 case may be, at any one time shall be presumptive evidence that such  
27 cigarettes, cigars or tobacco products are subject to tax as provided by  
28 this article.



1 (b) Nothing in this section shall apply to common or contract carriers  
2 or warehousemen while engaged in lawfully transporting or storing  
3 cigars, tobacco products or unstamped packages of cigarettes as merchan-  
4 dise, nor to any employee of such carrier or warehouseman acting within  
5 the scope of his or her employment, nor to public officers or employees  
6 in the performance of their official duties requiring possession or  
7 control of cigars, tobacco products or unstamped or unlawfully stamped  
8 packages of cigarettes, nor to temporary incidental possession by  
9 employees or agents of persons lawfully entitled to possession, nor to  
10 persons whose possession is for the purpose of aiding police officers in  
11 performing their duties.

12 § 38. The tax law is amended by adding new section 481-a to read as  
13 follows:

14 § 481-a. Penalties and interest for retail dealers. (a) (1) (i) Any  
15 person failing to file a return or to pay or pay over any tax to the  
16 commissioner within the time required by or pursuant to this article  
17 (determined with regard to any extension of time for filing or paying)  
18 shall be subject to a penalty of ten percent of the amount of tax due if  
19 such failure is for not more than one month, with an additional one  
20 percent for each additional month or fraction thereof during which such  
21 failure continues, not exceeding thirty percent in the aggregate.  
22 Provided, however, in the case of a failure to file such return within  
23 sixty days of the date prescribed for filing of such return by or pursu-  
24 ant to this article (determined with regard to any extension of time for  
25 filing), the penalty imposed by this subparagraph shall not be less than  
26 the lesser of one hundred dollars or one hundred percent of the amount  
27 required to be shown as tax on such return. For the purpose of the  
28 preceding sentence, the amount of tax required to be shown on the return

1 shall be reduced by the amount of any part of the tax which is paid on  
2 or before the date prescribed for payment of the tax and by the amount  
3 of any credit against the tax which may be claimed upon the return. In  
4 the case of a failure to file a return by a person required to register  
5 with the commissioner as provided in section four hundred eighty-a of  
6 this article, in no event shall the penalty for failure to file a return  
7 be less than one hundred fifty dollars.

8 (ii) If any amount of tax is not paid on or before the last date  
9 prescribed in this article for payment, interest on such amount at the  
10 rate of fourteen and one-half percent per annum or at the underpayment  
11 rate set by the commissioner pursuant to subdivision twenty-sixth of  
12 section one hundred seventy-one of this chapter, whichever is greater,  
13 shall be paid for the period from such last date to the date paid,  
14 whether or not any extension of time for payment was granted. Interest  
15 under this subparagraph shall not be paid if the amount thereof is less  
16 than one dollar.

17 (iii) If the commissioner determines that such failure or delay was  
18 due to reasonable cause and not due to willful neglect, he or she may  
19 remit all of such penalty and that portion of such interest that exceeds  
20 the interest that would be payable if such interest were computed at the  
21 underpayment rate set by the commissioner pursuant to subdivision twen-  
22 ty-sixth of section one hundred seventy-one of this chapter. The commis-  
23 sioner may promulgate rules and regulations as to what constitutes  
24 reasonable cause.

25 (iv) Any person required by this article to file a return, who omits  
26 from the total amount of cigar excise tax required to be shown on a  
27 return an amount which is in excess of twenty-five percent of the amount  
28 of such taxes required to be shown on the return shall be subject to a

1 penalty equal to ten percent of the amount of such omission. If the  
2 commissioner determines that such omission was due to reasonable cause  
3 and not due to willful neglect, he or she may remit all of such penalty.

4 (v) Any person required to collect tax who sells cigars at retail and  
5 who shall willfully and knowingly have in such person's custody or  
6 possession or under such person's control any cigars on which (A) the  
7 prepaid tax imposed by section four hundred seventy-one-h of this arti-  
8 cle has not been assumed or paid by a distributor licensed as such under  
9 this article, or (B) the prepaid tax imposed by such section four  
10 hundred seventy-one-h of this article was required to have been passed  
11 through to such person and has not been included in the cost of such  
12 cigars to such person, shall be liable for a penalty in the amount of  
13 twice the tax not so assumed or paid, or included. Such penalty shall  
14 be determined, assessed, collected and paid in the same manner as taxes  
15 imposed by this article and all the provisions of this article relating  
16 thereto shall be deemed also to refer to the penalty imposed by this  
17 subparagraph. Such penalty may be determined at any time within three  
18 years after such cigars shall have come into such person's custody or  
19 possession or under such person's control. For purposes of this subpara-  
20 graph, such person shall willfully and knowingly have in such person's  
21 custody or possession or under such person's control any cigar on which  
22 (A) such tax has not been assumed or paid by a distributor licensed as  
23 such under this article, or (B) such tax was required to have been  
24 passed through to such person and has not been included in the cost of  
25 such cigars to such person, where such person has knowledge of the  
26 requirement that such taxes be paid or assumed or so included and where,  
27 to such person's knowledge, such taxes have not been so paid or assumed  
28 or so included. For purposes of this subparagraph, it shall be presump-

1 tive evidence that such person shall willfully and knowingly have in  
2 such person's custody or possession or under such person's control  
3 cigars on which (A) such tax has not been assumed or paid by a distribu-  
4 tor authorized as such under this article or (B) such tax was required  
5 to have been passed through to such person and has not been included in  
6 the cost of such cigars to such person where such person has not  
7 received the certification required by section four hundred  
8 seventy-one-k of this article at the time of delivery of such cigars or,  
9 in those circumstances where the commissioner has authorized the deliv-  
10 ery of such certification at a time after delivery of the cigars, at the  
11 time prescribed by the commissioner.

12 (2) If the failure to pay or pay over any tax to the commissioner  
13 within the time required by this article is due to fraud, in lieu of the  
14 penalties and interest provided for in subparagraphs (i) and (ii) of  
15 paragraph one of this subdivision, there shall be added to the tax (i) a  
16 penalty of two times the amount of the tax due, plus (ii) interest on  
17 such unpaid tax at the rate of fourteen and one-half percent per annum  
18 or the underpayment rate of interest set by the commissioner pursuant to  
19 subdivision twenty-sixth of section one hundred seventy-one of this  
20 chapter, whichever is greater, for the period beginning on the last day  
21 prescribed by this article for the payment of such tax (determined with-  
22 out regard to any extension of time for paying) and ending on the day on  
23 which such tax is paid.

24 (3) (i) Any person required to obtain a certificate of registration  
25 under section four hundred eighty-a of this article who, without  
26 possessing a valid certificate of registration, sells cigarettes, cigars  
27 and tobacco products shall, in addition to any other penalty imposed by  
28 this chapter, be subject to a penalty in an amount not exceeding five

1 hundred dollars for the first day on which such sales or purchases are  
2 made, plus an amount not exceeding two hundred dollars for each subse-  
3 quent day on which such sales or purchases are made, not to exceed ten  
4 thousand dollars in the aggregate.

5 (ii) If the commissioner determines that any failure or act described  
6 in this paragraph was due to reasonable cause and not due to willful  
7 neglect, he or she may remit all or part of such penalty.

8 (4) Any person required by this article to display a certificate of  
9 registration, who fails to display such certificate in the manner  
10 required by this article or any rule or regulation adopted by the  
11 commissioner in connection with such requirement shall, in addition to  
12 any other penalty imposed by this chapter, be subject to a penalty of  
13 fifty dollars. If the commissioner determines that such failure was due  
14 to reasonable cause and not due to willful neglect, he or she may remit  
15 all or part of such penalty.

16 (5) The penalties and interest provided for in this subdivision shall  
17 be paid and disposed of in the same manner as other revenues from this  
18 article. Such penalties and interest may be determined, assessed,  
19 collected and enforced in the same manner as the tax imposed by this  
20 article. Interest under this subdivision shall be compounded daily.

21 (b) Cross-reference: For criminal penalties, see article thirty-seven  
22 of this chapter.

23 (c) Any person failing to file a return or to pay any tax required to  
24 be prepaid to the commissioner with respect to cigars pursuant to the  
25 provisions of section four hundred seventy-one-h of this article within  
26 the time required by this article shall, in addition to any other penal-  
27 ty provided in this article or otherwise imposed by law, be subject to a  
28 penalty equal to the amount of tax required to be so prepaid pursuant to

1 the provisions of such section four hundred seventy-one-h of this arti-  
2 cle. If the commissioner determines that such failure to file a return  
3 or to pay any such tax was due to reasonable cause and not due to will-  
4 ful neglect, he or she may remit all or any part of such penalty.

5 (d) The certificate of the commissioner to the effect that a tax has  
6 not been paid, that a return, bond or registration certificate has not  
7 been filed, or that information has not been supplied pursuant to the  
8 provisions of this article shall be presumptive evidence thereof.

9 (e) Any person required to make or maintain records under this article  
10 who fails to make or maintain or make available to the commissioner  
11 these records is subject to a penalty not to exceed one thousand dollars  
12 for the first period or part thereof for which the failure occurs and  
13 not to exceed five thousand dollars for each additional period or part  
14 thereof for which the failure occurs. This penalty is in addition to any  
15 other penalty provided for in this article but may not be imposed and  
16 collected more than once for failures for the same period or part there-  
17 of. If the commissioner determines that a failure to make or maintain or  
18 make available records in any period was entirely due to reasonable  
19 cause and not to willful neglect, the commissioner must remit the penal-  
20 ty imposed for that period. These penalties will be paid and disposed of  
21 in the same manner as other revenues from this article. These penalties  
22 will be determined, assessed, collected, paid and enforced in the same  
23 manner as the tax imposed by this article, and all the provisions of  
24 this article relating to tax will be deemed also to apply to the penal-  
25 ties imposed by this subdivision. For purposes of the penalty imposed by  
26 this subdivision, a person will be considered to have failed to make or  
27 maintain the required records when the records made or maintained by

1 that person for a period make it virtually impossible to verify sales  
2 receipts and to conduct a complete audit.

3 (f) False or fraudulent document penalty. Any taxpayer that submits a  
4 false or fraudulent document to the department will be subject to a  
5 penalty of one hundred dollars per document submitted, or five hundred  
6 dollars per tax return submitted. This penalty will be in addition to  
7 any other penalty provided by law.

8 (g) Aiding or assisting in the giving of fraudulent returns, reports,  
9 statements or other documents. Any person who, with the intent that tax  
10 be evaded, for a fee or other compensation or as an incident to the  
11 performance of other services for which that person receives compen-  
12 sation, aids or assists in, or procures, counsels, or advises the prepa-  
13 ration or presentation under this article, or in connection with any  
14 matter arising under this article, of any return, report, declaration,  
15 statement or other document that is fraudulent or false as to any mate-  
16 rial matter, or supplies any false or fraudulent information, whether or  
17 not such falsity or fraud is with the knowledge or consent of the person  
18 authorized or required to present that return, report, declaration,  
19 statement or other document, will pay a penalty not exceeding five thou-  
20 sand dollars.

21 (h) Any person who, having elected to maintain in an electronic format  
22 any portion or all of the records he or she is required to make and  
23 maintain by this article, fails to present and make these records avail-  
24 able and accessible to the commissioner in electronic format, is subject  
25 to a penalty not to exceed five thousand dollars for each period or part  
26 thereof for which these electronic records are not presented and made  
27 available and accessible upon request, notwithstanding that the records  
28 may also be maintained and available in hard copy format. This penalty

1 is in addition to any other penalty provided for in this article, but  
2 may not be imposed and collected more than once for a failure for the  
3 same period or part thereof. Provided, however, nothing in this subdi-  
4 vision will prevent the separate imposition, if applicable, of any  
5 penalty imposed by this section for the same period or part thereof. If  
6 the commissioner determines that the failure to present and make elec-  
7 tronically maintained records available and accessible for a period was  
8 entirely due to reasonable cause and not to willful neglect, the commis-  
9 sioner must remit the penalty imposed for that period. These penalties  
10 will be paid and disposed of in the same manner as other revenues from  
11 this article. These penalties will be determined, assessed, collected,  
12 paid and enforced in the same manner as the tax imposed by this article,  
13 and all the provisions of this article relating to tax will be deemed  
14 also to apply to the penalty imposed by this subdivision. For purposes  
15 of the penalty imposed by this subdivision, a failure to present and  
16 make available and accessible a record maintained in electronic format  
17 includes not only the denial of access to the requested records that  
18 were maintained electronically, but also the failure to make available  
19 to the commissioner the information, knowledge, or means necessary to  
20 access and otherwise use the electronically maintained records in the  
21 inspection and examination of these records.

22 § 39. Subdivision (h) of section 1111 of the tax law, as amended by  
23 section 1 of part Q-3 of chapter 62 of the laws of 2003, is amended to  
24 read as follows:

25 (h) Receipts subject to tax under subdivision (a) of section eleven  
26 hundred five on retail sales of cigarettes, cigars and tobacco products  
27 and consideration given or contracted to be given for cigarettes, cigars  
28 and tobacco products the uses of which are subject to tax under section



1 eleven hundred ten shall be deemed to include any tax imposed on ciga-  
2 rettes, cigars and tobacco products by article twenty of this chapter  
3 and any tax imposed on cigarettes and cigars by chapter thirteen of  
4 title eleven of the administrative code of the city of New York.

5 § 40. Subdivision (e) of section 1814 of the tax law, as amended by  
6 section 28 of subpart I of part V-1 of chapter 57 of the laws of 2009,  
7 is amended to read as follows:

8 (e) Nothing in this section shall apply to common or contract carriers  
9 or warehousemen while engaged in lawfully transporting or storing  
10 unstamped packages of cigarettes as merchandise, or lawfully transport-  
11 ing or storing cigars or tobacco products, nor to any employee of such  
12 carrier or warehouseman acting within the scope of his or her employ-  
13 ment, nor to public officers or employees in the performance of their  
14 official duties requiring possession or control of unstamped or unlaw-  
15 fully stamped packages of cigarettes or possession or control of cigars  
16 or tobacco products, nor to temporary incidental possession by employees  
17 or agents of persons lawfully entitled to possession, nor to persons  
18 whose possession is for the purpose of aiding police officers in  
19 performing their duties.

20 § 41. Paragraphs 3 and 4 of subdivision (h) of section 1814 of the tax  
21 law, as amended by section 28 of subpart I of part V-1 of chapter 57 of  
22 the laws of 2009, are amended to read as follows:

23 (3) Any person, other than a distributor appointed by the commissioner  
24 under article twenty of this chapter, who shall knowingly transport or  
25 have in his or her custody, possession or under his or her control twen-  
26 ty-five hundred or more cigars or fifty or more pounds of tobacco upon  
27 which the taxes imposed by article twenty of this chapter have not been  
28 assumed or paid by a distributor appointed by the commissioner under

1 article twenty of this chapter, or other person treated as a distributor  
2 pursuant to section four hundred seventy-one-d of this chapter shall be  
3 guilty of a misdemeanor. Provided further, that any person who has twice  
4 been convicted under this subdivision shall be guilty of a class E felo-  
5 ny for any subsequent violation of this section, regardless of the  
6 amount of cigars or tobacco products involved in such violation.

7 (4) For purposes of this subdivision, such person shall knowingly  
8 transport or have in his or her custody, possession or under his or her  
9 control tobacco products or cigars on which such taxes have not been  
10 assumed or paid by a distributor appointed by the commissioner where  
11 such person has knowledge of the requirement of the tax on cigars and  
12 tobacco products and, where to his or her knowledge, such taxes have not  
13 been assumed or paid on such cigars or tobacco products by a distributor  
14 appointed by the commissioner [of taxation and finance].

15 § 42. Section 1814-a of the tax law, as added by chapter 61 of the  
16 laws of 1989, is amended to read as follows:

17 § 1814-a. Person not appointed as a [tobacco products] distributor of  
18 cigars or tobacco products. (a) Any person who, while not appointed as a  
19 distributor of cigars or tobacco products pursuant to the provisions of  
20 article twenty of this chapter, imports or causes to be imported into  
21 the state more than fifty cigars or more than one pound of tobacco, for  
22 sale within the state, or produces, manufactures or compounds cigars or  
23 tobacco products within the state shall be guilty of a misdemeanor  
24 punishable by a fine of not more than five thousand dollars or by a term  
25 of imprisonment not to exceed thirty days. If, within any ninety day  
26 period, one thousand or more cigars or five hundred pounds or more of  
27 tobacco are imported or caused to be imported into the state for sale  
28 within the state or are produced, manufactured or compounded within the

1 state by any person while not appointed as a distributor of cigars or  
2 tobacco products, such person shall be guilty of a misdemeanor. Provided  
3 further, that any person who has twice been convicted under this section  
4 shall be guilty of a class E felony for any subsequent violation of this  
5 section, regardless of the amount of cigars or tobacco products involved  
6 in such violation.

7 (b) For purposes of this section, the possession or transportation  
8 within this state by any person, other than a cigar or tobacco products  
9 distributor appointed by the commissioner [of taxation and finance], at  
10 any one time of seven hundred fifty or more cigars or fifteen pounds or  
11 more of tobacco shall be presumptive evidence that such tobacco products  
12 are possessed or transported for the purpose of sale and are subject to  
13 the tax imposed by section four hundred seventy-one-b, section four  
14 hundred seventy-one-f or section four hundred seventy-one-h of this  
15 chapter. With respect to such possession or transportation, any  
16 provisions of article twenty of this chapter providing for a time period  
17 during which the tax imposed by such article may be paid shall not  
18 apply.

19 § 43. The section heading, subdivisions (a), (b) and (c) of section  
20 1846-a of the tax law, as amended by chapter 556 of the laws of 2011,  
21 are amended to read as follows:

22 Forfeiture action with respect to cigars and tobacco products. (a)  
23 Whenever a police officer designated in section 1.20 of the criminal  
24 procedure law or a peace officer designated in subdivision four of  
25 section 2.10 of such law, acting pursuant to his or her special duties,  
26 shall discover any tobacco products in excess of five hundred cigars or  
27 ten pounds of tobacco which are being imported for sale in the state  
28 where the person importing or causing such cigars and tobacco products

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

20 (b) In the alternative, the commissioner, on reasonable notice by mail  
21 or otherwise, may permit the person from whom said cigars or tobacco  
22 products were seized to redeem the said cigars or tobacco products by  
23 the payment of the tax due, plus a penalty of fifty per centum thereof,  
24 plus interest on the amount of tax due for each month or fraction there-  
25 of after such tax became due (determined without regard to any extension  
26 of time for filing or paying) at the rate applicable under subparagraph  
27 (ii) of paragraph (a) of subdivision one of section four hundred eight-  
28 y-one of this chapter and the costs incurred in such proceeding, which

1 total payment shall not be less than five dollars; provided, however,  
2 that such seizure and sale or redemption shall not be deemed to relieve  
3 any person from fine or imprisonment provided for in this article for  
4 violation of any provision of article twenty of this chapter.

5 (c) In the alternative, the commissioner may dispose of any cigars or  
6 tobacco products seized pursuant to this section, except those that  
7 violate, or are suspected of violating, federal trademark or import  
8 laws, by transferring them to the department of corrections and communi-  
9 ty supervision for sale to or use by inmates in such institutions.

10 § 44. The section heading of section 1847 of the tax law, as amended  
11 by chapter 61 of the laws of 1989, is amended to read as follows:

12 Seizure and forfeiture of vehicles or other means of transportation  
13 used to transport or for deposit or concealment of cigarettes or used to  
14 import cigars or tobacco products.

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

17 (b) Any peace officer designated in subdivision four of section 2.10  
18 of the criminal procedure law, acting pursuant to his or her special  
19 duties, or any police officer designated in section 1.20 of the criminal  
20 procedure law may seize any vehicle or other means of transportation  
21 used to import cigars or tobacco products in excess of five hundred  
22 cigars or ten pounds of tobacco for sale where the person importing or  
23 causing such cigars or tobacco products to be imported has not been  
24 appointed a distributor pursuant to section four hundred seventy-two of  
25 this chapter, other than a vehicle or other means of transportation used  
26 by any person as a common carrier in transaction of business as such  
27 common carrier, and such vehicle or other means of transportation shall  
28 be subject to forfeiture as hereinafter in this section provided.

1 § 46. This act shall take effect July 1, 2012; provided, however, that  
2 section eleven of this act shall take effect immediately.

3 PART D

4 Section 1. Section 19 of part W-1 of chapter 109 of the laws of 2006,  
5 amending the tax law relating to providing exemptions, reimbursements  
6 and credits from various taxes for certain alternative fuels, as amended  
7 by section 2 of part L of chapter 61 of the laws of 2011, is amended to  
8 read as follows:

9 § 19. This act shall take effect immediately; provided, however, that  
10 sections one through thirteen of this act shall take effect September 1,  
11 2006 and shall be deemed repealed on September 1, [2012] 2017 and such  
12 repeal shall apply in accordance with the applicable transitional  
13 provisions of sections 1106 and 1217 of the tax law, and shall apply to  
14 sales made, fuel compounded or manufactured, and uses occurring on or  
15 after such date, and with respect to sections seven through eleven of  
16 this act, in accordance with applicable transitional provisions of  
17 sections 1106 and 1217 of the tax law; provided, however, that the  
18 commissioner of taxation and finance shall be authorized on and after  
19 the date this act shall have become a law to adopt and amend any rules  
20 or regulations and to take any steps necessary to implement the  
21 provisions of this act; provided further that sections fourteen through  
22 sixteen of this act shall take effect immediately and shall apply to  
23 taxable years beginning on or after January 1, 2006.

24 § 2. This act shall take effect immediately.

25 PART E

1 Section 1. Subdivision 14 of section 282 of the tax law, as amended by  
2 section 1 of part K of chapter 61 of the laws of 2011, is amended to  
3 read as follows:

4 14. "Diesel motor fuel" shall mean No. 1 Diesel fuel, No. 2 Diesel  
5 fuel, biodiesel, kerosene, [crude oil,] fuel oil or other middle distil-  
6 late and also motor fuel suitable for use in the operation of an engine  
7 of the diesel type, excluding, however, any product specifically desig-  
8 nated "No. 4 Diesel fuel" and not suitable as a fuel used in the opera-  
9 tion of a motor vehicle engine.

10 § 2. Paragraph (b) of subdivision 3 of section 282-a of the tax law,  
11 as amended by section 5 of part K of chapter 61 of the laws of 2011, is  
12 amended to read as follows:

13 (b) The tax on the incidence of sale or use imposed by subdivision one  
14 of this section shall not apply to: (i) the sale or use of non-highway  
15 Diesel motor fuel, but only if all of such fuel is consumed other than  
16 on the public highways of this state (except for the use of the public  
17 highway by farmers to reach adjacent farmlands); provided, however, this  
18 exemption shall in no event apply to a sale of non-highway Diesel motor  
19 fuel which involves a delivery at a filling station or into a repository  
20 which is equipped with a hose or other apparatus by which such fuel can  
21 be dispensed into the fuel tank of a motor vehicle (except for delivery  
22 at a farm site which qualifies for the exemption under subdivision (g)  
23 of section three hundred one-b of this chapter); or (ii) a sale to the  
24 consumer consisting of not more than twenty gallons of water-white kero-  
25 sene to be used and consumed exclusively for heating purposes; or (iii)  
26 the sale to or delivery at a filling station or other retail vendor of  
27 water-white kerosene provided such filling station or other retail  
28 vendor only sells such water-white kerosene exclusively for heating

1 purposes in containers of no more than twenty gallons; or (iv) a sale of  
2 kero-jet fuel to an airline for use in its airplanes or a use of kero-  
3 jet fuel by an airline in its airplanes; or (v) a sale of kero-jet fuel  
4 by a registered distributor of Diesel motor fuel to a fixed base opera-  
5 tor registered under this article as a distributor of kero-jet fuel only  
6 where such fixed base operator is engaged solely in making or offering  
7 to make retail sales not in bulk of kero-jet fuel directly into the fuel  
8 tank of an airplane for the purpose of operating such airplane; [or]  
9 (vi) a retail sale not in bulk of kero-jet fuel by a fixed base operator  
10 registered under this article as a distributor of kero-jet fuel only  
11 where such fuel is delivered directly into the fuel tank of an airplane  
12 for use in the operation of such airplane; or (vii) the sale of previ-  
13 ously untaxed qualified biodiesel to a person registered under this  
14 article as a distributor of Diesel motor fuel other than (A) a retail  
15 sale to such person or (B) a sale to such person which involves a deliv-  
16 ery at a filling station or into a repository which is equipped with a  
17 hose or other apparatus by which such qualified biodiesel can be  
18 dispensed into the fuel tank of a motor vehicle.

19 § 3. Paragraph 5 of subdivision (a) of section 301-b of the tax law,  
20 as added by chapter 190 of the laws of 1990, is amended to read as  
21 follows:

22 (5) [Crude oil and liquefied] Liquified petroleum gases, such as  
23 butane, ethane or propane.

24 § 4. Subdivision (e) of section 301-b of the tax law, as amended by  
25 section 21 of part K of chapter 61 of the laws of 2011, is amended to  
26 read as follows:



1 (e) Sales of qualified biodiesel, non-highway diesel motor fuel and  
2 residual petroleum product to registered distributors of diesel motor  
3 fuel and registered residual petroleum product businesses.

4 (1) [Non-highway] Qualified biodiesel and non-highway Diesel motor  
5 fuel sold by a person registered under article twelve-A of this chapter  
6 as a distributor of diesel motor fuel to a person registered under such  
7 article twelve-A as a distributor of diesel motor fuel where such sale  
8 is not a retail sale or a sale that involves a delivery at a filling  
9 station or into a repository equipped with a hose or other apparatus by  
10 which such qualified biodiesel or non-highway Diesel motor fuel can be  
11 dispensed into the fuel tank of a motor vehicle.

12 (2) Residual petroleum product sold by a person registered under this  
13 article as a residual petroleum product business to a person registered  
14 under this article as a residual petroleum product business where such  
15 sale is not a retail sale. Provided, however, that the commissioner may  
16 require such documentary proof to qualify for any exemption provided in  
17 this section as the commissioner deems appropriate, including the expan-  
18 sion of any certifications required pursuant to section two hundred  
19 eighty-five-a or two hundred eighty-five-b of this chapter to cover the  
20 taxes imposed by this article.

21 (3) "Qualified biodiesel" means such term as defined in subdivision  
22 twenty-three of section two hundred eighty-two of this chapter.

23 § 5. Paragraph 2 of subdivision (a) of section 1102 of the tax law, as  
24 amended by section 39 of part K of chapter 61 of the laws of 2011, is  
25 amended to read as follows:

26 (2) Every distributor of diesel motor fuel shall pay, as a prepayment  
27 on account of the taxes imposed by this article and pursuant to the  
28 authority of article twenty-nine of this chapter, a tax upon the sale or

1 use of diesel motor fuel in this state. The tax shall be computed based  
2 upon the number of gallons of diesel motor fuel sold or used. Provided,  
3 however, if the tax has not been imposed prior thereto, it shall be  
4 imposed on the delivery of diesel motor fuel to a retail service  
5 station. The collection of such tax shall not be made applicable to the  
6 sale or use of diesel motor fuel under circumstances which preclude the  
7 collection of such tax by reason of the United States constitution and  
8 of laws of the United States enacted pursuant thereto. The prepaid tax  
9 on diesel motor fuel shall not apply to (i) the sale of previously  
10 untaxed non-highway Diesel motor fuel to a person registered as a  
11 distributor of Diesel motor fuel other than a sale to such person which  
12 involves a delivery at a filling station or into a repository which is  
13 equipped with a hose or other apparatus by which such fuel can be  
14 dispensed into the fuel tank of a motor vehicle, [or] (ii) the sale to  
15 or delivery at a filling station or other retail vendor of water-white  
16 kerosene provided such filling station or other retail vendor only sells  
17 such water-white kerosene exclusively for heating purposes in containers  
18 of no more than twenty gallons or to the sale of CNG or hydrogen; or  
19 (iii) the sale of previously untaxed qualified biodiesel to a person  
20 registered under article twelve-A of this chapter as a distributor of  
21 Diesel motor fuel other than (A) a retail sale to such person or (B) a  
22 sale to such person which involves a delivery at a filling station or  
23 into a repository which is equipped with a hose or other apparatus by  
24 which such qualified biodiesel can be dispensed into the fuel tank of a  
25 motor vehicle. "Qualified biodiesel" means such term as defined in  
26 subdivision twenty-three of section two hundred eighty-two of this chap-  
27 ter.

1 § 6. Paragraph 2 of subdivision (a) of section 1102 of the tax law, as  
2 amended by section 39-a of part K of chapter 61 of the laws of 2011, is  
3 amended to read as follows:

4 (2) Every distributor of diesel motor fuel shall pay, as a prepayment  
5 on account of the taxes imposed by this article and pursuant to the  
6 authority of article twenty-nine of this chapter, a tax upon the sale or  
7 use of diesel motor fuel in this state. The tax shall be computed based  
8 upon the number of gallons of diesel motor fuel sold or used. Provided,  
9 however, if the tax has not been imposed prior thereto, it shall be  
10 imposed on the delivery of diesel motor fuel to a retail service  
11 station. The collection of such tax shall not be made applicable to the  
12 sale or use of diesel motor fuel under circumstances which preclude the  
13 collection of such tax by reason of the United States constitution and  
14 of laws of the United States enacted pursuant thereto. The prepaid tax  
15 on diesel motor fuel shall not apply to (i) the sale of [previously  
16 untaxed] non-highway Diesel motor fuel to a person registered as a  
17 distributor of Diesel motor fuel other than a sale to such person which  
18 involves a delivery at a filling station or into a repository which is  
19 equipped with a hose or other apparatus by which such fuel can be  
20 dispensed into the fuel tank of a motor vehicle, [or] (ii) the sale to  
21 or delivery at a filling station or other retail vendor of water-white  
22 kerosene provided such filling station or other retail vendor only sells  
23 such water-white kerosene exclusively for heating purposes in containers  
24 of no more than twenty gallons; or (iii) the sale of previously untaxed  
25 qualified biodiesel to a person registered under article twelve-A of  
26 this chapter as a distributor of Diesel motor fuel other than (A) a  
27 retail sale to such person or (B) a sale to such person which involves a  
28 delivery at a filling station or into a repository which is equipped

1 with a hose or other apparatus by which such qualified biodiesel can be  
2 dispensed into the fuel tank of a motor vehicle. "Qualified biodiesel"  
3 means such term as defined in subdivision twenty-three of section two  
4 hundred eighty-two of this chapter.

5 § 7. This act shall take effect June 1, 2012; provided, however, that  
6 the amendments to paragraph 2 of subdivision (a) of section 1102 of the  
7 tax law made by section five of this act shall be subject to the expira-  
8 tion and reversion of such paragraph pursuant to section 19 of part W1  
9 of chapter 109 of the laws of 2006, as amended, when upon such date the  
10 provisions of section six of this act shall take effect; provided,  
11 further, that sections five and six of this act shall apply to sales  
12 made and uses occurring on and after such effective date in accordance  
13 with the applicable transitional provisions in sections 1106 and 1217 of  
14 the tax law.

15 PART F

16 Section 1. Subparagraph (B) of paragraph 4 of subdivision (a) of  
17 section 1134 of the tax law, as amended by chapter 2 of the laws of  
18 1995, is amended to read as follows:

19 (B) Where a person files a certificate of registration for a certif-  
20 icate of authority under this subdivision and in considering such appli-  
21 cation the commissioner ascertains that (i) any tax imposed under this  
22 chapter or any related statute, as defined in section eighteen hundred  
23 of this chapter, has been finally determined to be due from such person  
24 and has not been paid in full, (ii) [a] any tax [due under this article  
25 or any law, ordinance or resolution enacted pursuant to the authority of  
26 article twenty-nine] imposed under this chapter or any related statute,

1 as defined in section eighteen hundred of this chapter, has been finally  
2 determined to be due from an officer, director, partner or employee of  
3 such person, and, where such person is a limited liability company, also  
4 a member or manager of such person, in the officer's, director's, part-  
5 ner's, member's, manager's or employee's capacity as a person required  
6 to collect tax on behalf of such person or another person and has not  
7 been paid, (iii) such person has been convicted of a crime provided for  
8 in this chapter within one year from the date on which such certificate  
9 of registration is filed, (iv) an officer, director, partner or employee  
10 of such person, and, where such person is a limited liability company,  
11 also a member or manager of such person, which officer, director, part-  
12 ner, member, manager or employee is a person required to collect tax on  
13 behalf of such person filing a certificate of registration has in the  
14 officer's, director's, partner's, member's, manager's or employee's  
15 capacity as a person required to collect tax on behalf of such person or  
16 of another person been convicted of a crime provided for in this chapter  
17 within one year from the date on which such certificate of registration  
18 is filed, (v) a shareholder owning more than fifty percent of the number  
19 of shares of stock of such person (where such person is a corporation)  
20 entitling the holder thereof to vote for the election of directors or  
21 trustees, who owned more than fifty percent of the number of such shares  
22 of another person (where such other person is a corporation) at the time  
23 any tax imposed under this chapter or any related statute as defined in  
24 section eighteen hundred of this chapter was finally determined to be  
25 due and where such tax has not been paid in full, or at the time such  
26 other person was convicted of a crime provided for in this chapter with-  
27 in one year from the date on which such certificate of registration is  
28 filed, or (vi) a certificate of authority issued to such person has been

1 revoked or suspended pursuant to subparagraph (A) of this paragraph  
2 within one year from the date on which such certificate of registration  
3 is filed, the commissioner may refuse to issue a certificate of authori-  
4 ty.

5 § 2. Subdivision (g) of section 1146 of the tax law, as added by chap-  
6 ter 577 of the laws of 1997, is amended to read as follows:

7 (g) (1) Notwithstanding the provisions of subdivision (a) of this  
8 section, if the commissioner determines that a person required to  
9 collect tax is liable for any tax, penalty or interest under this arti-  
10 cle or is liable for a penalty under subdivision (e) of section eleven  
11 hundred forty-five of this article with respect to any failure, upon  
12 request in writing of such person, the commissioner shall disclose in  
13 writing to such person [(1)] (i) the name of any other person required  
14 to collect tax or any other person liable for such penalty under such  
15 subdivision (e) whom the commissioner has determined to be liable for  
16 the same tax, penalty or interest or for such penalty with respect to  
17 such failure, and [(2)] (ii) whether the commissioner has attempted to  
18 collect such tax, penalty or interest or such penalty from such other  
19 person, the general nature of such collection activities, and the amount  
20 collected.

21 (2) Notwithstanding any provision of this chapter to the contrary, for  
22 the purposes of subparagraph (B) of paragraph four of subdivision (a) of  
23 section eleven hundred thirty-four of this part, if the commissioner  
24 determines that any tax imposed under this chapter or any related stat-  
25 ute, as defined in section eighteen hundred of this chapter, has been  
26 finally determined to be due from a person required to collect tax and  
27 has not been paid, upon written request of the person who filed the  
28 certificate of registration for a certificate of authority that was

1 refused, the commissioner may disclose to such person the name and  
2 amount of tax due of the person or persons required to collect tax whose  
3 tax liability or liabilities were grounds for the refusal to issue the  
4 certificate of authority.

5 § 3. This act shall take effect immediately.

6 PART G

7 Section 1. Paragraph 10 of subsection (g) of section 658 of the tax  
8 law is REPEALED.

9 § 2. Paragraph 10 of subdivision (g) of section 11-1758 of the admin-  
10 istrative code of the city of New York is REPEALED.

11 § 3. Paragraph 5 of subsection (u) of section 685 of the tax law is  
12 REPEALED.

13 § 4. Paragraph 5 of subdivision (t) of section 11-1785 of the adminis-  
14 trative code of the city of New York is REPEALED.

15 § 5. Section 23 of part U of chapter 61 of the laws of 2011, amending  
16 the real property tax law, the general municipal law, the public offi-  
17 cers law, the tax law, the abandoned property law, the state finance law  
18 and the administrative code of the city of New York, relating to estab-  
19 lishing standards for electronic real property tax administration,  
20 allowing the department of taxation and finance to use electronic commu-  
21 nication means to furnish tax notices and other documents, mandatory  
22 electronic filing of tax documents, debit cards issued for tax refunds,  
23 improving sales tax compliance and repealing certain provisions of the  
24 tax law and the administrative code of the city of New York relating  
25 thereto, is amended to read as follows:

26 § 23. This act shall take effect immediately; provided, however, that:

1 (a) the amendments to section 29 of the tax law made by section thir-  
2 teen of this act shall apply to tax documents filed or required to be  
3 filed on or after the sixtieth day after which this act shall have  
4 become a law [and shall expire and be deemed repealed December 31,  
5 2012], provided however that the amendments to paragraph 4 of subdivi-  
6 sion (a) of section 29 of the tax law and paragraph 2 of subdivision (e)  
7 of section 29 of the tax law made by section thirteen of this act with  
8 regard to individual taxpayers shall take effect September 15, 2011 but  
9 only if the commissioner of taxation and finance has reported in the  
10 report required by section seventeen-b of this act that the percentage  
11 of individual taxpayers electronically filing their 2010 income tax  
12 returns is less than eighty-five percent; provided that the commissioner  
13 of taxation and finance shall notify the legislative bill drafting  
14 commission of the date of the issuance of such report in order that the  
15 commission may maintain an accurate and timely effective data base of  
16 the official text of the laws of the state of New York in furtherance of  
17 effectuating the provisions of section 44 of the legislative law and  
18 section 70-b of the public officers law;

19 (b) sections fourteen, fifteen, sixteen and seventeen of this act  
20 shall take effect September 15, 2011 but only if the commissioner of  
21 taxation and finance has reported in the report required by section  
22 seventeen-b of this act that the percentage of individual taxpayers  
23 electronically filing their 2010 income tax returns is less than eight-  
24 y-five percent;

25 (c) sections fourteen-a and fifteen-a of this act shall take effect  
26 September 15, 2011 and expire and be deemed repealed December 31, 2012  
27 but shall take effect only if the commissioner of taxation and finance  
28 has reported in the report required by section seventeen-b of this act



1 that the percentage of individual taxpayers electronically filing their  
2 2010 income tax returns is eighty-five percent or greater; and

3 (d) sections fourteen-b, fifteen-b, sixteen-a and seventeen-a of this  
4 act shall take effect January 1, 2013 but only if the commissioner of  
5 taxation and finance has reported in the report required by section  
6 seventeen-b of this act that the percentage of individual taxpayers  
7 electronically filing their 2010 income tax returns is less than eight-  
8 y-five percent[]; and

9 (e) sections twenty-one and twenty-one-a of this act shall expire and  
10 be deemed repealed December 31, 2012].

11 § 6. Paragraph 2 of subsection (b) of section 29 of the tax law as  
12 added by section 13 of part U of chapter 61 of the laws of 2011, is  
13 amended to read as follows:

14 (2) If a tax return preparer prepared more than five original tax  
15 documents during any calendar year beginning on or after January first,  
16 two thousand eleven, and if in any succeeding calendar year that tax  
17 return preparer prepares one or more authorized [returns] tax documents  
18 using tax software, then, for such succeeding calendar year and for each  
19 subsequent calendar year thereafter, all authorized tax documents  
20 prepared by that tax return preparer must be filed electronically, in  
21 accordance with instructions prescribed by the commissioner.

22 § 7. This act shall take effect immediately, provided, however, that  
23 the amendments to paragraph 2 of subsection (b) of section 29 of the tax  
24 law made by section six of this act shall be deemed to have been in full  
25 force and effect on the same date and in the same manner as section 13  
26 of part U of chapter 61 of the laws of 2011, as amended, took effect.

1 Section 1. Paragraphs 2 and 3 of subsection (g-1) of section 606 of  
2 the tax law, paragraph 2 as amended by chapter 378 of the laws of 2005,  
3 subparagraph (B) of paragraph 2 as amended by chapter 251 of the laws of  
4 2006 and paragraph 3 as amended by chapter 128 of the laws of 2007, are  
5 amended to read as follows:

6 (2) Qualified solar energy system equipment expenditures. (A) The term  
7 "qualified solar energy system equipment expenditures" means expendi-  
8 tures for:

9 (i) the purchase of solar energy system equipment which is installed  
10 in connection with residential property which is [(i)] (I) located in  
11 this state and [(ii) which is] (II) used by the taxpayer as his or her  
12 principal residence at the time the solar energy system equipment is  
13 placed in service;

14 (ii) the lease of solar energy system equipment under a written agree-  
15 ment that spans at least ten years where such equipment owned by a  
16 person other than the taxpayer is installed in connection with residen-  
17 tial property which is: (I) located in this state; and (II) used by the  
18 taxpayer as his or her principal residence at the time the solar energy  
19 system equipment is placed in service; or

20 (iii) the purchase of power under a written agreement that spans at  
21 least ten years where the power purchased is generated by solar energy  
22 system equipment owned by a person other than the taxpayer and is  
23 installed in connection with residential property which is: (I) located  
24 in this state; and (II) used by the taxpayer as his or her principal  
25 residence at the time the solar energy system is placed in service.

26 (B) Such qualified expenditures shall include expenditures for materi-  
27 als, labor costs properly allocable to on-site preparation, assembly and  
28 original installation, architectural and engineering services, and

1 designs and plans directly related to the construction or installation  
2 of the solar energy system equipment.

3 (C) Such qualified expenditures shall not include interest or other  
4 finance charges.

5 (D) Such qualified solar energy system equipment expenditures  
6 described in clause (ii) or (iii) of subparagraph (A) of this paragraph  
7 shall include an amount equal to all payments made during the taxable  
8 year under such agreement.

9 (E) Notwithstanding paragraph one of this subdivision, the percentage  
10 to be used to calculate the amount of credit allowed for qualified solar  
11 energy system equipment expenditures described in clauses (ii) and (iii)  
12 of subparagraph (A) of this paragraph shall be equal to twelve and one-  
13 half percent.

14 (3) Solar energy system equipment. The term "solar energy system  
15 equipment" shall mean an arrangement or combination of components  
16 utilizing solar radiation, which, when installed in a residence, produc-  
17 es energy designed to provide heating, cooling, hot water or electricity  
18 for use in such residence. Such arrangement or components shall not  
19 include equipment connected to solar energy system equipment that is a  
20 component of part or parts of a non-solar energy system or which uses  
21 any sort of recreational facility or equipment as a storage medium.  
22 Solar energy system equipment that generates electricity for use in a  
23 residence must conform to applicable requirements set forth in section  
24 sixty-six-j of the public service law. Provided, however, where solar  
25 energy system equipment is purchased and installed by a condominium  
26 management association or a cooperative housing corporation, for  
27 purposes of this subsection only, the term ["ten kilowatts"] "twenty-

1 five kilowatts" in such section sixty-six-j shall be read as "fifty  
2 kilowatts."

3 § 2. Subdivision (ee) of section 1115 of the tax law, as added by  
4 chapter 306 of the laws of 2005, is amended to read as follows:

5 (ee) Receipts from the retail sale of [residential] solar energy  
6 systems equipment and of the service of installing such systems shall be  
7 exempt from tax under this article. For the purposes of this subdivi-  
8 sion, "[residential] solar energy systems equipment" shall mean an  
9 arrangement or combination of components [installed in a residence] that  
10 utilizes solar radiation to produce energy designed to provide heating,  
11 cooling, hot water and/or electricity in a building or a structure.  
12 Such arrangement or components shall not [include] exceed an installed  
13 capacity rating of two megawatts or the thermal equivalent thereof and  
14 shall not include equipment that is part of a non-solar energy system or  
15 [which uses any sort of recreational facility or equipment as a storage  
16 medium] systems or equipment used to heat residential swimming pools.

17 § 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as  
18 amended by section 3 of part GG of chapter 57 of the laws of 2010, is  
19 amended to read as follows:

20 (1) Either, all of the taxes described in article twenty-eight of this  
21 chapter, at the same uniform rate, as to which taxes all provisions of  
22 the local laws, ordinances or resolutions imposing such taxes shall be  
23 identical, except as to rate and except as otherwise provided, with the  
24 corresponding provisions in such article twenty-eight, including the  
25 definition and exemption provisions of such article, so far as the  
26 provisions of such article twenty-eight can be made applicable to the  
27 taxes imposed by such city or county and with such limitations and  
28 special provisions as are set forth in this article. The taxes author-

1 ized under this subdivision may not be imposed by a city or county  
2 unless the local law, ordinance or resolution imposes such taxes so as  
3 to include all portions and all types of receipts, charges or rents,  
4 subject to state tax under sections eleven hundred five and eleven  
5 hundred ten of this chapter, except as otherwise provided. (i) Any local  
6 law, ordinance or resolution enacted by any city of less than one  
7 million or by any county or school district, imposing the taxes author-  
8 ized by this subdivision, shall, notwithstanding any provision of law to  
9 the contrary, exclude from the operation of such local taxes all sales  
10 of tangible personal property for use or consumption directly and  
11 predominantly in the production of tangible personal property, gas,  
12 electricity, refrigeration or steam, for sale, by manufacturing, proc-  
13 essing, generating, assembly, refining, mining or extracting; and all  
14 sales of tangible personal property for use or consumption predominantly  
15 either in the production of tangible personal property, for sale, by  
16 farming or in a commercial horse boarding operation, or in both; and,  
17 unless such city, county or school district elects otherwise, shall omit  
18 the provision for credit or refund contained in clause six of subdivi-  
19 sion (a) or subdivision (d) of section eleven hundred nineteen of this  
20 chapter. (ii) Any local law, ordinance or resolution enacted by any  
21 city, county or school district, imposing the taxes authorized by this  
22 subdivision, shall omit the [residential] solar energy systems equipment  
23 exemption provided for in subdivision (ee) and the clothing and footwear  
24 exemption provided for in paragraph thirty of subdivision (a) of section  
25 eleven hundred fifteen of this chapter, unless such city, county or  
26 school district elects otherwise as to either such [residential] solar  
27 energy systems equipment exemption or such clothing and footwear  
28 exemption.

1 § 4. Paragraph 1 of subdivision (n) of section 1210 of the tax law, as  
2 added by chapter 306 of the laws of 2005, is amended to read as follows:

3 (1) Any city having a population of one million or more in which the  
4 taxes imposed by section eleven hundred seven of this chapter are in  
5 effect, acting through its local legislative body, is hereby authorized  
6 and empowered to elect to provide the same exemptions from such taxes as  
7 the [residential] solar energy systems equipment exemption from state  
8 sales and compensating use taxes described in subdivision (ee) of  
9 section eleven hundred fifteen of this chapter by enacting a resolution  
10 in the form set forth in paragraph two of this subdivision; whereupon,  
11 upon compliance with the provisions of subdivisions (d) and (e) of this  
12 section, such enactment of such resolution shall be deemed to be an  
13 amendment to such section eleven hundred seven and such section eleven  
14 hundred seven shall be deemed to incorporate such exemptions as if they  
15 had been duly enacted by the state legislature and approved by the  
16 governor.

17 § 5. This act shall take effect immediately, provided that:

18 (1) section one of this act shall apply to leases of solar energy  
19 system equipment and purchases of power under written agreements entered  
20 into on or after such effective date; provided further, however, that  
21 the amendments to paragraph 3 of subsection (g-1) of section 606 of the  
22 tax law made by section one of this act shall not apply to any taxable  
23 year commencing on or after January 1, 2015; and

24 (2) sections two, three and four of this act shall apply to sales made  
25 or uses occurring on or after September 1, 2012 in accordance with the  
26 applicable transitional provisions of sections 1106 and 1217 of the tax  
27 law.

1

## PART I

2 Section 1. Paragraph 1 of subdivision (a) of section 28 of the tax  
3 law, as amended by chapter 440 of the laws of 2006, is amended to read  
4 as follows:

5 (1) A taxpayer which is a qualified commercial production company, or  
6 which is a sole proprietor of a qualified commercial production company,  
7 and which is subject to tax under article nine-A or twenty-two of this  
8 chapter, shall be allowed a credit against such tax, pursuant to the  
9 provisions referenced in subdivision [(d)] (c) of this section, to be  
10 computed as provided in this section. Provided, however, to be eligible  
11 for such credit, at least seventy-five percent of the production costs  
12 (excluding post production costs) paid or incurred directly and predomi-  
13 nantly in the actual filming or recording of the qualified commercial  
14 must be costs incurred in New York state. The tax credit allowed pursu-  
15 ant to this section shall apply to taxable years beginning before Janu-  
16 ary first, two thousand seventeen.

17 § 2. Paragraph (a) of subdivision 38 of section 210 of the tax law, as  
18 added by section 3 of part V of chapter 62 of the laws of 2006, is  
19 amended to read as follows:

20 (a) Allowance of credit. A taxpayer that is eligible pursuant to  
21 provisions of section twenty-eight of this chapter shall be allowed a  
22 credit to be computed as provided in such section against the tax  
23 imposed by this article. The tax credit allowed pursuant to this  
24 section shall apply to taxable years beginning before January first, two  
25 thousand seventeen.

1 § 3. Paragraph 1 of subsection (jj) of section 606 of the tax law, as  
2 added by section 5 of part V of chapter 62 of the laws of 2006, is  
3 amended to read as follows:

4 (1) Allowance of credit. A taxpayer that is eligible pursuant to the  
5 provisions of section twenty-eight of this chapter shall be allowed a  
6 credit to be computed as provided in such section against the tax  
7 imposed by this article. The tax credit allowed pursuant to this  
8 section shall apply to taxable years beginning before January first, two  
9 thousand seventeen.

10 § 4. Section 10 of part V of chapter 62 of the laws of 2006, relating  
11 to the empire state commercial production tax credit, is amended to read  
12 as follows:

13 § 10. This act shall take effect immediately [and shall apply to taxa-  
14 ble years beginning on and after January 1, 2007 and shall expire and be  
15 deemed repealed on December 31, 2011]; provided, however that the IMB  
16 credit for energy taxes under subsection (t-1) and the state film  
17 production credit under subsection (gg) of section 606 of the tax law  
18 contained in section four of this act shall expire on the same date as  
19 provided in subdivision (a) of section 49 of part Y of chapter 63 of the  
20 laws of 2000, as amended and section 9 of part P of chapter 60 of the  
21 laws of 2004, as amended, respectively.

22 § 5. This act shall take effect immediately.

23 PART J

24 Section 1. Subdivision 4 of section 22 of the public housing law, as  
25 amended by section 1 of part F of chapter 61 of the laws of 2011, is  
26 amended to read as follows:



1 4. Statewide limitation. The aggregate dollar amount of credit which  
2 the commissioner may allocate to eligible low-income buildings under  
3 this article shall be [thirty-two] forty million dollars. The limitation  
4 provided by this subdivision applies only to allocation of the aggregate  
5 dollar amount of credit by the commissioner, and does not apply to  
6 allowance to a taxpayer of the credit with respect to an eligible low-  
7 income building for each year of the credit period.

8 § 2. Subdivision 4 of section 22 of the public housing law, as amended  
9 by section one of this act, is amended to read as follows:

10 4. Statewide limitation. The aggregate dollar amount of credit which  
11 the commissioner may allocate to eligible low-income buildings under  
12 this article shall be [forty] forty-eight million dollars. The limita-  
13 tion provided by this subdivision applies only to allocation of the  
14 aggregate dollar amount of credit by the commissioner, and does not  
15 apply to allowance to a taxpayer of the credit with respect to an eligi-  
16 ble low-income building for each year of the credit period.

17 § 3. Subdivision 4 of section 22 of the public housing law, as amended  
18 by section two of this act, is amended to read as follows:

19 4. Statewide limitation. The aggregate dollar amount of credit which  
20 the commissioner may allocate to eligible low-income buildings under  
21 this article shall be [forty-eight] fifty-six million dollars. The limi-  
22 tation provided by this subdivision applies only to allocation of the  
23 aggregate dollar amount of credit by the commissioner, and does not  
24 apply to allowance to a taxpayer of the credit with respect to an eligi-  
25 ble low-income building for each year of the credit period.

26 § 4. Subdivision 4 of section 22 of the public housing law, as amended  
27 by section three of this act, is amended to read as follows:

1 4. Statewide limitation. The aggregate dollar amount of credit which  
2 the commissioner may allocate to eligible low-income buildings under  
3 this article shall be [fifty-six] sixty-four million dollars. The limi-  
4 tation provided by this subdivision applies only to allocation of the  
5 aggregate dollar amount of credit by the commissioner, and does not  
6 apply to allowance to a taxpayer of the credit with respect to an eligi-  
7 ble low-income building for each year of the credit period.

8 § 5. Subdivision 4 of section 22 of the public housing law, as amended  
9 by section four of this act, is amended to read as follows:

10 4. Statewide limitation. The aggregate dollar amount of credit which  
11 the commissioner may allocate to eligible low-income buildings under  
12 this article shall be [sixty-four] seventy-two million dollars. The  
13 limitation provided by this subdivision applies only to allocation of  
14 the aggregate dollar amount of credit by the commissioner, and does not  
15 apply to allowance to a taxpayer of the credit with respect to an eligi-  
16 ble low-income building for each year of the credit period.

17 § 6. This act shall take effect immediately; provided, however,  
18 section two of this act shall take effect April 1, 2013, section three  
19 of this act shall take effect April 1, 2014, section four of this act  
20 shall take effect April 1, 2015 and section five of this act shall take  
21 effect April 1, 2016.

22 PART K

23 Section 1. Subdivision (a) of section 28 of the tax law, as amended by  
24 section 1 of part A of chapter 57 of the laws of 2010, is amended to  
25 read as follows:

1 (a) General. A taxpayer subject to tax under article nine, nine-A or  
2 twenty-two of this chapter shall be allowed a credit against such tax  
3 pursuant to the provisions referenced in subdivision (d) of this  
4 section. The credit (or pro rata share of earned credit in the case of a  
5 partnership) for each gallon of biofuel produced at a biofuel plant on  
6 or after January first, two thousand six shall equal fifteen cents per  
7 gallon after the production of the first forty thousand gallons per year  
8 presented to market. The credit under this section shall be capped at  
9 two and one-half million dollars per taxpayer per taxable year for up to  
10 no more than four consecutive taxable years per biofuel plant. If the  
11 taxpayer is a partner in a partnership or shareholder of a New York S  
12 corporation, then the cap imposed by the preceding sentence shall be  
13 applied at the entity level, so that the aggregate credit allowed to all  
14 the partners or shareholders of each such entity in the taxable year  
15 does not exceed two and one-half million dollars. The tax credit allowed  
16 pursuant to this section shall apply to taxable years beginning before  
17 January first, two thousand twenty.

18 § 2. Section 187-c of the tax law, as added by section 2 of part X of  
19 chapter 62 of the laws of 2006, is amended to read as follows:

20 § 187-c. Biofuel production credit. A taxpayer shall be allowed a  
21 credit to be computed as provided in section twenty-eight of this chap-  
22 ter, as added by part X of chapter sixty-two of the laws of two thousand  
23 six, against the tax imposed by this article. Provided, however, that  
24 the amount of such credit allowed against the tax imposed by section one  
25 hundred eighty-four of this article shall be the excess of the amount of  
26 such credit over the amount of any credit allowed by this section  
27 against the tax imposed by section one hundred eighty-three of this  
28 article. In no event shall the credit under this section be allowed in

1 an amount which will reduce the tax payable to less than the applicable  
2 minimum tax fixed by section one hundred eighty-three or one hundred  
3 eighty-five of this article. If, however, the amount of the credit  
4 allowed under this section for any taxable year reduces the tax to such  
5 amount, the excess shall be treated as an overpayment of tax to be cred-  
6 ited or refunded in accordance with the provisions of section six  
7 hundred eighty-six of this chapter. Provided, however, the provisions of  
8 subsection (c) of section one thousand eighty-eight of this chapter  
9 notwithstanding, no interest shall be paid thereon. The tax credit  
10 allowed pursuant to this section shall apply to taxable years beginning  
11 before January first, two thousand twenty.

12 § 3. Subdivision 38 of section 210 of the tax law, as added by section  
13 3 of part X of chapter 62 of the laws of 2006, is amended to read as  
14 follows:

15 38. Biofuel production credit. A taxpayer shall be allowed a credit,  
16 to be computed as provided in section twenty-eight of this chapter, as  
17 added by part X of chapter sixty-two of the laws of two thousand six,  
18 against the tax imposed by this article. The credit allowed under this  
19 subdivision for any taxable year shall not reduce the tax due for such  
20 year to less than the higher of the amounts prescribed in paragraphs (c)  
21 and (d) of subdivision one of this section. However, if the amount of  
22 credit allowed under this subdivision for any taxable year reduces the  
23 tax to such amount, any amount of credit thus not deductible in such  
24 taxable year shall be treated as an overpayment of tax to be credited or  
25 refunded in accordance with the provisions of section one thousand  
26 eighty-six of this chapter. Provided, however, the provisions of  
27 subsection (c) of section one thousand eighty-eight of this chapter  
28 notwithstanding, no interest shall be paid thereon. The tax credit

1 allowed pursuant to this section shall apply to taxable years beginning  
2 before January first, two thousand twenty.

3 § 4. Subsection (jj) of section 606 of the tax law, as added by  
4 section 5 of part X of chapter 62 of the laws of 2006, is amended to  
5 read as follows:

6 (jj) Biofuel production credit. A taxpayer shall be allowed a credit  
7 to be computed as provided in section twenty-eight of this chapter, as  
8 added by part X of chapter sixty-two of the laws of two thousand six,  
9 against the tax imposed by this article. If the amount of the credit  
10 allowed under this subsection for any taxable year shall exceed the  
11 taxpayer's tax for such year, the excess shall be treated as an overpay-  
12 ment of tax to be credited or refunded in accordance with the provisions  
13 of section six hundred eighty-six of this article, provided, however,  
14 that no interest shall be paid thereon. The tax credit allowed pursuant  
15 to this section shall apply to taxable years beginning before January  
16 first, two thousand twenty.

17 § 5. Section 6 of part X of chapter 62 of the laws of 2006, amending  
18 the tax law relating to providing tax credits for biofuel production  
19 plants, is amended to read as follows:

20 § 6. This act shall take effect immediately [and shall apply to taxa-  
21 ble years commencing on and after January 1, 2006 and before January 1,  
22 2013]; provided, however that the IMB credit for energy taxes under  
23 subsection (t-1) and the state film production credit under subsection  
24 (gg) of section 606 of the tax law contained in section four of this act  
25 shall expire on the same date as provided in subdivision (a) of section  
26 49 of part Y of chapter 63 of the laws of 2000, as amended and section 9  
27 of part P of chapter 60 of the laws of 2004, as amended, respectively.

28 § 6. This act shall take effect immediately.

1

## PART L

2 Section 1. Section 2 of part I of chapter 58 of the laws of 2006,  
3 relating to providing an enhanced earned income tax credit, is amended  
4 to read as follows:

5 § 2. This act shall take effect immediately and shall apply to taxable  
6 years beginning on or after January 1, 2006 [and before January 1,  
7 2013].

8 § 2. This act shall take effect immediately.

9

## PART M

10 Section 1. Section 5232 of the civil practice law and rules is amended  
11 by adding a new subdivision (i) to read as follows:

12 (i) No banking institution shall setoff and apply a levy processing  
13 fee against the proceeds of a levy for taxes imposed by or pursuant to  
14 the authority of the tax law or for child support regardless of any  
15 terms of agreement, or schedule of fees, or other contract between the  
16 debtor and the banking institution.

17 § 2. Subdivision (d) of section 151 of the debtor and creditor law, as  
18 amended by chapter 553 of the laws of 1990, is amended to read as  
19 follows:

20 (d) the issuance of any execution against any of the property of a  
21 creditor, except as provided for in subdivision (i) of section fifty-two  
22 hundred thirty-two of the civil practice law and rules;

23 § 3. This act shall take effect on the ninetieth day after it shall  
24 have become a law.

1

## PART N

2 Section 1. Subsection (a) of section 801 of the tax law, as amended by  
3 section 2 of part B of chapter 56 of the laws of 2011, is amended to  
4 read as follows:

5 (a) For the sole purpose of providing an additional stable and reli-  
6 able dedicated funding source for the metropolitan transportation  
7 authority and its subsidiaries and affiliates to preserve, operate and  
8 improve essential transit and transportation services in the metropol-  
9 itan commuter transportation district, a tax is hereby imposed on  
10 employers and individuals as follows: (1) For employers who engage in  
11 business within the MCTD [(1)], the tax is imposed at a rate of (A)  
12 eleven hundredths (.11) percent of the payroll expense for employers  
13 with payroll expense no greater than three hundred seventy-five thousand  
14 dollars in any calendar quarter, (B) twenty-three hundredths (.23)  
15 percent of the payroll expense for employers with payroll expense great-  
16 er than three hundred seventy-five thousand dollars and no greater than  
17 four hundred thirty-seven thousand five hundred dollars in any calendar  
18 quarter, and (C) thirty-four hundredths (.34) percent of the payroll  
19 expense for employers with payroll expense in excess of four hundred  
20 thirty-seven thousand five hundred dollars in any calendar quarter[,  
21 and]. If the employer is a professional employer organization, as  
22 defined in section nine hundred sixteen of the labor law, the employer's  
23 tax shall be calculated by determining the payroll expense attributable  
24 to each client who has entered into a professional employer agreement  
25 with such organization and the payroll expense attributable to such  
26 organization itself, multiplying each of those payroll expense amounts  
27 by the applicable rate set forth in this paragraph and adding those

1 products together. (2) For individuals, the tax is imposed at a rate of  
2 thirty-four hundredths (.34) percent of the net earnings from self-em-  
3 ployment of individuals that are attributable to the MCTD if such earn-  
4 ings attributable to the MCTD exceed fifty thousand dollars for the tax  
5 year.

6 § 2. Section 4 of part B of chapter 56 of the laws of 2011 amending  
7 the tax law relating to the tax rates and exclusions under the metropol-  
8 itan commuter transportation mobility tax is amended to read as follows:

9 § 4. This act shall take effect immediately and shall apply to taxable  
10 years beginning on or after January 1, 2012; provided however, that  
11 section one of this act and the amendments in section two of this act  
12 that concern employers shall take effect for the quarter beginning on  
13 April 1, 2012.

14 § 3. This act shall take effect immediately; provided however that the  
15 amendment in section one of this act concerning professional employer  
16 organizations shall take effect for the quarter beginning on April 1,  
17 2012.

18 PART O

19 Section 1. Paragraph (a) of subdivision 1 of section 1003 of the  
20 racing, pari-mutuel wagering and breeding law, as amended by section 1  
21 of part S of chapter 61 of the laws of 2011, is amended to read as  
22 follows:

23 (a) Any racing association or corporation or regional off-track  
24 betting corporation, authorized to conduct pari-mutuel wagering under  
25 this chapter, desiring to display the simulcast of horse races on which  
26 pari-mutuel betting shall be permitted in the manner and subject to the



1 conditions provided for in this article may apply to the board for a  
2 license so to do. Applications for licenses shall be in such form as may  
3 be prescribed by the board and shall contain such information or other  
4 material or evidence as the board may require. No license shall be  
5 issued by the board authorizing the simulcast transmission of thorough-  
6 bred races from a track located in Suffolk county. The fee for such  
7 licenses shall be five hundred dollars per simulcast facility per year  
8 payable by the licensee to the board for deposit into the general fund.  
9 Except as provided herein, the board shall not approve any application  
10 to conduct simulcasting into individual or group residences, homes or  
11 other areas for the purposes of or in connection with pari-mutuel wager-  
12 ing. The board may approve simulcasting into residences, homes or other  
13 areas to be conducted jointly by one or more regional off-track betting  
14 corporations and one or more of the following: a franchised corporation,  
15 thoroughbred racing corporation or a harness racing corporation or asso-  
16 ciation; provided (i) the simulcasting consists only of those races on  
17 which pari-mutuel betting is authorized by this chapter at one or more  
18 simulcast facilities for each of the contracting off-track betting  
19 corporations which shall include wagers made in accordance with section  
20 one thousand fifteen, one thousand sixteen and one thousand seventeen of  
21 this article; provided further that the contract provisions or other  
22 simulcast arrangements for such simulcast facility shall be no less  
23 favorable than those in effect on January first, two thousand five; (ii)  
24 that each off-track betting corporation having within its geographic  
25 boundaries such residences, homes or other areas technically capable of  
26 receiving the simulcast signal shall be a contracting party; (iii) the  
27 distribution of revenues shall be subject to contractual agreement of  
28 the parties except that statutory payments to non-contracting parties,

1 if any, may not be reduced; provided, however, that nothing herein to  
2 the contrary shall prevent a track from televising its races on an  
3 irregular basis primarily for promotional or marketing purposes as found  
4 by the board. For purposes of this paragraph, the provisions of section  
5 one thousand thirteen of this article shall not apply. Any agreement  
6 authorizing an in-home simulcasting experiment commencing prior to May  
7 fifteenth, nineteen hundred ninety-five, may, and all its terms, be  
8 extended until June thirtieth, two thousand [twelve] thirteen; provided,  
9 however, that any party to such agreement may elect to terminate such  
10 agreement upon conveying written notice to all other parties of such  
11 agreement at least forty-five days prior to the effective date of the  
12 termination, via registered mail. Any party to an agreement receiving  
13 such notice of an intent to terminate, may request the board to mediate  
14 between the parties new terms and conditions in a replacement agreement  
15 between the parties as will permit continuation of an in-home experiment  
16 until June thirtieth, two thousand [twelve] thirteen; and (iv) no  
17 in-home simulcasting in the thoroughbred special betting district shall  
18 occur without the approval of the regional thoroughbred track.

19 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section  
20 1007 of the racing, pari-mutuel wagering and breeding law, as amended by  
21 section 2 of part S of chapter 61 of the laws of 2011, is amended to  
22 read as follows:

23 (iii) Of the sums retained by a receiving track located in Westchester  
24 county on races received from a franchised corporation, for the period  
25 commencing January first, two thousand eight and continuing through June  
26 thirtieth, two thousand [twelve] thirteen, the amount used exclusively  
27 for purses to be awarded at races conducted by such receiving track  
28 shall be computed as follows: of the sums so retained, two and one-half

1 percent of the total pools. Such amount shall be increased or decreased  
2 in the amount of fifty percent of the difference in total commissions  
3 determined by comparing the total commissions available after July twen-  
4 ty-first, nineteen hundred ninety-five to the total commissions that  
5 would have been available to such track prior to July twenty-first,  
6 nineteen hundred ninety-five.

7 § 3. The opening paragraph of subdivision 1 of section 1014 of the  
8 racing, pari-mutuel wagering and breeding law, as amended by section 3  
9 of part S of chapter 61 of the laws of 2011, is amended to read as  
10 follows:

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

1 § 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering  
2 and breeding law, as amended by section 4 of part S of chapter 61 of the  
3 laws of 2011, is amended to read as follows:

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

9 § 5. The opening paragraph of subdivision 1 of section 1016 of the  
10 racing, pari-mutuel wagering and breeding law, as amended by section 5  
11 of part S of chapter 61 of the laws of 2011, is amended to read as  
12 follows:

13 The provisions of this section shall govern the simulcasting of races  
14 conducted at thoroughbred tracks located in another state or country on  
15 any day during which a franchised corporation is not conducting a race  
16 meeting in Saratoga county at Saratoga thoroughbred racetrack until June  
17 thirtieth, two thousand [twelve] thirteen. Every off-track betting  
18 corporation branch office and every simulcasting facility licensed in  
19 accordance with section one thousand seven that have entered into a  
20 written agreement with such facility's representative horsemen's organ-  
21 ization as approved by the board, one thousand eight or one thousand  
22 nine of this article shall be authorized to accept wagers and display  
23 the live full-card simulcast signal of thoroughbred tracks (which may  
24 include quarter horse or mixed meetings provided that all such wagering  
25 on such races shall be construed to be thoroughbred races) located in  
26 another state or foreign country, subject to the following provisions;  
27 provided, however, no such written agreement shall be required of a

1 franchised corporation licensed in accordance with section one thousand  
2 seven of this article:

3 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel  
4 wagering and breeding law, as amended by section 6 of part S of chapter  
5 61 of the laws of 2011, is amended to read as follows:

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

21 § 7. Section 32 of chapter 281 of the laws of 1994, amending the  
22 racing, pari-mutuel wagering and breeding law and other laws relating to  
23 simulcasting, as amended by section 7 of part S of chapter 61 of the  
24 laws of 2011, is amended to read as follows:

25 § 32. This act shall take effect immediately and the pari-mutuel tax  
26 reductions in section six of this act shall expire and be deemed  
27 repealed on July 1, [2012] 2013; provided, however, that nothing  
28 contained herein shall be deemed to affect the application, qualifica-

1 tion, expiration, or repeal of any provision of law amended by any  
2 section of this act, and such provisions shall be applied or qualified  
3 or shall expire or be deemed repealed in the same manner, to the same  
4 extent and on the same date as the case may be as otherwise provided by  
5 law; provided further, however, that sections twenty-three and twenty-  
6 five of this act shall remain in full force and effect only until May 1,  
7 1997 and at such time shall be deemed to be repealed.

8 § 8. Section 54 of chapter 346 of the laws of 1990, amending the  
9 racing, pari-mutuel wagering and breeding law and other laws relating to  
10 simulcasting and the imposition of certain taxes, as amended by section  
11 8 of part S of chapter 61 of the laws of 2011, is amended to read as  
12 follows:

13 § 54. This act shall take effect immediately; provided, however,  
14 sections three through twelve of this act shall take effect on January  
15 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-  
16 ing law, as added by section thirty-eight of this act, shall expire and  
17 be deemed repealed on July 1, [2012] 2013; and section eighteen of this  
18 act shall take effect on July 1, 2008 and sections fifty-one and fifty-  
19 two of this act shall take effect as of the same date as chapter 772 of  
20 the laws of 1989 took effect.

21 § 9. Paragraph (a) of subdivision 1 of section 238 of the racing,  
22 pari-mutuel wagering and breeding law, as amended by section 9 of part S  
23 of chapter 61 of the laws of 2011, is amended to read as follows:

24 (a) The franchised corporation authorized under this chapter to  
25 conduct pari-mutuel betting at a race meeting or races run thereat shall  
26 distribute all sums deposited in any pari-mutuel pool to the holders of  
27 winning tickets therein, provided such tickets be presented for payment  
28 before April first of the year following the year of their purchase,

1 less an amount which shall be established and retained by such fran-  
2 chised corporation of between twelve to seventeen per centum of the  
3 total deposits in pools resulting from on-track regular bets, and four-  
4 teen to twenty-one per centum of the total deposits in pools resulting  
5 from on-track multiple bets and fifteen to twenty-five per centum of the  
6 total deposits in pools resulting from on-track exotic bets and fifteen  
7 to thirty-six per centum of the total deposits in pools resulting from  
8 on-track super exotic bets, plus the breaks. The retention rate to be  
9 established is subject to the prior approval of the racing and wagering  
10 board. Such rate may not be changed more than once per calendar quarter  
11 to be effective on the first day of the calendar quarter. "Exotic bets"  
12 and "multiple bets" shall have the meanings set forth in section five  
13 hundred nineteen of this chapter. "Super exotic bets" shall have the  
14 meaning set forth in section three hundred one of this chapter. For  
15 purposes of this section, a "pick six bet" shall mean a single bet or  
16 wager on the outcomes of six races. The breaks are hereby defined as the  
17 odd cents over any multiple of five for payoffs greater than one dollar  
18 five cents but less than five dollars, over any multiple of ten for  
19 payoffs greater than five dollars but less than twenty-five dollars,  
20 over any multiple of twenty-five for payoffs greater than twenty-five  
21 dollars but less than two hundred fifty dollars, or over any multiple of  
22 fifty for payoffs over two hundred fifty dollars. Out of the amount so  
23 retained there shall be paid by such franchised corporation to the  
24 commissioner of taxation and finance, as a reasonable tax by the state  
25 for the privilege of conducting pari-mutuel betting on the races run at  
26 the race meetings held by such franchised corporation, the following  
27 percentages of the total pool for regular and multiple bets five per  
28 centum of regular bets and four per centum of multiple bets plus twenty

1 per centum of the breaks; for exotic wagers seven and one-half per  
2 centum plus twenty per centum of the breaks, and for super exotic bets  
3 seven and one-half per centum plus fifty per centum of the breaks. For  
4 the period June first, nineteen hundred ninety-five through September  
5 ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be  
6 three per centum and such tax on multiple wagers shall be two and one-  
7 half per centum, plus twenty per centum of the breaks. For the period  
8 September tenth, nineteen hundred ninety-nine through March thirty-  
9 first, two thousand one, such tax on all wagers shall be two and six-  
10 tenths per centum and for the period April first, two thousand one  
11 through December thirty-first, two thousand [twelve] thirteen, such tax  
12 on all wagers shall be one and six-tenths per centum, plus, in each such  
13 period, twenty per centum of the breaks. Payment to the New York state  
14 thoroughbred breeding and development fund by such franchised corpo-  
15 ration shall be one-half of one per centum of total daily on-track pari-  
16 mutuel pools resulting from regular, multiple and exotic bets and three  
17 per centum of super exotic bets provided, however, that for the period  
18 September tenth, nineteen hundred ninety-nine through March thirty-  
19 first, two thousand one, such payment shall be six-tenths of one per  
20 centum of regular, multiple and exotic pools and for the period April  
21 first, two thousand one through December thirty-first, two thousand  
22 [twelve] thirteen, such payment shall be seven-tenths of one per centum  
23 of such pools.

24 § 10. Subdivision 5 of section 1012 of the racing, pari-mutuel wager-  
25 ing and breeding law, as amended by section 10 of part S of chapter 61  
26 of the laws of 2011, is amended to read as follows:

27 5. The provisions of this section shall expire and be of no further  
28 force and effect after June thirtieth, two thousand [twelve] thirteen.



1 § 11. This act shall take effect immediately.

2 PART P

3 Section 1. Subdivision 3 of section 205 of the tax law, as added by  
4 section 8 of part U1 of chapter 62 of the laws of 2003, is amended to  
5 read as follows:

6 3. [From the] The moneys collected from the taxes imposed by sections  
7 one hundred eighty-three and one hundred eighty-four of this article on  
8 and after April first, two thousand [four] ~~twelve~~, after reserving  
9 amounts for refunds or reimbursements, shall be distributed as follows:  
10 twenty percent of such moneys shall be deposited to the credit of the  
11 dedicated highway and bridge trust fund established by section eighty-  
12 nine-b of the state finance law[. The remainder], ~~fifty-four percent of~~  
13 such moneys shall be deposited in the mass transportation operating  
14 assistance fund to the credit of the metropolitan mass transportation  
15 operating assistance account created pursuant to section eighty-eight-a  
16 of the state finance law and twenty-six percent of such moneys shall be  
17 deposited in the mass transportation operating assistance fund to the  
18 credit of the public transportation systems operating assistance account  
19 created pursuant to section eighty-eight-a of the state finance law.

20 § 2. This act shall take effect immediately and shall be deemed to be  
21 in full force and effect on and after April 1, 2012; provided, however,  
22 that the amendments to subdivision 3 of section 205 of the tax law made  
23 by section one of this act shall not affect the repeal of such subdivi-  
24 sion and shall be deemed to be repealed therewith.

25 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
26 sion, section or part of this act shall be adjudged by any court of

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

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