2015-16 NEW YORK STATE EXECUTIVE BUDGET

REVENUE ARTICLE VII LEGISLATION

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CONTENTS

Legislative Bill Drafting Commission
12574-01-5

S. --------
Senate

IN SENATE--Introduced by Sen

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

-------- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the Committee on

BUDGBI
(Enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2015-2016 state fiscal year)

RPT. STAR exempt. program

AN ACT

to amend the real property tax law, in relation to the maximum amount of savings allowable under the STAR exemption program (Part A); to amend the state finance law, the tax law and the administrative code of the city of New York, in relation to the New York city personal income tax rates (Part B); to amend the real property tax law, the tax law, and section 3 of part B of chapter 59 of the laws of 2012 amending the real

IN SENATE_____

Senate introducer's signature

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

s15 Addabbo	s49 Farley	s63 Kennedy	s40 Murphy	s10 Sanders
s46 Amedore	s17 Felder	s34 Klein	s54 Nozzolio	s23 Savino
s11 Avella	s02 Flanagan	s28 Krueger	s58 O'Mara	s41 Serino
s42 Bonacic	s55 Funke	s24 Lanza	s62 Ortt	s29 Serrano
s04 Boyle	s59 Gallivan	s39 Larkin	s60 Panepinto	s51 Seward
s44 Breslin	s12 Gianaris	s37 Latimer	s21 Parker	s09 Skelos
s38 Carlucci	s22 Golden	s01 LaValle	s13 Peralta	s26 Squadron
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s50 DeFrancisco	s06 Hannon	s05 Marcellino	s48 Ritchie	
s32 Diaz	s36 Hassell-Thompson	s43 Marchione	s33 Rivera	s53 Valesky
s18 Dilan		s07 Martins	s56 Robach	s08 Venditto
s31 Espaillat	s27 Hoylman	s25 Montgomery	s19 Sampson	s57 Young

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	a045 Cymbrowitz	a135 Johns	a003 Murray	a016 Schimel
a092 Abinanti	a053 Davila	a077 Joyner	a133 Nojay	a140 Schimminger
a084 Arroyo	a034 DenDekker	a020 Kaminsky	a037 Nolan	a076 Seawright
a035 Aubry	a054 Dilan	a094 Katz	a130 Oaks	a087 Sepulveda
a120 Barclay	a081 Dinowitz	a074 Kavanagh	a069 O'Donnell	a065 Silver
a106 Barrett	a147 DiPietro	a142 Kearns	a051 Ortiz	a027 Simanowitz
a060 Barron	a115 Duprey	a040 Kim	a091 Otis	a052 Simon
a082 Benedetto	a004 Englebright	a131 Kolb	a132 Palmesano	a036 Simotas
a042 Bichotte	a109 Fahy	a105 Lalor	a002 Palumbo	a104 Skartados
a079 Blake	a071 Farrell	a013 Lavine	a088 Paulin	a099 Skoufis
a117 Blankenbush	a126 Finch	a134 Lawrence	a141 Peoples-Stokes	a022 Solages
a062 Borelli	a008 Fitzpatrick	a050 Lentol		a114 Stec
a098 Brabenec	a124 Friend	a125 Lifton	a058 Perry	a110 Steck
a026 Braunstein	a095 Galef	a072 Linares	a059 Persaud	a127 Stirpe
a044 Brennan	a137 Gantt	a102 Lopez	a086 Pichardo	a112 Tedisco
a119 Brindisi	a007 Garbarino	a123 Lupardo	a089 Pretlow	a101 Tenney
a138 Bronson	a148 Giglio	a010 Lupinacci	a073 Quart	a001 Thiele
a046 Brook-Krasny	a080 Gjonaj	a121 Magee	a019 Ra	a061 Titone
a093 Buchwald	a066 Glick	a129 Magnarelli	a012 Raia	a031 Titus
a118 Butler	a023 Goldfeder	a064 Malliotakis	a006 Ramos	a055 Walker
a103 Cahill	a150 Goodell	a030 Markey	a078 Rivera	a146 Walter
a043 Camara	a075 Gottfried	a090 Mayer	a128 Roberts	a041 Weinstein
a145 Ceretto	a005 Graf	a108 McDonald	a056 Robinson	a024 Weprin
a033 Clark	a100 Gunther	a014 McDonough	a068 Rodriguez	a113 Woerner
a047 Colton	a139 Hawley	a017 McKevitt	a067 Rosenthal	a143 Wozniak
a032 Cook	a083 Heastie	a107 McLaughlin	a025 Rozic	a070 Wright
a144 Corwin	a028 Hevesi	a038 Miller	a116 Russell	a096 Zebrowski
a085 Crespo	a048 Hikind	a015 Montesano	a149 Ryan	
a122 Crouch	a018 Hooper	a136 Morelle	a009 Saladino	
a021 Curran	a097 Jaffee	a057 Mosley	a111 Santabarbara	
a063 Cusick	a011 Jean-Pierre	a039 Moya	a029 Scarborough	

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).

LBDC 12/19/14

property tax law and the tax law relating to the suspension of STAR exemptions of property owned by persons with outstanding tax liabilities, in relation to the suspension of STAR exemptions of property owned by persons with outstanding tax liabilities (Part C); to amend the real property tax law and the tax law, in relation to transitioning the school tax relief (STAR) exemption into a personal income tax credit, and to repeal subdivision 5 of section 520 of the real property tax law relating thereto (Part D); to amend the real property tax law, in relation to establishing a state-administered recoupment provision to the STAR exemption program (Part E); to amend the state finance law, in relation to making technical corrections to the school tax relief fund; and to provide one-time relief to STAR registrants who failed to file timely STAR exemption applications (Part F); to amend the tax law, in relation to the real property tax relief credit (Part G); to amend the tax law and the administrative code of the city of New York, in relation to making the limitation on charitable contribution deductions for certain taxpayers permanent (Part H); to amend the tax law, the administrative code of the city of New York and the labor law, in relation to making certain technical corrections (Part I); to amend the tax law, in relation to a report regarding the empire state commercial production tax credit; and to repeal section 9 of part V of chapter 62 of the laws of 2006, amending the tax law relating to the empire state commercial production tax credit, relating thereto (Part J); to amend the economic development law with relation to the eligibility of entertainment companies for the excelsior jobs program (Part K); to amend the tax law, in relation to costs includible in the investment credit base for the investment tax credit on masters for films, television shows and commercials (Part L); to amend the labor

law and the tax law, in relation to a program to provide tax incentives for employers employing at risk youth (Part M); to amend the tax law, in relation to the business income base rate (Part N); to amend the economic development law and the tax law, in relation to establishing a tax credit for employers who procure skills training for employees necessary to cultivate a talented workforce (Part O); to amend the tax law, in relation to imposing tax on wireless telecommunications businesses pursuant to sections 184 and 184-a of such law (Part P); to amend the tax law, in relation to corporation tax refunds or credits (Part Q); to amend the environmental conservation law, the tax law and the general municipal law, in relation to eligibility for participation in the brownfield cleanup program, assignment of the brownfield redevelopment tax credits and brownfield opportunity areas; to amend part H of chapter 1 of the laws of 2003, amending the tax law relating to brownfield redevelopment tax credits, remediated brownfield credit for real property taxes for qualified sites and environmental remediation insurance credits, in relation to tax credits for certain sites; to amend the environmental conservation law, in relation to hazardous waste generator fees and taxes; to amend the environmental conservation law and the state finance law, in relation to the environmental restoration program; and to repeal certain provisions of the environmental conservation law and the tax law relating thereto (Part R); to amend the business corporation law, the limited liability company law, the partnership law and the tax law, in relation to the biennial statements filed with the secretary of state (Part S); to amend the tax law in relation to making corrections to the corporate tax reform provisions; and repealing certain provisions of such law relating thereto (Part T); to amend the tax law, in relation to exempt-

ing certain items of tangible personal property furnished to customers by certain cider producers, breweries, and distilleries at tastings (Part U); to amend the tax law, in relation to the imposition of the sales and compensating use tax on prepaid mobile calling services (Part V); to amend the general municipal law, the public authorities law and the tax law, in relation to reforming the industrial development authority program and adding a tax clearance process (Part W); to amend the tax law, in relation to requiring marketplace providers collect sales tax (Part X); to amend the tax law, in relation to closing certain sales and compensating use tax avoidance strategies with regard to taxes imposed by and pursuant to the authority of articles 28 and 29 of the tax law (Part Y); to amend the tax law, in relation to exempting electricity provided by certain sources from the sales tax imposed by article 28 of the tax law and omitting such exemption from the taxes imposed pursuant to the authority of article 29 of the tax law, unless a locality elects otherwise; and to repeal subdivisions (n) and (p) of section 1210 of such law relating to tax exemptions imposed by resolution in cities having a population of one million or more persons (Part Z); to amend the tax law in relation to allowing a reimbursement of the petroleum business tax for highway diesel motor fuel used in farm production (Part AA); to amend the tax law, in relation to calculating the estate tax imposed under the tax rate table, clarifying the phase out date for certain gift add backs and disallowing deductions relating to intangible personal property for estates of non-resident decedents (Part BB); to amend the tax law in relation to requiring wholesalers of motor fuel to register and file returns (Part CC); to amend part Q of chapter 59 of the laws of 2013 amending the tax law relating to

serving an income execution with respect to individual tax debtors without filing a warrant, in relation to the effectiveness thereof (Part DD); to amend the tax law, in relation to the suspension of driver's licenses of persons who are delinquent in the payment of past-due tax liabilities, by lowering the driver's license suspension delinquent past-due tax liability threshold from $10,000 to $5,000 (Part EE); to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct; chapter 63 of the laws of 2001 amending chapter 20 of the laws of 2001 amending the military law and other laws relating to making appropriations for the support of government, in relation to extending certain provisions concerning the hospital excess liability pool and requiring a tax clearance for doctors and dentists to be eligible for such excess coverage; and to amend the tax law, in relation to enforcement of delinquent tax liabilities through tax clearances (Part FF); to amend the public authorities law and the tax law, in relation to authorizing clearance of past-due tax liabilities for state or local authority grant applicants (Part GG); to amend the tax law and the state finance law, in relation to allowing the commissioner of taxation and finance to enter into reciprocal tax collection agreements with other states (Part HH); to amend the tax law, in relation to multi-agency disclosure of certain information to other state agencies to enhance tax enforcement and other enforcement initiatives (Part II); to amend the general obligations law and the tax law, in relation to authorizing electronic tax clearances for professional and business licenses (Part JJ); to amend the civil service law and the tax law, in relation to tax clearances for applicants for civil service employment (Part KK); to amend the social

services law, in relation to the disclosure of certain information relating to a person receiving public assistance to the commissioner of the department of taxation and finance (Part LL); to amend the tax law, in relation to capital awards to vendor tracks (Part MM); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part NN); to amend the tax law and the penal law, in relation to video lottery gaming (Part OO); to amend the racing, pari-mutuel wagering and breeding law, in relation to a franchised corporation (Part PP); and to amend the administrative code of the city of New York, in relation to the taxation of business corporations (Part QQ)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2015-2016 state fiscal year. Each component is wholly contained within a Part identified as Parts A through QQ. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

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

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

ning with the two thousand fifteen-two thousand sixteen school year, the tax savings applicable to any portion shall not exceed the tax savings for the prior year. The tax savings attributable to the basic and enhanced exemptions shall be calculated separately. It shall be the responsibility of the commissioner to calculate tax savings limitations for purposes of this subdivision.

§ 2. This act shall take effect immediately.

PART B

Section 1. Subdivision 1 of section 54-f of the state finance law, as amended by section 1 of part EE of chapter 57 of the laws of 2010, is amended to read as follows:

1. Except as otherwise provided by law, the provisions of this section shall be utilized by the state to calculate the annual amount due to be paid to the city of New York by the state to reimburse such city for tax receipts foregone (a) as a result of [a] chapter three hundred eighty-nine of the laws of nineteen hundred ninety-seven [that reduced the rates of tax imposed pursuant to authority granted under section thirteen hundred one of the tax law and that created a new "state school tax reduction credit" against liabilities imposed pursuant to the authority granted the city by such section and other statutes authorizing the imposition of a personal income tax on the residents of such city], and (b) as a result of the tax rate adjustments made by [a] chapter fifty-seven of the laws of two thousand ten and by a chapter of the laws of two thousand fifteen, which amended this subdivision.

§ 2. Paragraphs 1, 2 and 3 of subsection (a) of section 1304 of the tax law, as amended by section 2 of part EE of chapter 57 of the laws of 2010, are amended to read as follows:

(1) Resident married individuals filing joint returns and resident surviving spouses. The tax under this section for each taxable year on the city taxable income of every city resident married individual who makes a single return jointly with his or her spouse under subsection (b) of section thirteen hundred six of this article and on the city taxable income of every city resident surviving spouse shall be determined in accordance with the following tables:

(A) For taxable years beginning after two thousand fourteen:

If the city taxable income is:	The tax is:
Not over $21,600	2.55% of the city taxable income
Over $21,600 but not over $45,000	$551 plus 3.1% of excess over $21,600
Over $45,000 but not over $90,000	$1,276 plus 3.15% of excess over $45,000
Over $90,000 but not over $500,000	$2,694 plus 3.2% of excess over $90,000
Over $500,000	$16,803 plus 3.4% of excess over $500,000

(B) For taxable years beginning after two thousand nine and before two thousand fifteen:

If the city taxable income is:	The tax is:

Not over $21,600	2.55% of the city taxable income
Over $21,600 but not over $45,000	$551 plus 3.1% of excess over $21,600
Over $45,000 but not over $90,000	$1,276 plus 3.15% of excess over $45,000
Over $90,000 but not over $500,000	$2,694 plus 3.2% of excess over $90,000
Over $500,000	$15,814 plus 3.4% of excess over $500,000

[(B) For taxable years beginning in two thousand one and two thousand two and for taxable years beginning after two thousand five and before two thousand ten:

If the city taxable income is:	The tax is:
Not over $21,600	2.55% of the city taxable income
Over $21,600 but not over $45,000	$551 plus 3.1% of excess over $21,600
Over $45,000 but not over $90,000	$1,276 plus 3.15% of excess over $45,000
Over $90,000	$2,694 plus 3.2% of excess over $90,000]

(2) Resident heads of households. The tax under this section for each taxable year on the city taxable income of every city resident head of a household shall be determined in accordance with the following tables:

(A) <u>For taxable years beginning after two thousand fourteen:</u>

If the city taxable income is:	The tax is:
Not over $14,400	2.55% of the city taxable income
Over $14,400 but not over $30,000	$367 plus 3.1% of excess over $14,400
Over $30,000 but not over $60,000	$851 plus 3.15% of excess over $30,000
Over $60,000 but not over $500,000	$1,796 plus 3.2% of excess over $60,000
Over $500,000	$16,869 plus 3.4% of excess over $500,000

(B) For taxable years beginning after two thousand nine and before two thousand fifteen:

If the city taxable income is:	The tax is:
Not over $14,400	2.55% of the city taxable income
Over $14,400 but not over $30,000	$367 plus 3.1% of excess over $14,400
Over $30,000 but not over $60,000	$851 plus 3.15% of excess over $30,000
Over $60,000 but not over $500,000	$1,796 plus 3.2% of excess over $60,000
Over $500,000	$15,876 plus 3.4% of excess Over $500,000

[(B) For taxable years beginning in two thousand one and two thousand two and for taxable years beginning after two thousand five and before two thousand ten:

If the city taxable income is:	The tax is:
Not over $14,400	2.55% of the city taxable income
Over $14,400 but not over $30,000	$367 plus 3.1% of excess over $14,400
Over $30,000 but not over $60,000	$851 plus 3.15% of excess over $30,000
Over $60,000	$1,796 plus 3.2% of excess over $60,000]

(3) Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. The tax under this section for each taxable year on the city taxable income of every city resident individual who is not a city resident married individual who makes a single return jointly with his or her spouse under subsection (b) of section thirteen hundred six of this article or a city resident head of household or a city resident surviving spouse, and on the city taxable income of every city resident estate and trust shall be determined in accordance with the following tables:

(A) For taxable years beginning after two thousand fourteen:

If the city taxable income is:	The tax is:
Not over $12,000	2.55% of the city taxable income
Over $12,000 but not over $25,000	$306 plus 3.1% of excess over $12,000
Over $25,000 but not over $50,000	$709 plus 3.15% of excess over $25,000
Over $50,000 but not	$1,497 plus 3.2% of excess

over $500,000	over $50,000
Over $500,000	$16,891 plus 3.4% of excess over $500,000

(B) For taxable years beginning after two thousand nine and before two thousand fifteen:

If the city taxable income is:	The tax is:
Not over $12,000	2.55% of the city taxable income
Over $12,000 but not over $25,000	$306 plus 3.1% of excess over $12,000
Over $25,000 but not over $50,000	$709 plus 3.15% of excess over $25,000
Over $50,000 but not over $500,000	$1,497 plus 3.2% of excess over $50,000
Over $500,000	$15,897 plus 3.4% of excess over $500,000

[(B) For taxable years beginning in two thousand one and two thousand two and for taxable years beginning after two thousand five and before two thousand ten:

If the city taxable income is:	The tax is:
Not over $12,000	2.55% of the city taxable income
Over $12,000 but not over $25,000	$306 plus 3.1% of excess over $12,000
Over $25,000 but not over $50,000	$709 plus 3.15% of excess over $25,000
Over $50,000	$1,497 plus 3.2% of excess over $50,000]

§ 3. Paragraphs 1, 2 and 3 of subdivision (a) of section 11-1701 of the administrative code of the city of New York, as amended by section 3 of part EE of chapter 57 of the laws of 2010, are amended to read as follows:

(1) Resident married individuals filing joint returns and resident surviving spouses. The tax under this section for each taxable year on the city taxable income of every city resident married individual who makes a single return jointly with his or her spouse under subdivision (b) of section 11-1751 of this chapter and on the city taxable income of every city resident surviving spouse shall be determined in accordance with the following tables:

(A) For taxable years beginning after two thousand fourteen:

If the city taxable income is:	The tax is:
Not over $21,600	2.55% of the city taxable income
Over $21,600 but not over $45,000	$551 plus 3.1% of excess over $21,600
Over $45,000 but not over $90,000	$1,276 plus 3.15% of excess over $45,000
Over $90,000 but not over $500,000	$2,694 plus 3.2% of excess over $90,000
Over $500,000	$16,803 plus 3.4% of excess over $500,000

(B) For taxable years beginning after two thousand nine and before two thousand fifteen:

If the city taxable income is:	The tax is:
Not over $21,600	2.55% of the city taxable income
Over $21,600 but not over $45,000	$551 plus 3.1% of excess over $21,600
Over $45,000 but not over $90,000	$1,276 plus 3.15% of excess over $45,000
Over $90,000 but not over $500,000	$2,694 plus 3.2% of excess over $90,000
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[(B) For taxable years beginning in two thousand one and two thousand two and for taxable years beginning after two thousand five and before two thousand ten:

If the city taxable income is:	The tax is:
Not over $21,600	2.55% of the city taxable income
Over $21,600 but not over $45,000	$551 plus 3.1% of excess over $21,600
Over $45,000 but not over $90,000	$1,276 plus 3.15% of excess over $45,000
Over $90,000	$2,694 plus 3.2% of excess over $90,000]

(2) Resident heads of households. The tax under this section for each taxable year on the city taxable income of every city resident head of a household shall be determined in accordance with the following tables:

(A) <u>For taxable years beginning after two thousand fourteen:</u>

If the city taxable income is:	The tax is:
Not over $14,400	2.55% of the city taxable income
Over $14,400 but not over $30,000	$367 plus 3.1% of excess over $14,400
Over $30,000 but not over $60,000	$851 plus 3.15% of excess over $30,000
Over $60,000 but not over $500,000	$1,796 plus 3.2% of excess over $60,000
Over $500,000	$16,869 plus 3.4% of excess over $500,000

(B) For taxable years beginning after two thousand nine and before two thousand fifteen:

If the city taxable income is:	The tax is:
Not over $14,400	2.55% of the city taxable income
Over $14,400 but not over $30,000	$367 plus 3.1% of excess over $14,400
Over $30,000 but not over $60,000	$851 plus 3.15% of excess over $30,000
Over $60,000 but not over $500,000	$1,796 plus 3.2% of excess over $60,000
Over $500,000	$15,876 plus 3.4% of excess over $500,000

[(B) For taxable years beginning in two thousand one and two thousand two and for taxable years beginning after two thousand five and before two thousand ten:

If the city taxable income is:	The tax is:
Not over $14,400	2.55% of the city taxable income
Over $14,400 but not over $30,000	$367 plus 3.1% of excess over $14,400
Over $30,000 but not over $60,000	$851 plus 3.15% of excess over $30,000
Over $60,000	$1,796 plus 3.2% of excess over $60,000]

(3) Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. The tax under this section for each taxable year on the city taxable income of every city resident individual who is not a married individual who makes a single return jointly with his or her spouse under subdivision (b) of section 11-1751 of this chapter or a city resident head of a household or a city resident surviving spouse, and on the city taxable income of every city resident estate and trust shall be determined in accordance with the following tables:

(A) For taxable years beginning after two thousand fourteen:

If the city taxable income is:	The tax is:
Not over $12,000	2.55% of the city taxable income
Over $12,000 but not over $25,000	$306 plus 3.1% of excess over $12,000
Over $25,000 but not over $50,000	$709 plus 3.15% of excess over $25,000

Over $50,000 but not over $500,000	$1,497 plus 3.2% of excess over $50,000
Over $500,000	$16,891 plus 3.4% of excess over $500,000

(B) For taxable years beginning after two thousand nine and before two thousand fifteen:

If the city taxable income is:	The tax is:
Not over $12,000	2.55% of the city taxable income
Over $12,000 but not over $25,000	$306 plus 3.1% of excess over $12,000
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Over $25,000 but not	$709 plus 3.15% of excess

over $50,000 over $25,000

Over $50,000 $1,497 plus 3.2% of excess over $50,000]

§ 4. Notwithstanding any provision of law to the contrary, the method of determining the amount to be deducted and withheld from wages on account of taxes imposed by or pursuant to the authority of article 30 of the tax law in connection with the implementation of the provisions of this act shall be prescribed by regulations of the commissioner of taxation and finance with due consideration to the effect such withholding tables and methods would have on the receipt and amount of revenue. The commissioner of taxation and finance shall adjust such withholding tables and methods in regard to taxable years beginning in 2015 and after in such manner as to result, so far as practicable, in withholding from an employee's wages an amount substantially equivalent to the tax reasonably estimated to be due for such taxable years as a result of the provisions of this act. Provided, however, for tax year 2015 the withholding tables shall reflect as accurately as practicable the full amount of tax year 2015 liability so that such amount is withheld by December 31, 2015. Any such regulations to implement a change in withholding tables and methods for tax year 2015 shall be adopted and effective as soon as practicable and the commissioner may adopt such regulations on an emergency basis notwithstanding anything to the contrary in section 202 of the state administrative procedure act. In carrying out his or her duties and responsibilities under this section, the commissioner of taxation and finance may accompany such a rule making procedure with a similar procedure with respect to the taxes required to be deducted and withheld by local laws imposing taxes pursuant to the authority of articles 30, 30-A and 30-B of the tax law, the provisions

of any other law in relation to such a procedure to the contrary notwithstanding.

§ 5. 1. Notwithstanding any provision of law to the contrary, no addition to tax shall be imposed for failure to pay the estimated tax in subsection (c) of section 685 of the tax law and subdivision (c) of section 11-1785 of the administrative code of the city of New York with respect to any underpayment of a required installment due prior to, or within thirty days of, the effective date of this act to the extent that such underpayment was created or increased by the amendments made by this act, provided, however, that the taxpayer remits the amount of any underpayment prior to or with his or her next quarterly estimated tax payment.

2. The commissioner of taxation and finance shall take steps to publicize the necessary adjustments to estimated tax and, to the extent reasonably possible, to inform the taxpayer of the tax liability changes made by this act.

§ 6. This act shall take effect immediately.

PART C

Section 1. The opening paragraph of paragraph (f) of subdivision 3 of section 425 of the real property tax law, as added by section 1 of part B of chapter 59 of the laws of 2012, is amended to read as follows:

Compliance with state tax obligations. [The] <u>A property shall not be eligible</u> [property's eligibility] for the STAR exemption [must not be] <u>if the property's eligibility has been</u> suspended pursuant to section one hundred seventy-one-y of the tax law due to the past-due state tax liabilities of one or more of its owners. Notwithstanding any provision

of law to the contrary, where a property's eligibility for a STAR exemption has been suspended pursuant to such section, the following provisions shall be applicable:

§ 2. Paragraphs (h) and (i) of subdivision 2 and subdivision 7 of section 171-y of the tax law, as added by section 2 of part B of chapter 59 of the laws of 2012, are amended to read as follows:

(h) [The procedures by which the department shall apply the amount of a taxpayer's lost STAR benefits as an offset against the amount of that taxpayer's past-due state tax liabilities.

(i)] Any other matter as the department shall deem necessary to carry out the provisions of this section.

7. Activities to collect state tax liabilities undertaken by the department pursuant to this section shall not in any way limit, restrict or impair the department from exercising any other authority to collect or enforce past-due state tax liabilities under any other applicable provision of law. [The amount by which a taxpayer's property tax liability increases as a result of the loss of the STAR exemption pursuant to paragraph (f) of subdivision three of section four hundred twenty-five of the real property tax law and this section shall be applied as an offset against the amount of the taxpayer's past-due state tax liability.] <u>If a taxpayer loses the STAR exemption pursuant to paragraph (f) of subdivision three of section four hundred twenty-five of the real property tax law and this section, the taxpayer shall lose any entitlement or claim of right to the STAR exemption for the applicable year.</u>

§ 3. Section 3 of part B of chapter 59 of the laws of 2012, amending the real property tax law and the tax law relating to suspension of STAR exemptions of property owned by persons with outstanding tax liabilities, is amended to read as follows:

§ 3. This act shall take effect immediately [and shall apply to the administration of the STAR exemption authorized by section 425 of the real property tax law for the 2013-2014, 2014-2015 and 2015-2016 school years].

§ 4. This act shall take effect immediately.

PART D

Section 1. Paragraph (a) of subdivision 6 of section 425 of the real property tax law, as amended by chapter 6 of the laws of 2010, and as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

(a) Generally. All owners of the property who primarily reside thereon and who are not subject to the provisions of subdivision fifteen of this section must jointly file an application for exemption with the assessor on or before the appropriate taxable status date. Such application may be filed by mail if it is enclosed in a postpaid envelope properly addressed to the appropriate assessor, deposited in a post office or official depository under the exclusive care of the United States postal service, and postmarked by the United States postal service on or before the applicable taxable status date. Each such application shall be made on a form prescribed by the commissioner, which shall require the applicant or applicants to agree to notify the assessor if their primary residence changes while their property is receiving the exemption. The assessor may request that proof of residency be submitted with the application. If the applicant requests a receipt from the assessor as proof of submission of the application, the assessor shall provide such receipt. If such request is made by other than personal request, the

applicant shall provide the assessor with a self-addressed postpaid envelope in which to mail the receipt.

§ 2. Section 425 of the real property tax law is amended by adding a new subdivision 15 to read as follows:

15. Transition to personal income tax credit. (a) Beginning with assessment rolls used to levy school district taxes for the two thousand fifteen -- two thousand sixteen school year, no application for an exemption under this section may be filed or approved if none of the applicants held title to the property on the taxable status date of the assessment roll that was used to levy school district taxes for the two thousand fourteen -- two thousand fifteen school year. In the event that an application is submitted to the assessor that cannot be approved due to this restriction, the assessor shall notify the applicant that he or she is required by law to deny the application, but that, in lieu of a STAR exemption, the applicant may claim the personal income tax credit authorized by subsection (ccc) of section six hundred six of the tax law if eligible, and that the applicant may contact the department of taxation and finance for further information. The commissioner shall provide a form for assessors to use, at their option, when making this notification. No assessor, board of assessment review or small claims hearing officer may grant a STAR exemption on the basis of an application that is not approvable due to this restriction.

(b) If the owners of a parcel that is receiving the STAR exemption authorized by this section want to claim the personal income tax credit authorized by subsection (ccc) of section six hundred six of the tax law in lieu of such exemption, they all must renounce that exemption in the manner provided by section four hundred ninety-six of this chapter, and must pay any required taxes, interest and penalties, on or before Decem-

ber thirty-first of the taxable year for which they want to claim the credit. Any such renunciation shall be irrevocable.

§ 3. Subdivision 2 of section 496 of the real property tax law, as added by section 3 of part N of chapter 58 of the laws of 2011, is amended to read as follows:

2. An application to renounce an exemption shall be made on a form prescribed by the commissioner and shall be filed with the county director of real property tax services no later than ten years after the levy of taxes upon the assessment roll on which the renounced exemption appears. The county director, after consulting with the assessor as appropriate, shall compute the total amount owed on account of the renounced exemption as follows:

(a) For each assessment roll on which the renounced exemption appears, the assessed value that was exempted shall be multiplied by the tax rate or rates that were applied to that assessment roll. Interest shall then be added to each such product at the rate prescribed by section nine hundred twenty-four-a of this chapter or such other law as may be applicable for each month or portion thereon since the levy of taxes upon such assessment roll.

(b) The sum of the calculations made pursuant to paragraph (a) of this subdivision with respect to all of the assessment rolls in question shall be determined.

(c) A processing fee of five hundred dollars shall be added to the sum determined pursuant to paragraph (b) of this subdivision, unless the provisions of paragraph (d) of this subdivision are applicable.

(d) If the applicant is renouncing a STAR exemption in order to qualify for the personal income tax credit authorized by subsection (ccc) of section six hundred six of the tax law, and no other exemptions are

being renounced on the same application, no processing fee shall be applicable.

§ 4. Subdivision 5 of section 520 of the real property tax law is REPEALED.

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

(ccc) School tax relief (STAR) credit. (1) Definitions. For purposes of this subsection:

(A) "Qualified taxpayer" means a resident individual of the state, who maintained his or her primary residence in this state on December thirty-first of the taxable year, who was an owner of that property on that date, who is precluded from receiving the STAR exemption by virtue of the provisions of subdivision fifteen of section four hundred twenty-five of the real property tax law, and who is required or chooses to file a return under this article.

(B) "Affiliated income" shall mean the combined income of all of the owners of the parcel who resided primarily thereon as of December thirty-first of the taxable year, and of any owners' spouses residing primarily thereon as of such date; provided that the income to be so combined shall be the "adjusted gross income" for the taxable year as reported for federal income tax purposes, or which would be reported as adjusted gross income if a federal income tax return were required to be filed, reduced by distributions, to the extent included in federal adjusted gross income, received from an individual retirement account and an individual retirement annuity.

(C) "Associated fiscal year" means the school district fiscal year that began on July first of the taxable year, or, in the case of a city

school district that is subject to article fifty-two of the education law, the city fiscal year that began on July first of the taxable year,

(D) "Owner" means:

(i) a person who owns a parcel in fee simple absolute or as a tenant in common, a joint tenant or a tenant by the entirety,

(ii) an owner of a present interest in a parcel under a life estate,

(iii) a vendee in possession under an installment contract of sale,

(iv) a beneficial owner under a trust,

(v) a tenant-stockholder of a cooperative apartment corporation who resides in a portion of real property owned by such cooperative apartment corporation, to the extent represented by his or her share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation,

(vi) a resident of a farm dwelling which is owned either by a corporation of which the resident is a shareholder, or by a partnership of which the resident is a partner, or

(vii) a resident of a dwelling, other than a farm dwelling, which is owned by a limited partnership of which the resident is a partner, provided that the limited partnership which holds title to the property does not engage in any commercial activity, that the limited partnership was lawfully created to hold title solely for estate planning and asset protection purposes, and that the partner or partners who primarily reside thereon personally pay all of the real property taxes and other costs associated with the property's ownership.

(E) "Qualifying taxes" means the school district taxes that were levied upon the taxpayer's primary residence for the associated fiscal year that were actually paid by the taxpayer during the taxable year;

or, in the case of a city school district that is subject to article fifty-two of the education law, the combined city and school district taxes that were levied upon the taxpayer's primary residence for the associated fiscal year that were actually paid by the taxpayer during the taxable year. In no case shall the term "qualifying taxes" be construed to include penalties or interest.

(F) "STAR exemption" means the school tax relief (STAR) exemption authorized by section four hundred twenty-five of the real property tax law.

(G) "STAR tax savings" means the tax savings attributable to the STAR exemption within a portion of a school district, as determined by the commissioner pursuant to subdivision two of section thirteen hundred six-a of the real property tax law.

(H) "STAR tax savings factor" means the average of the STAR tax savings in each portion of a school district in the associated fiscal year, as determined by the commissioner. Two STAR tax savings factors shall be determined for each school district, one relating to the basic STAR exemption, and the other relating to the enhanced STAR exemption.

(2) Allowance of credit. A qualified taxpayer shall be allowed a credit as provided in paragraph three or four of this subsection, whichever is applicable, against the taxes imposed by this article reduced by the credits permitted by this article, provided that the requirements set forth in the applicable subsection are satisfied. If the credit exceeds the tax as so reduced for such year under this article, the excess shall be treated as an overpayment, to be credited or refunded, without interest. If a qualified taxpayer is not required to file a return pursuant to section six hundred fifty-one of this article, a qualified taxpayer

may nevertheless receive the full amount of the credit to be credited or repaid as an overpayment, without interest.

(3) Determination of basic STAR credit. (A) Beginning with taxable years after two thousand fourteen, a basic STAR credit shall be available to a qualified taxpayer if the affiliated income of the parcel that serves as the taxpayer's primary residence is less than or equal to five hundred thousand dollars.

(B) Subject to the provisions of subparagraph (C) of this paragraph, such basic STAR credit shall be the lesser of:

(i) the basic STAR tax savings factor for the school district, or

(ii) the taxpayer's qualifying taxes.

(C) If the qualifying taxes paid by the taxpayer constituted only a portion of the total school district taxes that were levied upon the taxpayer's primary residence for the associated fiscal year, or in the case of a city school district that is subject to article fifty-two of the education law, if the qualifying taxes paid by the taxpayer constituted only a portion of the total combined city and school district taxes that were levied upon the taxpayer's primary residence for the associated fiscal year, the credit allowable to such taxpayer shall be equal to the amount determined pursuant to subparagraph (B) of this paragraph multiplied by the percentage which such portion represents.

(4) Determination of enhanced STAR credit. (A) Beginning with taxable years after two thousand fourteen, an enhanced STAR credit shall be available to a qualified taxpayer where both of the following conditions are satisfied:

(i) All of the owners of the parcel that serves as the taxpayer's primary residence are at least sixty-five years of age as of December thirty-first of the taxable year, or in the case of property owned by a

married couple or by siblings, at least one of the owners is at least sixty-five years of age as of that date. The term "siblings" as used herein shall have the same meaning as set forth in section four hundred sixty-seven of the real property tax law. In the case of property owned by a married couple, one of whom is sixty-five years of age or over, the credit, once allowed, shall not be disallowed because of the death of the older spouse so long as the surviving spouse is at least sixty-two years of age as of December thirty-first of the taxable year.

(ii) The affiliated income of the parcel that serves as the taxpayer's primary residence is less than or equal to the income standard for the taxable year established by the commissioner for the corresponding "income tax year" pursuant to clause (C) of subparagraph (i) of paragraph (b) of subdivision four of section four hundred twenty-five of the real property tax law for purposes of the enhanced STAR exemption.

(B) Subject to the provisions of subparagraph (C) of this paragraph, such credit shall be the lesser of:

(i) the enhanced STAR tax savings factor for the school district, or

(ii) the taxpayer's qualifying taxes.

(C) If the qualifying taxes paid by the taxpayer constituted only a portion of the total school district taxes that were levied upon the taxpayer's primary residence for the associated fiscal year, or in the case of a city school district that is subject to article fifty-two of the education law, if the qualifying taxes paid by the taxpayer constituted only a portion of the total combined city and school district taxes that were levied upon the taxpayer's primary residence for the associated fiscal year, the credit allowable to such taxpayer shall be equal to the amount determined pursuant to subparagraph (B) of this paragraph multiplied by the percentage which such portion represents.

(5) Disqualification. A taxpayer shall not qualify for the credit authorized by this subsection if the parcel that serves as the taxpayer's primary residence received the STAR exemption on the assessment roll upon which school district taxes for the associated fiscal year were levied. Provided, however, that the taxpayer may remove this disqualification by renouncing the exemption and making any required payments by December thirty-first of the taxable year, as provided by subdivision fifteen of section four hundred twenty-five of the real property tax law.

(6) Special cases. (A) In the case of property consisting of a cooperative apartment corporation that is described by paragraph (k) of subdivision two of section four hundred twenty-five of the real property tax law, the amount of the credit allowable with respect to a cooperative apartment shall be equal to sixty percent of the basic STAR tax savings factor for the school district, or sixty percent of the enhanced STAR tax savings factor for the school district, whichever is applicable. Provided, however, that in the case of a cooperative apartment corporation that is described by subparagraph (iv) of paragraph (k) of subdivision two of section four hundred twenty-five of the real property tax law, the credit allowable with respect to a cooperative apartment shall be equal to twenty percent of such factor.

(B) In the case of property consisting of a mobile home that is described by paragraph (l) of subdivision two of section four hundred twenty-five of the real property tax law, the amount of the credit allowable with respect to such mobile home shall be equal to twenty-five percent of the basic STAR tax savings factor for the school district, or twenty-five percent of the enhanced STAR tax savings factor for the school district, whichever is applicable.

(C) In the case of a primary residence that is located in two or more school districts, the applicable basic or enhanced STAR tax savings factor shall be determined as follows:

(i) determine the sum of the total school district taxes that were levied upon the taxpayer's primary residence for the associated fiscal year by each of the school districts in which the residence is located;

(ii) for each such school district, divide the total school district taxes that were levied upon the taxpayer's primary residence by that school district for the associated fiscal year by the sum determined in clause (i) of this subparagraph. Express the result as a percentage with two decimal places;

(iii) for each such school district, multiply the percentage determined in clause (ii) of this subparagraph by the basic or enhanced STAR tax savings factor, whichever is applicable; and

(iv) add the products determined in clause (iii) of this subparagraph.

(7) Waiver of secrecy. Where the commissioner has denied a taxpayer's claim for the credit authorized by this subsection in whole or in part on the grounds that the affiliated income of the parcel in question exceeds the applicable limit, the commissioner shall have the authority to reveal to that taxpayer the names and incomes of the other taxpayers whose incomes were included in the computation of such affiliated income.

(8) Proof of claim. The commissioner may require a qualified taxpayer to furnish the following information in support of his or her claim for credit under this subsection: affiliated income, the total school district taxes levied on the property for the associated fiscal year, or in the case of a city school district that is subject to article fifty-two of the education law, the total combined city and school district

taxes levied on the property for the associated fiscal year, the qualifying taxes paid by the taxpayer, the names and taxpayer identification numbers of all owners of the property and spouses who primarily reside on the property, the parcel identification number and all other information that may be required by the commissioner to determine the credit.

(9) Returns. If a qualified taxpayer is not required to file a return pursuant to section six hundred fifty-one of this article, a claim for a credit may be taken on a return filed with the commissioner within three years from the time it would have been required that a return be filed pursuant to such section had the qualified taxpayer had a taxable year ending on December thirty-first. Returns under this paragraph shall be in such form as shall be prescribed by the commissioner, which shall make available such forms and instructions for filing such returns.

(10) Administration. The provisions of this article, including the provisions of sections six hundred fifty-three, six hundred fifty-eight, and six hundred fifty-nine of this article and the provisions of part six of this article relating to procedure and administration, including the judicial review of the decisions of the commissioner, except so much of section six hundred eighty-seven of this article which permits a claim for credit or refund to be filed after the period provided for in paragraph nine of this subsection and except sections six hundred fifty-seven, six hundred eighty-eight and six hundred ninety-six of this article, shall apply to the provisions of this subsection in the same manner and with the same force and effect as if the language of those provisions had been incorporated in full into this subsection and had expressly referred to the credit allowed or returns filed under this subsection, except to the extent that any such provision is either inconsistent with a provision of this subsection or is not relevant to

this subsection. As used in such sections and such part, the term "taxpayer" shall include a qualified taxpayer under this subsection and, notwithstanding the provisions of subsection (e) of section six hundred ninety-seven of this article, where a qualified taxpayer has protested the denial of a claim for credit under this subsection and the time to file a petition for redetermination of a deficiency or for refund has not expired, he shall, subject to such conditions as may be set by the commissioner, receive such information (A) which is contained in any return filed under this article by a member of his or her household for the taxable year for which the credit is claimed, and (B) which the commissioner finds is relevant and material to the issue of whether such claim was properly denied.

§ 6. Paragraph 3 of subsection (bbb) of section 606 of the tax law, as added by section 1 of part FF of chapter 59 of the laws of 2014, is amended to read as follows:

(3) To be eligible for such credit, the taxpayer (or taxpayers filing joint returns) must meet the following criteria:

(A) For the two thousand fourteen taxable year, the taxpayer's primary residence must have qualified for the STAR exemption for the two thousand fourteen--two thousand fifteen school year, or would have so qualified if an application for such exemption had been submitted in a timely manner.

(B) For the two thousand fifteen taxable year, the taxpayer's primary residence must have qualified for the STAR exemption for the two thousand fifteen--two thousand sixteen school year, or would have so qualified if an application for such exemption had been submitted in a timely manner. Alternatively, the taxpayer must have qualified for the school

tax relief credit authorized by subsection (ccc) of this section for the two thousand fifteen taxable year.

(C) For the two thousand sixteen taxable year, the taxpayer's primary residence must have qualified for the STAR exemption for the two thousand sixteen--two thousand seventeen school year, or would have so qualified if an application for such exemption had been submitted in a timely manner. Alternatively, the taxpayer must have qualified for the school tax relief credit authorized by subsection (ccc) of this section for the two thousand sixteen taxable year.

§ 7. This act shall take effect immediately, provided that the provisions of paragraph (b) of subdivision 15 of section 425 of the real property tax law as added by section two of this act shall apply to all applications for STAR exemptions beginning with assessment rolls used to levy school district taxes for the 2015-2016 school year, including those submitted prior to the effective date of this act; and provided further that in the event that any such application shall have been approved prior to the effective date of this act, such approval shall be deemed void. In such cases, the assessor shall provide the applicant with the notice required by paragraph (b) of subdivision 15 of section 425 of the real property tax law as added by section two of this act.

PART E

Section 1. Section 425 of the real property tax law is amended by adding a new subdivision 15 to read as follows:

15. Recoupment of exemptions by commissioner. (a) Generally. If the commissioner should determine, based upon data collected under the STAR registration program, that property improperly received the basic STAR

exemption on one or more of the six preceding assessment rolls, the commissioner shall treat the exemption as an improperly granted exemption and proceed in the manner provided by this subdivision; provided that final assessment rolls that were filed prior to April first, two thousand eleven shall not be subject to the provisions of this subdivision.

(b) Procedure. The tax savings attributable to each such improperly granted exemption shall be collected from the owners whose property improperly received the exemption for the applicable year, together with interest and a penalty as specified in this subdivision, by utilizing any of the procedures for collection, levy, and lien of personal income tax set forth in article twenty-two of the tax law, any other relevant procedures referenced within the provisions of that article, and any other law as may be applicable, so far as practicable when recouping the exemption amount pursuant to this subdivision, except that:

(i) prior to directing that an improperly granted exemption be recouped pursuant to this subdivision, the commissioner shall provide the owners with notice and an opportunity to show the commissioner that the exemption was properly granted. If the owners fail to respond to such notice within forty-five days from the mailing thereof, or if their response does not show to the commissioner's satisfaction that the eligibility requirements were in fact satisfied, the commissioner shall proceed with the recoupment of the improperly granted exemption in accordance with the provisions of this subdivision; and

(ii) notwithstanding the provisions of paragraph (b) of subdivision six of this section, neither an assessor nor a board of assessment review has the authority to consider an objection to the recoupment of an exemption pursuant to this subdivision, nor may such an action be

reviewed in a proceeding to review an assessment pursuant to title one or one-A of article seven of this chapter. Such an action may only be challenged before the department. If an owner is dissatisfied with the department's final determination, the owner may appeal that determination to the board in a form and manner to be prescribed by the commissioner. Such appeal shall be filed within forty-five days from the issuance of the department's final determination. If dissatisfied with the board's determination, the owner may seek judicial review thereof pursuant to article seventy-eight of the civil practice law and rules. The owner shall otherwise have no right to challenge such final determination in a court action, administrative proceeding, including but not limited to an administrative proceeding pursuant to article forty of the tax law, or any other form of legal recourse against the commissioner, the department, the board, the assessor, or any other person, state agency, or local government.

(c) The amount to be recouped for each improperly received exemption shall have interest added at the rate prescribed by section nine hundred twenty-four-a of this chapter or such other law as may be applicable for each month or portion thereof since the levy of school taxes upon such assessment roll. In addition, a penalty shall be imposed in the amount of either five hundred dollars or twenty percent of the improperly received tax savings, whichever is greater, not to exceed two thousand five hundred dollars, provided that the commissioner may waive such penalty for good cause shown.

(d) In the event that a revocation of prior exemption pursuant to subdivision twelve of this section or a voluntary renunciation of the STAR exemption pursuant to section four hundred ninety-six of this chap-

ter has occurred, the provisions of this subdivision shall not be applicable to the exemptions so revoked or voluntarily renounced.

§ 2. This act shall take effect immediately.

PART F

Section 1. Subdivision 3 of section 97-rrr of the state finance law, as amended by section 8 of part F of chapter 109 of the laws of 2006, is amended to read as follows:

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

§ 2. One-time relief for unenrolled registrants. (1) As used in this section, the term "unenrolled registrant" means a person who purchased or otherwise acquired a primary residence after the taxable status date for the 2013 assessment roll and who registered that property with the commissioner of taxation and finance in accordance with subdivision 14 of section 425 of the real property tax law on or before the taxable status date for the 2014 assessment roll, but who failed to file an application for the STAR exemption for that property in accordance with subdivision 6 of section 425 of the real property tax law on or before the taxable status date for the 2014 assessment roll.

(2) If the commissioner of taxation and finance is informed on or before October 1, 2015, that an owner of property is an unenrolled

registrant, and if such commissioner finds that the unenrolled registrant's property would have qualified for the STAR exemption authorized by section 425 of the real property tax law on the 2014 assessment roll if a completed application had been filed with the appropriate assessor in a timely manner, then the commissioner of taxation and finance is authorized to remit directly to the property owner or owners the tax savings that the STAR exemption would have yielded if the STAR exemption had been granted on the 2014 assessment roll. When remitting such amount, the commissioner of taxation and finance shall advise the property owner or owners that such payment is subject to recovery by such commissioner if the property owner or owners do not apply for and qualify for the STAR exemption on the 2015 assessment roll, or if it should otherwise be found to have been erroneously remitted to such property owner or owners.

(3) The amounts payable under this act shall be paid from the account established for the payment of STAR benefits to late registrants pursuant to subparagraph (iii) of paragraph (a) of subdivision 14 of section 425 of the real property tax law.

(4) The provisions of part 6 of article 22 of the tax law relating to the collection of a tax imposed by such article that has been assessed and remains unpaid shall apply to the recovery authorized by subdivision two of this section of a payment found to have been erroneously made pursuant to this act to an ineligible property owner or owners in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this act except to the extent that any provision of such article is either inconsistent with a provision of this act or is not relevant to this act as determined by the commissioner of taxation and finance. Furthermore, for purposes of

applying the provisions of part 6 of article 22 of the tax law, where the terms "tax" and "taxes" appear in such article, such terms shall be construed to mean "a payment or payments erroneously made pursuant to this act to an ineligible property owner or owners".

§ 3. This act shall take effect immediately.

PART G

Section 1. Section 606 of the tax law is amended by adding a new subsection (e-3) to read as follows:

(e-3) Real property tax relief credit. (1) For purposes of this subsection:

(A) "Qualified taxpayer" means a resident individual of the state who has occupied the same residence for six months or more of the taxable year as his or her primary residence, and is required or chooses to file a return under this article.

(B) "Qualified gross income" means the adjusted gross income of the qualified taxpayer for the taxable year as reported for federal income tax purposes, or which would be reported as adjusted gross income if a federal income tax return were required to be filed. In computing qualified gross income, the net amount of loss reported on Federal Schedule C, D, E, or F shall not exceed three thousand dollars per schedule. In addition, the net amount of any other separate category of loss shall not exceed three thousand dollars. The aggregate amount of all losses included in computing qualified gross income shall not exceed fifteen thousand dollars.

(C) "Residence" means a dwelling in this state owned or rented by the taxpayer and used by the taxpayer as his or her primary residence, and

so much of the land abutting it, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home, and may consist of a part of a multi-dwelling or multi-purpose building including a cooperative or condominium, and rental units within a single dwelling. Residence includes a trailer or mobile home, used exclusively for residential purposes and defined as real property pursuant to paragraph (g) of subdivision twelve of section one hundred two of the real property tax law.

(D) "Qualifying real property taxes" means all real property taxes, special ad valorem levies and special assessments, exclusive of penalties and interest, levied by a taxing jurisdiction with a cap-compliant budget on the residence owned and occupied by a qualified taxpayer and paid by the qualified taxpayer during the taxable year.

(i) For purposes of this subsection, a "cap-compliant budget" for a school district subject to section two thousand twenty-three-a of the education law means a budget for which the chief executive officer of such school district has certified, no later than the twenty-first day of the fiscal year to which it applies, to the state comptroller, the commissioner of taxation and finance and the commissioner of education, in a form and manner prescribed by the state comptroller in consultation with the commissioner of taxation and finance and the commissioner of education, that the budget so adopted does not exceed the tax levy limit prescribed by such section. A "cap-compliant budget" for a local government subject to section three-c of the general municipal law shall mean a budget for which the chief executive officer or budget officer of such local government unit has certified, no later than the twenty-first day of the fiscal year to which it applies, to the state comptroller and the commissioner of taxation and finance, in a form and manner prescribed by

the state comptroller in consultation with the commissioner of taxation and finance, that the adopted budget of such local government did not require, and the governing body of such local government did not enact or approve, a local law or resolution to override the tax levy limit prescribed by such section, or, if the governing body of the local government did enact a local law or approve a resolution to override such tax levy limit, that such local law or resolution was subsequently repealed. If a certification required by this paragraph has been made and the actual tax levy of the taxing jurisdiction exceeds the applicable tax levy limit, the excess amount shall be placed in reserve and used in the manner prescribed by subdivision five of section twenty thousand twenty-three-a of the education law or subdivision six of section three-c of the general municipal law, whichever is applicable, even if a tax levy in excess of the tax levy limit had been duly authorized for the applicable fiscal year in accordance with such section.

(ii) For tax year two thousand fifteen: (a) only real property taxes levied by school districts with cap-compliant budgets shall constitute qualifying real property taxes; and (b) for property owners with a qualifying residence located in a city containing a school district which is subject to article fifty-two of the education law to account for the fact that the school district is fiscally dependent upon the city, real property taxes levied by such school districts shall be determined by multiplying total real property taxes levied by a taxing jurisdiction with a cap-compliant budget and paid during the taxable year by sixty-six percent.

(iii) In a city with a population of one million or more, the restriction in clause (i) of this subparagraph that taxes must be levied by a taxing jurisdiction with a cap-compliant budget does not apply.

However, real property taxes, special ad valorem levies, and special assessments levied by such city shall constitute qualifying real property taxes only if taxes levied in the state outside such city are required for purposes of this credit to be levied by taxing jurisdictions with cap-compliant budgets.

(iv) A qualified taxpayer may elect to include any additional amount that would have been levied by a taxing jurisdiction and paid by the qualified taxpayer in the absence of an exemption from real property taxation pursuant to section four hundred sixty-seven of the real property tax law. If tenant-stockholders in a cooperative housing corporation have met the requirements of section two hundred sixteen of the internal revenue code by which they are allowed a deduction for real estate taxes, the amount of taxes so allowable, or which would be allowable if the taxpayer had filed returns on a cash basis, shall be qualifying real property taxes. If a residence is an integral part of a larger unit, qualifying real property taxes shall be limited to that amount of such taxes paid as may be reasonably apportioned to such residence. If a taxpayer owns and occupies two residences during different periods in the same taxable year, qualifying real property taxes shall be the sum of the prorated qualifying real property taxes attributable to the taxpayer during the periods such taxpayer occupies each of such residences. If the taxpayer owns and occupies a residence for part of the taxable year and rents a residence for part of the same taxable year, it may include the proration of qualifying real property taxes on the residence owned. Provided, however, for purposes of the credit allowed under this subsection, qualifying real property taxes may be included by a qualified taxpayer only to the extent that such taxpayer or the spouse of such taxpayer, occupying such residence for one hundred eighty-three

days or more of the taxable year, owns or has owned the residence and paid such taxes.

(E) "Real property tax equivalent" means thirteen and three-quarters percent of the adjusted rent actually paid in the taxable year by a taxpayer solely for the right of occupancy of its New York residence for the taxable year. If a residence is rented to two or more individuals as cotenants, or such individuals share in the payment of a single rent for the right of occupancy of such residence, one or more of which individuals shares such residence, real property tax equivalent is that portion of thirteen and three-quarters percent of the adjusted rent paid in the taxable year that reflects that portion of the rent attributable to the qualified taxpayer. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen, the real property tax equivalent shall be equal to sixty-six percent of the real property tax equivalent as otherwise defined in this paragraph.

(F) "Adjusted rent" means rental paid for the right of occupancy of a residence, excluding charges for heat, gas, electricity, furnishings and board. Where charges for heat, gas, electricity, furnishings or board are included in rental but where such charges and the amount thereof are not separately set forth in a written rental agreement, for purposes of determining adjusted rent the qualified taxpayer shall reduce rental paid as follows:

(i) For heat, or heat and gas, deduct six percent of rental paid.

(ii) For heat, gas and electricity, deduct eight percent of rental paid.

(iii) For heat, gas, electricity and furnishings, deduct ten percent of rental paid.

(iv) For heat, gas, electricity, furnishings and board, deduct twenty percent of rental paid.

If the commissioner determines that the adjusted rent shown on the return is excessive, the commissioner may reduce such rent, for purposes of the computation of the credit, to an amount substantially equivalent to rent for a comparable accommodation.

(G) "Excess real property tax" means the excess of qualifying real property taxes or the excess of real property tax equivalent over the following percentage of qualified gross income:

For the years beginning in:	Percentage:
2015	3.75%
2016 and after	6.0%

(2) A qualified taxpayer shall be allowed a credit as provided in paragraph three of this subsection against the taxes imposed by this article. If the credit exceeds the tax for such year under this article, the excess shall be treated as an overpayment, to be credited or refunded, without interest. If a qualified taxpayer is not required to file a return pursuant to section six hundred fifty-one of this article, a qualified taxpayer may nevertheless receive the full amount of the credit to be credited or repaid as an overpayment, without interest.

(3) (A) For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen, the credit amount allowed under this subsection shall equal the applicable percentage of the excess real property tax, calculated as follows:

(i) For qualified taxpayers whose qualified gross income is seventy-five thousand dollars or less, the applicable percentage shall be four-teen percent.

(ii) For qualified taxpayers whose qualified gross income is greater than seventy-five thousand dollars but less than or equal to one hundred fifty thousand dollars, the applicable percentage shall be the difference between (a) fourteen percent and (b) five percent multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income as defined by this subsection and seventy-five thousand dollars, and the denominator of which is seventy-five thousand dollars.

(iii) For qualified taxpayers whose qualified gross income is greater than one hundred fifty thousand dollars but less than or equal to two hundred fifty thousand dollars, the applicable percentage shall be the difference between (a) nine percent and (b) six percent multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and one hundred fifty thousand dollars, and the denominator of which is one hundred thousand dollars.

(B) For taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen, the credit amount allowed under this subsection shall equal the applicable percentage of the excess real property tax, calculated as follows:

(i) For qualified taxpayers whose qualified gross income equals seventy-five thousand dollars or less, the applicable percentage shall be twenty-three percent.

(ii) For qualified taxpayers whose qualified gross income is greater than seventy-five thousand dollars but less than or equal to one hundred fifty thousand dollars, the applicable percentage shall be the difference between (a) twenty-three percent and (b) ten percent multiplied by a fraction, the numerator of which is the difference between the quali-

fied taxpayer's qualified gross income and seventy-five thousand dollars, and the denominator of which is seventy-five thousand dollars.

(iii) For qualified taxpayers whose qualified gross income is greater than one hundred fifty thousand dollars but less than or equal to two hundred fifty thousand dollars, the applicable percentage shall be the difference between (a) thirteen percent and (b) six percent multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and one hundred fifty thousand dollars, and the denominator of which is one hundred thousand dollars.

(C) For taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen, the credit amount allowed under this subsection shall equal the applicable percentage of the excess real property tax, calculated as follows:

(i) For qualified taxpayers whose qualified gross income is seventy-five thousand dollars or less, the applicable percentage shall be thirty-six percent.

(ii) For qualified taxpayers whose qualified gross income is greater than seventy-five thousand dollars but less than or equal to one hundred fifty thousand dollars, the applicable percentage shall be the difference between (a) thirty-six percent and (b) nine percent multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and seventy-five thousand dollars, and the denominator of which is seventy-five thousand dollars.

(iii) For qualified taxpayers whose qualified gross income is greater than one hundred fifty thousand dollars but less than or equal to two hundred fifty thousand dollars, the applicable percentage shall be the difference between (a) twenty-seven percent and (b) seventeen percent

multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and one hundred fifty thousand dollars, and the denominator of which is one hundred thousand dollars.

(D) For taxable years beginning on or after January first, two thousand eighteen, the credit amount allowed under this subsection shall equal the applicable percentage of the excess real property tax, calculated as follows:

(i) For qualified taxpayers whose qualified gross income is seventy-five thousand dollars or less, the applicable percentage shall be fifty percent.

(ii) For qualified taxpayers whose qualified gross income is greater than seventy-five thousand dollars but less than or equal to one hundred fifty thousand dollars, the applicable percentage shall be the difference between (a) fifty percent and (b) ten percent multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and seventy-five thousand dollars, and the denominator of which is seventy-five thousand dollars.

(iii) For qualified taxpayers whose qualified gross income is greater than one hundred fifty thousand dollars but less than or equal to two hundred fifty thousand dollars, the applicable percentage shall be the difference between (a) forty percent and (b) twenty-five percent multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and one hundred fifty thousand dollars, and the denominator of which is one hundred thousand dollars.

(4) Notwithstanding the provisions of paragraph three of this subsection, the maximum credit determined under such paragraph, and

thereby allowed under this subsection, shall not exceed the amount calculated under this paragraph, for each respective year as indicated.

(A) For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen, the maximum credit amount allowed under this subsection shall be calculated as follows:

(i) For qualified taxpayers whose qualified gross income is seventy-five thousand dollars or less, the maximum credit allowed shall be five hundred dollars.

(ii) For qualified taxpayers whose qualified gross income is greater than seventy-five thousand dollars but less than or equal to one hundred fifty thousand dollars, the maximum credit allowed shall be the difference between (a) five hundred dollars and (b) one hundred fifty dollars multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and seventy-five thousand dollars, and the denominator of which is seventy-five thousand dollars.

(iii) For qualified taxpayers whose qualified gross income is greater than one hundred fifty thousand dollars but less than or equal to two hundred fifty thousand dollars, the maximum credit allowed shall be the difference between (a) three hundred fifty dollars and (b) one hundred fifty dollars multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and one hundred fifty thousand dollars, and the denominator of which is one hundred thousand dollars.

(B) For taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen, the maxi-

mum credit amount allowed under this subsection shall be calculated as follows:

(i) For qualified taxpayers whose qualified gross income is seventy-five thousand dollars or less, the maximum credit allowed shall be one thousand dollars.

(ii) For qualified taxpayers whose qualified gross income is greater than seventy-five thousand dollars but less than or equal to one hundred fifty thousand dollars, the maximum credit allowed shall be the difference between (a) one thousand dollars and (b) two hundred fifty dollars multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and seventy-five thousand dollars, and the denominator of which is seventy-five thousand dollars.

(iii) For qualified taxpayers whose qualified gross income is greater than one hundred fifty thousand dollars but less than or equal to two hundred fifty thousand dollars, the maximum credit allowed shall be the difference between (a) seven hundred fifty dollars and (b) two hundred fifty dollars multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and one hundred fifty thousand dollars, and the denominator of which is one hundred thousand dollars.

(C) For taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen, the maximum credit amount allowed under this subsection shall be calculated as follows:

(i) For qualified taxpayers whose qualified gross income is seventy-five thousand dollars or less, the maximum credit allowed shall be one thousand six hundred dollars.

(ii) For qualified taxpayers whose qualified gross income is greater than seventy-five thousand dollars but less than or equal to one hundred fifty thousand dollars, the maximum credit allowed shall be the difference between (a) one thousand six hundred dollars and (b) four hundred dollars multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and seventy-five thousand dollars, and the denominator of which is seventy-five thousand dollars.

(iii) For qualified taxpayers whose qualified gross income is greater than one hundred fifty thousand dollars but less than or equal to two hundred fifty thousand dollars, the maximum credit allowed shall be the difference between (a) one thousand two hundred dollars and (b) four hundred dollars multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and one hundred fifty thousand dollars, and the denominator of which is one hundred thousand dollars.

(D) For taxable years beginning on or after January first, two thousand eighteen, the maximum credit amount allowed under this subsection shall be calculated as follows:

(i) For qualified taxpayers whose qualified gross income equals seventy-five thousand dollars or less, the maximum credit allowed shall be two thousand dollars.

(ii) For qualified taxpayers whose qualified gross income is greater than seventy-five thousand dollars but less than or equal to one hundred fifty thousand dollars, the maximum credit allowed shall be the difference between (a) two thousand dollars and (b) five hundred dollars multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and seventy-five

thousand dollars, and the denominator of which is seventy-five thousand dollars.

(iii) For qualified taxpayers whose qualified gross income is greater than one hundred fifty thousand dollars but less than or equal to two hundred fifty thousand dollars, the maximum credit allowed shall be the difference between (a) one thousand five hundred dollars and (b) five hundred dollars multiplied by a fraction, the numerator of which is the difference between the qualified taxpayer's qualified gross income and one hundred fifty thousand dollars, and the denominator of which is one hundred thousand dollars.

(5) Notwithstanding the provisions of paragraph three of this subsection, for a qualified taxpayer who paid rent on his or her qualifying residence the maximum credit determined under paragraph three of this subsection, and thereby allowed under this subsection, shall not exceed the amount calculated under this paragraph, for each respective year as indicated.

(A) For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen and qualifying residences located in:

(i) the city of New York, and the counties of Nassau, Suffolk, Rockland, Westchester, Putnam, Orange and Dutchess, the maximum credit allowed shall be two hundred dollars;

(ii) all other counties in the state, the maximum credit allowed shall be one hundred fifty dollars.

(B) For taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen and qualifying residences located in:

(i) the city of New York, and the counties of Nassau, Suffolk, Rockland, Westchester, Putnam, Orange and Dutchess, the maximum credit allowed shall be five hundred dollars;

(ii) all other counties in the state, the maximum credit allowed shall be three hundred seventy-five dollars.

(C) For taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen and qualifying residences located in:

(i) the city of New York, and the counties of Nassau, Suffolk, Rockland, Westchester, Putnam, Orange and Dutchess, the maximum credit allowed shall be six hundred fifty dollars;

(ii) all other counties in the state, the maximum credit allowed shall be four hundred fifty dollars.

(D) For taxable years beginning on or after January first, two thousand eighteen and qualifying residences located in:

(i) the city of New York, and the counties of Nassau, Suffolk, Rockland, Westchester, Putnam, Orange and Dutchess, the maximum credit allowed shall be seven hundred fifty dollars;

(ii) all other counties in the state, the maximum credit shall be five hundred dollars.

(6) If a qualified taxpayer occupies a residence for a period of less than twelve months during the taxable year or occupies two or more residences during different periods in such taxable year, the credit allowed pursuant to this subsection shall be computed in such manner as the commissioner may, by regulation, prescribe in order to properly reflect the credit or portion thereof attributable to such residence or residences and such period or periods.

(7) The commissioner may prescribe that the credit under this subsection shall be determined in whole or in part by the use of tables prescribed by such commissioner. Such tables shall set forth the credit to the nearest dollar.

(8) No credit shall be granted under this subsection:

(A) To a property owner if qualified gross income for the taxable year exceeds two hundred fifty thousand dollars.

(B) To a tenant if qualified gross income for the taxable year exceeds one hundred fifty thousand dollars.

(C) To a property owner unless: (i) the property is used for residential purposes; (ii) not more than twenty percent of the rental income, if any, from the property is from rental for nonresidential purposes; and (iii) the property is occupied as a residence in whole or in part by one or more of the owners of the property.

(D) To an individual with respect to whom a deduction under subsection (c) of section one hundred fifty-one of the internal revenue code is allowable to another taxpayer for the taxable year.

(E) With respect to a residence that is wholly exempted from real property taxation.

(F) To an individual who is not a resident individual of the state for the entire taxable year.

(9) The right to claim a credit or the portion of a credit, where such credit has been divided under this subsection, shall be personal to the qualified taxpayer and shall not survive his or her death, but such right may be exercised on behalf of a claimant by his or her legal guardian or attorney in fact during his or her lifetime.

(10) If a qualified taxpayer is not required to file a return pursuant to section six hundred fifty-one of this article, a claim for a credit

may be taken on a return filed with the commissioner within three years from the time it would have been required that a return be filed pursuant to such section had the qualified taxpayer had a taxable year ending on December thirty-first. Returns under this paragraph shall be in such form as shall be prescribed by the commissioner, who shall make available such forms and instructions for filing such returns.

(11) The commissioner may require a qualified taxpayer to furnish the following information in support of his or her claim for credit under this subsection: qualified gross income; real property taxes levied or that would have been levied in the absence of an exemption from real property tax pursuant to section four hundred sixty-seven of the real property tax law; and all other information which may be required by the commissioner to determine the credit.

(12) The provisions of this article, including the provisions of sections six hundred fifty-three, six hundred fifty-eight, and six hundred fifty-nine of this article and the provisions of part six of this article relating to procedure and administration, including the judicial review of the decisions of the commissioner, except so much of section six hundred eighty-seven of this article which permits a claim for credit or refund to be filed after the period provided for in paragraph nine of this subsection and except sections six hundred fifty-seven, six hundred eighty-eight and six hundred ninety-six of this article, shall apply to the provisions of this subsection in the same manner and with the same force and effect as if the language of those provisions had been incorporated in full into this subsection and had expressly referred to the credit allowed or returns filed under this subsection, except to the extent that any such provision is either inconsistent with a provision of this subsection or is not relevant to this subsection. As

used in such sections and such part, the term "taxpayer" shall include a qualified taxpayer under this subsection and, notwithstanding the provisions of subsection (e) of section six hundred ninety-seven of this article, where a qualified taxpayer has protested the denial of a claim for credit under this subsection and the time to file a petition for redetermination of a deficiency or for refund has not expired, he or she shall, subject to such conditions as may be set by the commissioner, receive such information which the commissioner finds is relevant and material to the issue of whether such claim was properly denied.

(13) The commissioner shall prepare a written report after December thirty-first of each calendar year, which shall contain statistical information regarding the credits granted on or before such dates under this subsection during such calendar year. Copies of the report shall be submitted by the commissioner to the governor, the temporary president of the senate, the speaker of the assembly, the chairman of the senate finance committee and the chairman of the assembly ways and means committee within forty-five days of December thirty-first. Such report shall contain, but need not be limited to, the number of credits and the average amount of such credits allowed; and of those, the number of credits and the average amount of such credits allowed to qualified taxpayers in each county; and of those, the number of credits and the average amount of such credits allowed to qualified taxpayers whose qualified gross income falls within each of the qualified gross income ranges set forth in this subsection.

§ 2. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2015.

PART H

Section 1. Subsection (g) of section 615 of the tax law, as amended by section 1 of part D of chapter 59 of the laws of 2013, is amended to read as follows:

(g)(1) With respect to an individual whose New York adjusted gross income is over one million dollars and no more than ten million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning after two thousand nine [and before two thousand sixteen]. With respect to an individual whose New York adjusted gross income is over one million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning in two thousand nine [or after two thousand fifteen].

(2) With respect to an individual whose New York adjusted gross income is over ten million dollars, the New York itemized deduction shall be an amount equal to twenty-five percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning after two thousand nine [and ending before two thousand sixteen].

§ 2. Subdivision (g) of section 11-1715 of the administrative code of the city of New York, as added by section 2 of part D of chapter 59 of the laws of 2013, is amended to read as follows:

(g) (1) With respect to an individual whose New York adjusted gross income is over one million dollars but no more than ten million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section

one hundred seventy of the internal revenue code for taxable years beginning after two thousand nine [and before two thousand sixteen]. With respect to an individual whose New York adjusted gross income is over one million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning in two thousand nine [or after two thousand fifteen].

(2) With respect to an individual whose New York adjusted gross income is over ten million dollars, the New York itemized deduction shall be an amount equal to twenty-five percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning after two thousand nine [and ending before two thousand sixteen].

§ 3. This act shall take effect immediately.

PART I

Section 1. Paragraph 41 of subsection (c) of section 612 of the tax law, as added by section 1 of part KK of chapter 59 of the laws of 2014, is amended to read as follows:

(41) The amount of any award paid to a volunteer firefighter or volunteer ambulance worker from a length of service defined contribution plan or defined benefit plan as provided for in articles eleven-A, eleven-AA, eleven-AAA and eleven-AAAA of the general municipal law, to the extent that such award is includable in gross income for federal income tax purposes; provided, however, that such award is not distributed in the form of a lump sum distribution, as defined in subparagraph [(A)] (D) of

paragraph four of subsection (e) of section four hundred two of the internal revenue code and taxed under section six hundred three of this article; and provided, further, that such award is not distributed to a taxpayer who has not attained the age of fifty-nine and one-half years.

§ 2. Paragraph 37 of subdivision (c) of section 11-1712 of the administrative code of the city of New York, as added by section 2 of part KK of chapter 59 of the laws of 2014, is amended to read as follows:

(37) The amount of any award paid to a volunteer firefighter or volunteer ambulance worker from a length of service defined contribution plan or defined benefit plan as provided for in articles eleven-A, eleven-AA, eleven-AAA and eleven-AAAA of the general municipal law, to the extent that such award is includable in gross income for federal income tax purposes; provided, however, that such award is not distributed in the form of a lump sum distribution, as defined in subparagraph [(A)] (D) of paragraph four of subsection (e) of section four hundred two of the internal revenue code and taxed under section six hundred three of the tax law; and provided, further, that such award is not distributed to a taxpayer who has not attained the age of fifty-nine and one-half years.

§ 3. Paragraph 3-a of subsection (c) of section 612 of the tax law, as amended by chapter 760 of the laws of 1992, is amended to read as follows:

(3-a) Pensions and annuities received by an individual who has attained the age of fifty-nine and one-half, not otherwise excluded pursuant to paragraph three of this subsection, to the extent includible in gross income for federal income tax purposes, but not in excess of twenty thousand dollars, which are periodic payments attributable to personal services performed by such individual prior to his retirement from employment, which arise (i) from an employer-employee relationship

or (ii) from contributions to a retirement plan which are deductible for federal income tax purposes. However, the term "pensions and annuities" shall also include distributions received by an individual who has attained the age of fifty-nine and one-half from an individual retirement account or an individual retirement annuity, as defined in section four hundred eight of the internal revenue code, and distributions received by an individual who has attained the age of fifty-nine and one-half from self-employed individual and owner-employee retirement plans which qualify under section four hundred one of the internal revenue code, whether or not the payments are periodic in nature. Nevertheless, the term "pensions and annuities" shall not include any lump sum distribution, as defined in subparagraph [(A)] (D) of paragraph four of subsection (e) of section four hundred two of the internal revenue code and taxed under section six hundred three of this article. Where a husband and wife file a joint state personal income tax return, the modification provided for in this paragraph shall be computed as if they were filing separate state personal income tax returns. Where a payment would otherwise come within the meaning of the term "pensions and annuities" as set forth in this paragraph, except that such individual is deceased, such payment shall, nevertheless, be treated as a pension or annuity for purposes of this paragraph if such payment is received by such individual's beneficiary.

§ 4. Subparagraph (B) of paragraph (1) of subsection (e-1) of section 606 of the tax law, as added by section 2 of part K of chapter 59 of the laws of 2014, is amended to read as follows:

(B) "Household" or "members of the household" means a qualified taxpayer and all other persons, not necessarily related, who have the same residence and share its furnishings, facilities and accommodations.

Such terms shall not include a tenant, subtenant, roomer or boarder who is not related to the qualified taxpayer in any degree specified in [paragraphs one through eight of subsection (a)] subparagraphs (A) through (G) of paragraph two of subsection (d) of section one hundred fifty-two of the internal revenue code. Provided, however, no person may be a member of more than one household at one time.

§ 5. Subparagraph (D) of paragraph (1) of subsection (e-1) of section 606 of the tax law, as added by section 2 of part K of chapter 59 of the laws of 2014, is amended to read as follows:

(D) "Residence" means a dwelling in this state, in a city with a population of over one million, owned or rented by the taxpayer, and so much of the land abutting it, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home, and may consist of a part of a multi-dwelling or multi-purpose building including a cooperative or condominium, and rental units within a single dwelling. Residence includes a trailer or mobile home, used exclusively for residential purposes and defined as real property pursuant to paragraph (g) of subdivision twelve of section one hundred two of the real property tax law.

§ 6. Subparagraph (B) of paragraph 1 of subsection (e) of section 606 of the tax law, as amended by chapter 28 of the laws of 1987, is amended to read as follows:

(B) "Household" or "members of the household" means a qualified taxpayer and all other persons, not necessarily related, who have the same residence and share its furnishings, facilities and accommodations. Such terms shall not include a tenant, subtenant, roomer or boarder who is not related to the qualified taxpayer in any degree specified in [paragraphs one through eight of subsection (a)] subparagraphs (A)

through (G) of paragraph two of subsection (d) of section one hundred fifty-two of the internal revenue code. Provided, however, no person may be a member of more than one household at one time.

§ 7. Paragraph 1 of subsection (b) of section 806 of the tax law, as added by section 2 of part DD of chapter 59 of the laws of 2014, is amended to read as follows:

(1) The commissioner may require the filing of a combined return which, in addition to the return provided for in subsection (b) of section eight hundred four of this article, may also include any of the returns required to be filed by a [resident individual of New York state] taxpayer pursuant to the provisions of section six hundred fifty-one of this chapter and which may be required to be filed by such [individual] taxpayer pursuant to any local law enacted pursuant to the authority of article thirty, thirty-A or thirty-B of this chapter.

§ 8. Paragraph 1 and clause (ii) of subparagraph (B) of paragraph 2 of subsection (xx) of section 606 of the tax law, as added by section 4 of part R of chapter 59 of the laws of 2014, are amended to read as follows:

(1) A qualified New York manufacturer will be allowed a credit equal to twenty percent of the real property tax it paid during the taxable year for real property owned by such manufacturer in New York which was principally used during the taxable year for manufacturing to the extent not deducted in computing [federal] New York adjusted gross income. This credit will not be allowed if the real property taxes that are the basis for this credit are included in the calculation of another credit claimed by the taxpayer.

(ii) In addition, the term real property tax includes taxes paid by the taxpayer upon real property principally used during the taxable year

by the taxpayer in manufacturing where the taxpayer leases such real property from an unrelated third party if the following conditions are satisfied: (I) the tax must be paid by the taxpayer as lessee pursuant to explicit requirements in a written lease, and (II) the taxpayer as lessee has paid such taxes directly to the taxing authority and has received a written receipt for payment of taxes from the taxing authority. [In the case of a combined group that constitutes a qualified New York manufacturer, the conditions in the preceding sentence are satisfied if one corporation in the combined group is the lessee and another corporation in the combined group makes the payments to the taxing authority.]

§ 9. Subsection (yy) of section 606 of the tax law, as added by section 4 of part T of chapter 59 of the laws of 2014, is amended to read as follows:

(yy) The tax-free NY area excise tax on telecommunication services credit. A taxpayer that is a business or owner of a business that is located in a tax-free NY area approved pursuant to article twenty-one of the economic development law shall be allowed a credit equal to the excise tax on telecommunication services imposed by section one hundred eighty-six-e of this chapter and passed through to such business during the taxable year to the extent not otherwise deducted in computing [federal] <u>New York</u> adjusted gross income. This credit may be claimed only where any tax imposed by such section one hundred eighty-six-e has been separately stated on a bill from the provider of telecommunication services and paid by such taxpayer with respect to such services rendered within a tax-free NY area during the taxable year. If the amount of the credit allowed under this subsection for any taxable year exceeds the taxpayer's tax for such year, the excess will be treated as

an overpayment to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest will be paid thereon.

§ 10. Subparagraph (i) of paragraph 2 of subdivision (b) and subdivision (d) of section 25-b of the labor law, as added by section 1 of part MM of chapter 59 of the laws of 2014, are amended to read as follows:

(i) who is deemed to have a developmental disability, as that term is defined in subdivision twenty-two of section 1.03 of the mental hygiene law and who is certified by the education department or the office for people with developmental disabilities[:

(A)] as a person with a disability which constitutes or results in a substantial handicap to employment; and

[(B) as a person having completed or as receiving services under an individualized written rehabilitation plan approved by the education department or other state agency responsible for providing vocational rehabilitation services to such individual; and]

(d) To participate in the [developmentally disabled works] <u>workers with disabilities</u> tax credit program, an employer must submit an application (in a form prescribed by the commissioner) to the commissioner [no later than November thirtieth of the prior year]. The commissioner shall establish guidelines that specify requirements for employers to participate in the program including criteria for certifying qualified employees. Any regulations that the commissioner determines are necessary may be adopted on an emergency basis notwithstanding anything to the contrary in section two hundred two of the state administrative procedure act. Such requirements may include the types of industries that the employers are engaged in.

§ 11. This act shall take effect immediately, provided, however that:

(i) sections one and two of this act shall be deemed to have been in full force and effect on and after the effective date of part KK of chapter 59 of the laws of 2014;

(ii) sections four and five of this act shall be deemed to have been in full force and effect on and after the effective date of part K of chapter 59 of the laws of 2014, provided, however, that amendments to subsection (e-1) of section 606 of the tax law made by sections four and five of this act shall not affect the repeal of such subsection and shall be deemed repealed therewith;

(iii) section seven of this act shall be deemed to have been in full force and effect on and after the effective date of part DD of chapter 59 of the laws of 2014;

(iv) section eight of this act shall be deemed to have been in full force and effect on and after the effective date of part R of chapter 59 of the laws of 2014;

(v) section nine of this act shall be deemed to have been in full force and effect on and after the effective date of part T of chapter 59 of the laws of 2014;

(vi) section ten of this act shall be deemed to have been in full force and effect on and after the effective date of part MM of chapter 59 of the laws of 2014; and

(vii) the amendments to section 25-b of the labor law made by section ten of this act, shall not affect the repeal of such section and shall be deemed repealed therewith.

PART J

Section 1. Section 9 of part V of chapter 62 of the laws of 2006 is REPEALED.

§ 2. Subdivision (c) of section 28 of the tax law, as amended by section 45 of part A of chapter 59 of the laws of 2014, is relettered subdivision (d) and a new subdivision (c) is added to read as follows:

(c) The department of economic development shall submit, on or before December first of each year, to the governor, the director of the division of the budget, the temporary president of the senate, and the speaker of the assembly an annual report including, but not limited to, the following information regarding the previous calendar year:

(1) the total dollar amount of credits allocated, the name and address of each qualified commercial production company allocated credits under this section, the total amount of credits allocated to each qualified commercial production company, the total amount of qualified production costs and production costs for each qualified commercial production company, and the estimated number of employees, credit-eligible man hours, and credit-eligible wages associated with each qualified commercial production company allocated credits under this section;

(2) for qualified commercial production companies that were allocated credit pursuant to subparagraph (ii) of paragraph two of subdivision (a) of this section: the name and address of each qualified commercial production company, the total dollar amount of credits allocated, the total amount of credits allocated to each qualified commercial production company, total qualified production costs and production costs for each qualified production company, and the estimated number of employees, credit-eligible man hours, and credit-eligible wages associated with each qualified commercial production company that filmed or recorded a qualified commercial within the district;

(3) for qualified commercial production companies that were allocated credit pursuant to subparagraph (iii) of paragraph two of subdivision (a) of this section: the name and address of each qualified commercial production company, the total dollar amount of credits allocated, the total amount of credits allocated to each qualified commercial production company, total qualified production costs and production costs for each qualified production company, and the estimated number of employees, credit-eligible man hours, and credit-eligible wages associated with each qualified commercial production company that filmed or recorded a qualified commercial outside the district; and

(4) the amount of credits reallocated to all eligible qualified commercial production companies pursuant to subparagraph (iii) of paragraph two of subdivision (a) of this section.

(5) The report may also include any recommendations for changes in the calculation or administration of the credit, recommendations regarding continuing modification or repeal of this credit, and any other information regarding this credit as may be useful and appropriate.

§ 3. This act shall take effect immediately with the first report being due December 1, 2016, with regard to credits allocated in calendar year 2015.

PART K

Section 1. Subdivisions 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 of section 352 of the economic development law, as added by section 1 of part MM of chapter 59 of the laws of 2010, subdivision 12 as amended by section 1 of part G of chapter 61 of the laws of 2011, are amended to read as follows:

7. "Entertainment company" means a corporation, partnership, limited partnership, or other entity principally engaged in the production or post production of (i) motion pictures, which shall include feature-length films and television films, (ii) instructional videos, (iii) televised commercial advertisements, (iv) animated films or cartoons, (v) music videos, (vi) television programs, which shall include, but not be limited to, television series, television pilots, and single television episodes, (vii) video games, other than those embedded and used exclusively in advertising, promotional websites or microsites, or (viii) programs primarily intended for radio broadcast. "Entertainment company" shall not include an entity (i) principally engaged in the live performance of events, including, but not limited to, theatrical productions, concerts, circuses, and sporting events, (ii) principally engaged in the production of content intended primarily for industrial, corporate or institutional end-users, (iii) principally engaged in the production of fundraising films or programs, or (iv) engaged in the production of content for which records are required under section 2257 of title 18, United States code, to be maintained with respect to any performer in such production.

8. "Financial services data centers or financial services customer back office operations" means operations that manage the data or accounts of existing customers or provide product or service information and support to customers of financial services companies, including banks, other lenders, securities and commodities brokers and dealers, investment banks, portfolio managers, trust offices, and insurance companies.

[8.] 9. "Investment zone" shall mean an area within the state that had been designated under paragraph (i) of subdivision (a) and subdivision

(d) of section nine hundred fifty-eight of the general municipal law that was wholly contained within up to four distinct and separate contiguous areas as of the date immediately preceding the date the designation of such area expired pursuant to section nine hundred sixty-nine of the general municipal law.

[9.] 10. "Manufacturing" means the process of working raw materials into products suitable for use or which gives new shapes, new quality or new combinations to matter which has already gone through some artificial process by the use of machinery, tools, appliances, or other similar equipment. "Manufacturing" does not include an operation that involves only the assembly of components, provided, however, the assembly of motor vehicles or other high value-added products shall be considered manufacturing.

[10.] 11. "Net new jobs" means [jobs created in this state that]:

(a) jobs created in this state that (i) are new to the state[;],

[(b)] (ii) have not been transferred from employment with another business located in this state including from a related person in this state[;],

[(c)] (iii) are either full-time wage-paying jobs or equivalent to a full-time wage-paying job requiring at least thirty-five hours per week[;], and

[(d)] (iv) are filled for more than six months[.]; or

(b) jobs obtained by an entertainment company in this state (i) as a result of the termination of a licensing agreement with another entertainment company, (ii) that the commissioner determines to be at risk of leaving the state as a direct result of the termination, (iii) that are either full-time wage-paying jobs or equivalent to a full-time wage-pay-

ing job requiring at least thirty-five hours per week, and (iv) that are filled for more than six months.

[11.] 12. "Participant" means a business entity that:

(a) has completed an application prescribed by the department to be admitted into the program;

(b) has been issued a certificate of eligibility by the department;

(c) has demonstrated that it meets the eligibility criteria in section three hundred fifty-three and subdivision two of section three hundred fifty-four of this article; and

(d) has been certified as a participant by the commissioner.

[12.] 13. "Preliminary schedule of benefits" means the maximum aggregate amount of each component of the tax credit that a participant in the excelsior jobs program is eligible to receive pursuant to this article. The schedule shall indicate the annual amount of each component of the credit a participant may claim in each of its ten years of eligibility. The preliminary schedule of benefits shall be issued by the department when the department approves the application for admission into the program. The commissioner may amend that schedule, provided that the commissioner complies with the credit caps in section three hundred fifty-nine of this article.

[13.] 14. "Qualified investment" means an investment in tangible property (including a building or a structural component of a building) owned by a business enterprise which:

(a) is depreciable pursuant to section one hundred sixty-seven of the internal revenue code;

(b) has a useful life of four years or more;

(c) is acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code;

(d) has a situs in this state; and

(e) is placed in service in the state on or after the date the certificate of eligibility is issued to the business enterprise.

[14.] 15. "Regionally significant project" means (a) a manufacturer creating at least fifty net new jobs in the state and making significant capital investment in the state; (b) a business creating at least twenty net new jobs in agriculture in the state and making significant capital investment in the state, (c) a financial services firm, distribution center, or back office operation creating at least three hundred net new jobs in the state and making significant capital investment in the state, [or] (d) a scientific research and development firm creating at least twenty net new jobs in the state, and making significant capital investment in the state or (e) an entertainment company creating or obtaining at least two hundred net new jobs in the state and making significant capital investment in the state. Other businesses creating three hundred or more net new jobs in the state and making significant capital investment in the state may be considered eligible as a regionally significant project by the commissioner as well. The commissioner shall promulgate regulations pursuant to section three hundred fifty-six of this article to determine what constitutes significant capital investment for each of the project categories indicated in this subdivision and what additional criteria a business must meet to be eligible as a regionally significant project, including, but not limited to, whether a business exports a substantial portion of its products or services outside of the state or outside of a metropolitan statistical area or county within the state.

[15.] 16. "Related person" means a "related person" pursuant to subparagraph (c) of paragraph three of subsection (b) of section four hundred sixty-five of the internal revenue code.

[16.] 17. "Remuneration" means wages and benefits paid to an employee by a participant in the excelsior jobs program.

[17.] 18. "Research and development expenditures" mean the expenses of the business enterprise that are qualified research expenses under the federal research and development credit under section forty-one of the internal revenue code and are attributable to activities conducted in the state. If the federal research and development credit has expired, then the research and development expenditures shall be calculated as if the federal research and development credit structure and definition in effect in federal tax year two thousand nine were still in effect.

[18.] 19. "Scientific research and development" means conducting research and experimental development in the physical, engineering, and life sciences, including but not limited to agriculture, electronics, environmental, biology, botany, biotechnology, computers, chemistry, food, fisheries, forests, geology, health, mathematics, medicine, oceanography, pharmacy, physics, veterinary, and other allied subjects. For the purposes of this article, scientific research and development does not include medical or veterinary laboratory testing facilities.

[19.] 20. "Software development" means the creation of coded computer instructions and includes new media as defined by the commissioner in regulations.

§ 2. Subdivisions 1, 3, and 5 of section 353 of the economic development law, subdivisions 1 and 5 as amended by section 2 of part G of chapter 61 of the laws of 2011 and subdivision 3 as amended by section 1

of part C of chapter 68 of the laws of 2013, are amended to read as follows:

1. To be a participant in the excelsior jobs program, a business entity shall operate in New York state predominantly:

(a) as a financial services data center or a financial services back office operation;

(b) in manufacturing;

(c) in software development and new media;

(d) in scientific research and development;

(e) in agriculture;

(f) in the creation or expansion of back office operations in the state;

(g) in a distribution center; [or]

(h) in an industry with significant potential for private-sector economic growth and development in this state as established by the commissioner in regulations promulgated pursuant to this article. In promulgating such regulations the commissioner shall include job and investment criteria; or

(i) as an entertainment company.

3. For the purposes of this article, in order to participate in the excelsior jobs program, a business entity operating predominantly in manufacturing must create at least ten net new jobs; a business entity operating predominately in agriculture must create at least five net new jobs; a business entity operating predominantly as a financial service data center or financial services customer back office operation must create at least fifty net new jobs; a business entity operating predominantly in scientific research and development must create at least five net new jobs; a business entity operating predominantly in software

development must create at least five net new jobs; a business entity creating or expanding back office operations must create at least fifty net new jobs; a business entity operating predominantly as an entertainment company must create or obtain at least one hundred net new jobs; or a business entity operating predominantly as a distribution center in the state must create at least seventy-five net new jobs, notwithstanding subdivision five of this section; or a business entity must be a regionally significant project as defined in this article; or

5. A not-for-profit business entity, a business entity whose primary function is the provision of services including personal services, business services, or the provision of utilities, and a business entity engaged predominantly in the retail or entertainment industry, other than a business operating as an entertainment company as defined in this article, and a company engaged in the generation or distribution of electricity, the distribution of natural gas, or the production of steam associated with the generation of electricity are not eligible to receive the tax credit described in this article.

§ 3. Subdivision 1 of section 354 of the economic development law, as amended by section 3 of part G of chapter 61 of the laws of 2011, is amended as follows:

1. A business enterprise must submit a completed application as prescribed by the commissioner. An application made by an entertainment company must be submitted by June first, two thousand fifteen. An application may be recommended by entities, including but not limited to, those created pursuant to subdivision (e) of section nine hundred fifty-seven of the general municipal law.

§ 4. Subdivision 6 of section 355 of the economic development law, as amended by section 4 of part G of chapter 61 of the laws of 2011, is amended to read as follows:

6. Claim of tax credit. The business enterprise shall be allowed to claim the credit as prescribed in section thirty-one of the tax law. No costs used by an entertainment company as the basis for the allowance of a tax credit described in this section shall be used by such entertainment company to claim any other credit allowed pursuant to the tax law.

§ 5. This act shall take effect immediately.

PART L

Section 1. Paragraph (a) of subdivision 1 of section 210-B of the tax law, as added by section 17 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(a) A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article. The amount of the credit shall be the percent provided for hereinbelow of the investment credit base. The investment credit base is the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings, described in paragraph (b) of this subdivision, less the amount of the nonqualified nonrecourse financing with respect to such property to the extent such financing would be excludible from the credit base pursuant to section 46(c)(8) of the internal revenue code (treating such property as section thirty-eight property irrespective of whether or not it in fact constitutes section thirty-eight property).

If, at the close of a taxable year following the taxable year in which such property was placed in service, there is a net decrease in the amount of nonqualified nonrecourse financing with respect to such property, such net decrease shall be treated as if it were the cost or other basis of property described in paragraph (b) of this subdivision acquired, constructed, reconstructed or erected during the year of the decrease in the amount of nonqualified nonrecourse financing. Provided, however, that the investment credit base of a master of a film, television show or commercial shall only include those costs associated with the creation, production or reproduction of such film, television show or commercial incurred within the state; provided, further, that the investment credit base of a master shall not include those costs used by the taxpayer or another taxpayer in the calculation of any other tax credit allowed under this chapter. In the case of a combined report the term investment credit base shall mean the sum of the investment credit base of each corporation included on such report. The percentage to be used to compute the credit allowed pursuant to this subdivision shall be five percent with respect to the first three hundred fifty million dollars of the investment credit base, and four percent with respect to the investment credit base in excess of three hundred fifty million dollars, except that in the case of research and development property at the option of the taxpayer the applicable percentage shall be nine.

§ 2. Section 211 of the tax law is amended by adding a new subdivision 15 to read as follows:

15. Notwithstanding the provisions of subdivision eight of this section, in order to administer the limitation in subdivision one of section two hundred ten-B of this article regarding the investment credit base of a master of a film, television show or commercial, the

commissioner may disclose to a taxpayer claiming the investment credit for costs associated with the creation, production or reproduction of a film, television show or commercial pursuant to such section information included in a report or a return of another taxpayer filed pursuant to this chapter claiming a tax credit under this chapter relating to costs associated with the creation, production or reproduction of such film, television show or commercial.

§ 3. Paragraph 1 of subsection (a) of section 606 of the tax law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

(1) A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article. The amount of the credit shall be the per cent provided for hereinbelow of the investment credit base. The investment credit base is the cost or other basis, for federal income tax purposes, of tangible personal property and other tangible property, including buildings and structural components of buildings, described in paragraph two of this subsection, less the amount of the nonqualified nonrecourse financing with respect to such property to the extent such financing would be excludible from the credit base pursuant to section 46(c)(8) of the internal revenue code (treating such property as section thirty-eight property irrespective of whether or not it in fact constitutes section thirty-eight property). If, at the close of a taxable year following the taxable year in which such property was placed in service, there is a net decrease in the amount of nonqualified nonrecourse financing with respect to such property, such net decrease shall be treated as if it were the cost or other basis of property described in paragraph two of this subsection acquired, constructed, reconstructed or erected during the year of the

decrease in the amount of nonqualified nonrecourse financing. Provided, however, that the investment credit base of a master of a film, television show or commercial shall only include those costs associated with the creation, production or reproduction of such film, television show or commercial incurred within the state; provided, further, that the investment credit base of a master shall not include those costs used by the taxpayer or another taxpayer in the calculation of any other tax credit allowed under this chapter. The percentage to be used to compute the credit allowed pursuant to this subsection shall be that percentage appearing in column two which is opposite the appropriate period in column one in which the tangible personal property was acquired, constructed, reconstructed or erected, as the case may be:

Column 1	Column 2
After December 31, 1968 and prior to January 1, 1974	one per cent
After December 31, 1973 and prior to January 1, 1978	two per cent
After December 31, 1977 and prior to January 1, 1979	three per cent
After December 31, 1978 and prior to June 1, 1981	four per cent
After May 31, 1981 and prior to July 1, 1982	five per cent
After June 30, 1982 and before January 1, 1987	six per cent
After December 31, 1986	four per cent, except that in the

case of research and development property the applicable percentage shall be seven

Provided, however, that in the case of an acquisition, construction, reconstruction or erection which was commenced in any one period and continued or completed in any subsequent period the credit shall be the sum of the portions of the investment credit base attributable to each such period, which portion with respect to each such period shall be ascertained by multiplying such investment credit base by a fraction the numerator of which shall be the expenditures paid or incurred during such period for such purposes and the denominator of which shall be the total of all expenditures paid or incurred for such acquisition, construction, reconstruction or erection, multiplied by the allowable percentage for each such period.

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

(3-b) Notwithstanding the provisions of paragraph one of this subsection, in order to administer the limitation in paragraph one of subsection (a) of section six hundred six of this article regarding the investment credit base of a master of a film, television show or commercial, the commissioner may disclose to a taxpayer claiming the investment credit for costs associated with the creation, production or reproduction of a film, television show or commercial pursuant to such section information included in a report or a return of another taxpayer filed pursuant to this chapter claiming a tax credit under this chapter relating to costs associated with the creation, production or reproduction of such film, television show or commercial.

§ 5. Subparagraph (vi) of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(vi) for taxable years beginning on or after January first, two thousand fourteen, the amount prescribed by this paragraph for a taxpayer which is a qualified New York manufacturer, shall be computed at the rate of zero percent of the taxpayer's business income base. The term "manufacturer" shall mean a taxpayer which during the taxable year is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing. However, the generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity shall not be qualifying activities for a manufacturer under this subparagraph. Moreover, the combined group shall be considered a "manufacturer" for purposes of this subparagraph only if the combined group during the taxable year is principally engaged in the activities set forth in this paragraph, or any combination thereof. A taxpayer or a combined group shall be "principally engaged" in activities described above if, during the taxable year, more than fifty percent of the gross receipts of the taxpayer or combined group, respectively, are derived from receipts from the sale of goods produced by such activities. <u>However, the license of a master of a film, television show or commercial shall not constitute the sale of a good under this subparagraph.</u> In computing a combined group's gross receipts, intercorporate receipts shall be eliminated. A "qualified New York manufacturer" is a manufacturer which has property in New York which is described in subdivision one of section two hundred ten-B of this article and either

(I) the adjusted basis of such property for federal income tax purposes at the close of the taxable year is at least one million dollars or (II) all of its real and personal property is located in New York. A taxpayer or, in the case of a combined report, a combined group, that does not satisfy the principally engaged test may be a qualified New York manufacturer if the taxpayer or the combined group employs during the taxable year at least two thousand five hundred employees in manufacturing in New York and the taxpayer or the combined group has property in the state used in manufacturing, the adjusted basis of which for federal income tax purposes at the close of the taxable year is at least one hundred million dollars.

§ 6. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2016.

PART M

Section 1. Section 25-a of the labor law, as added by section 1 of part D of chapter 56 of the laws of 2011, subdivision (a) as amended by section 3, subdivision (c) as amended by section 4 and subdivision (f) as amended by section 5 of part U of chapter 59 of the laws of 2014, and subdivision (b) as amended by section 1 and subdivision (d) as amended by section 2 of part DD of chapter 59 of the laws of 2013, is amended to read as follows:

§ 25-a. Power to administer the [New York] urban youth [works] jobs program tax credit [program]. (a) The commissioner is authorized to establish and administer the [New York youth works tax credit] program established under this section to provide tax incentives to employers for employing at risk youth in part-time and full-time positions. There

will be five distinct pools of tax incentives. Program one will cover tax incentives allocated for two thousand twelve and two thousand thirteen. Program two will cover tax incentives allocated in two thousand fourteen [to be used in two thousand fourteen and fifteen]. Program three will cover tax incentives allocated in two thousand fifteen [to be used in two thousand fifteen and sixteen]. Program four will cover tax incentives allocated in two thousand sixteen [to be used in two thousand sixteen and seventeen]. Program five will cover tax incentives allocated in two thousand seventeen [to be used in two thousand seventeen and eighteen]. The commissioner is authorized to allocate up to twenty-five million dollars of tax credits under program one, ten million dollars of tax credits under program two, and ten million dollars of tax credits for a base credit allocation and an additional ten million dollars of tax credits for an incremental allocation under [program] each of programs three, [ten million dollars of tax credits under program] four, [ten million dollars of tax credits under program] and five.

(b) Definitions. (1) The term "qualified employer" means an employer that has been certified by the commissioner to participate in the [New York youth works tax credit] program established under this section and that employs one or more qualified employees.

(2) The term "qualified employee" means an individual:

(i) who is between the age of sixteen and twenty-four;

(ii) who resides in a [city with a population of fifty-five thousand or more or a town with a population of four hundred eighty thousand or more] targeted locality;

(iii) who is low-income or at-risk, as those terms are defined by the commissioner;

(iv) who is unemployed prior to being hired by the qualified employer; and

(v) who will be working for the qualified employer in a full-time or part-time position that pays wages that are equivalent to the wages paid for similar jobs, with appropriate adjustments for experience and training, and for which no other employee has been terminated, or where the employer has not otherwise reduced its workforce by involuntary terminations with the intention of filling the vacancy by creating a new hire.

(3) The term "locality" means a city with a population of fifty-five thousand or more or a town with a population of four hundred eighty thousand or more.

(4) The term "locality with high unemployment" means a locality that is located in one or more counties that are ranked among the top six counties containing a locality for the twelve-month annual average unemployment rate, as determined by the commissioner using the most current available data, provided, however, that multiple counties that comprise a single locality shall not be separately ranked and shall be considered as one for purposes of determining the top six.

(5) The term "locality with high youth poverty" means a locality that is ranked among the top six in New York state for individuals between the ages of eighteen and twenty-four living below the poverty line, as determined by the United States Census Bureau 5-year American Community Survey, using the most current data available.

(6) The term "targeted locality" means a locality, provided, however, that for purposes of the incremental allocations in programs three, four, and five, such term shall be limited to a locality with high unemployment that is also a locality with high youth poverty.

(c) A qualified employer shall be entitled to a tax credit equal to (1) five hundred dollars per month for up to six months for each qualified employee the employer employs in a full-time job or two hundred fifty dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, (2) one thousand dollars for each qualified employee who is employed for at least an additional six months by the qualified employer in a full-time job or five hundred dollars for each qualified employee who is employed for at least an additional six months by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (3) an additional one thousand dollars for each qualified employee who is employed for at least an additional year after the first year of the employee's employment by the qualified employer in a full-time job or five hundred dollars for each qualified employee who is employed for at least an additional year after the first year of the employee's employment by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full time. The tax credits shall be claimed by the qualified employer as specified in subdivision [forty-four] thirty-six of section two hundred [ten] ten-B and subsection (tt) of section six hundred six of the tax law.

(d) To participate in the [New York youth works tax credit] program established under this section, an employer must submit an application (in a form prescribed by the commissioner) to the commissioner after January first, two thousand twelve but no later than November thirtieth, two thousand twelve for program one, after January first, two thousand

fourteen but no later than November thirtieth, two thousand fourteen for program two, after January first, two thousand fifteen but no later than November thirtieth, two thousand fifteen for program three, after January first, two thousand sixteen but no later than November thirtieth, two thousand sixteen for program four, and after January first, two thousand seventeen but no later than November thirtieth, two thousand seventeen for program five. The qualified employees must start their employment on or after January first, two thousand twelve but no later than December thirty-first, two thousand twelve for program one, on or after January first, two thousand fourteen but no later than December thirty-first, two thousand fourteen for program two, on or after January first, two thousand fifteen but no later than December thirty-first, two thousand fifteen for program three, on or after January first, two thousand sixteen but no later than December thirty-first, two thousand sixteen for program four, and on or after January first, two thousand seventeen but no later than December thirty-first, two thousand seventeen for program five. The commissioner shall establish guidelines and criteria that specify requirements for employers to participate in the program including criteria for certifying qualified employees. Any regulations that the commissioner determines are necessary may be adopted on an emergency basis notwithstanding anything to the contrary in section two hundred two of the state administrative procedure act. Such requirements may include the types of industries that the employers are engaged in. The commissioner may give preference to employers that are engaged in demand occupations or industries, or in regional growth sectors, including those identified by the regional economic development councils, such as clean energy, healthcare, advanced manufacturing and conservation. In addition, the commissioner shall give preference to

employers who offer advancement and employee benefit packages to the qualified individuals.

(e) If, after reviewing the application submitted by an employer, the commissioner determines that such employer is eligible to participate in the [New York youth works tax credit] program established under this section, the commissioner shall issue the employer a certificate of eligibility that establishes the employer as a qualified employer. The certificate of eligibility shall specify the maximum amount of [New York youth works] tax credit that the employer will be allowed to claim.

(f) The commissioner shall annually publish a report. Such report must contain the names and addresses of any employer issued a certificate of eligibility under this section, and the maximum amount of New York youth works tax credit allowed to the employer as specified on such certificate of eligibility.

§ 2. The subdivision heading and paragraph (a) of subdivision 36 of section 210-B of the tax law, as added by section 17 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

[New York] Urban youth [works] jobs program tax credit. (a) A taxpayer that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed a credit against the tax imposed by this article equal to (i) five hundred dollars per month for up to six months for each qualified employee the employer employs in a full-time job or two hundred fifty dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, (ii) one thousand dollars for each qualified employee who is employed for at least an additional six months by the qualified

employer in a full-time job or five hundred dollars for each qualified employee who is employed for at least an additional six months by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (iii) an additional one thousand dollars for each qualified employee who is employed for at least an additional year after the first year of the employee's employment by the qualified employer in a full-time job or five hundred dollars for each qualified employee who is employed for at least an additional year after the first year of the employee's employment by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time. For purposes of this subdivision, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law. The portion of the credit described in subparagraph (i) of this paragraph shall be allowed for the taxable year in which the wages are paid to the qualified employee, [and] the portion of the credit described in subparagraph (ii) of this paragraph shall be allowed in the taxable year in which the additional six month period ends, and the portion of the credit described in subparagraph (iii) of this paragraph shall be allowed in the taxable year in which the additional year after the first year of employment ends.

§ 3. The subdivision heading and paragraph 1 of subsection (tt) of section 606 of the tax law, the subdivision heading as added by section 3 of part D of chapter 56 of the laws of 2011 and paragraph 1 as amended by section 2 of part U of chapter 59 of the laws of 2014, are amended to read as follows:

[New York] Urban youth [works] jobs program tax credit. (1) A taxpayer that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed a credit against the tax imposed by this article equal to (A) five hundred dollars per month for up to six months for each qualified employee the employer employs in a full-time job or two hundred fifty dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (B) one thousand dollars for each qualified employee who is employed for at least an additional six months by the qualified employer in a full-time job or five hundred dollars for each qualified employee who is employed for at least an additional six months by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (C) an additional one thousand dollars for each qualified employee who is employed for at least an additional year after the first year of the employee's employment by the qualified employer in a full-time job or five hundred dollars for each qualified employee who is employed for at least an additional year after the first year of the employee's employment by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time. A taxpayer that is a partner in a partnership, member of a limited liability company or shareholder in an S corporation that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed its pro rata share of the credit earned by the partnership, limited liability company or S corpo-

ration. For purposes of this subsection, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law. The portion of the credit described in subparagraph (A) of this paragraph shall be allowed for the taxable year in which the wages are paid to the qualified employee, [and] the portion of the credit described in subparagraph (B) of this paragraph shall be allowed in the taxable year in which the additional six month period ends, and the portion of the credit described in subparagraph (C) of this paragraph shall be allowed in the taxable year in which the additional year after the first year of employment ends.

§ 4. Clause (xxxiii) of subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law, as amended by section 68 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(xxxiii) [New York] Urban youth [works] jobs program tax credit	Amount of credit under subdivision thirty-six of section two hundred ten-B

§ 5. This act shall take effect immediately.

PART N

Section 1. Subparagraph (iv) of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(iv) (A) for taxable years beginning before January first, two thousand sixteen, if the business income base is not more than two hundred ninety thousand dollars the amount shall be six and one-half percent of

the business income base; if the business income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) eighteen thousand eight hundred fifty dollars, (2) seven and one-tenth percent of the excess of the business income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) four and thirty-five hundredths percent of the excess of the business income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars;

(B) for taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen, if the business income base is not more than two hundred ninety thousand dollars the amount shall be three and one-quarter percent of the business income base; if the business income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) nine thousand four hundred twenty five dollars, (2) six and one-half percent of the excess of the business income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) twenty-three and fifty-six hundredths percent of the excess of the business income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars;

(C) for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen, if the business income base is not more than two hundred ninety thousand dollars the amount shall be two and nine-tenths percent of the business income base; if the business income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the

amount shall be the sum of (1) eight thousand four hundred ten dollars, (2) six and one-half percent of the excess of the business income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) twenty-six and one-tenth percent of the excess of the business income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars;

(D) for taxable years beginning on or after January first, two thousand eighteen, if the business income base is not more than two hundred ninety thousand dollars the amount shall be two and one-half percent of the business income base; if the business income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) seven thousand two hundred fifty dollars, (2) six and one-half percent of the excess of the business income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) twenty-nine percent of the excess of the business income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars;

§ 2. This act shall take effect immediately.

PART O

Section 1. The economic development law is amended by adding a new article 22 to read as follows:

ARTICLE 22

EMPLOYEE TRAINING INCENTIVE PROGRAM

Section 441. Definitions.

§ 441. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Approved provider" means an entity meeting such criteria as shall be established by the commissioner in regulations promulgated pursuant to this article, that may provide eligible training to employees of a business entity participating in the employee training incentive program. Such criteria shall ensure that any approved provider possess adequate credentials to provide the training described in an application by a business entity to the commissioner to participate in the employee training incentive program.

2. "Commissioner" means the commissioner of economic development.

3. "Eligible training" means training provided by an approved provider that is:

(a) to upgrade, retrain or improve the productivity of employees;

(b) provided to employees filling net new jobs, or to existing employees in connection with a significant capital investment by a participating business entity;

(c) determined by the commissioner to satisfy a business need on the part of a participating business entity;

(d) not designed to train or upgrade skills as required by a federal or state entity;

(e) not training the completion of which may result in the awarding of a license or certificate required by law in order to perform a job function; and

(f) not culturally focused training.

4. "Net new job" means a job created in this state that:

(a) is new to the state;

(b) has not been transferred from employment with another business located in this state through an acquisition, merger, consolidation or other reorganization of businesses or the acquisition of assets of another business, and has not been transferred from employment with a related person in this state;

(c) is either a full-time wage-paying job or equivalent to a full-time wage-paying job requiring at least thirty-five hours per week;

(d) is filled for more than six months;

(e) is filled by a person who has received eligible training; and

(f) is comprised of tasks the performance of which required the person filling the job to undergo eligible training.

5. "Significant capital investment" means a capital investment of at least one million dollars in new business processes or equipment.

6. "Strategic industry" means an industry in this state, as established by the commissioner in regulations promulgated pursuant to this article, based upon the following criteria:

(a) shortages of workers trained to work within the industry;

(b) technological disruption in the industry, requiring significant capital investment for existing businesses to remain competitive;

(c) the ability of businesses in the industry to relocate outside of the state in order to attract talent;

(d) the potential for minorities or women to be trained to work in the industry; and

(e) such other criteria as shall be developed by the commissioner in consultation with the commissioner of labor.

§ 442. Eligibility criteria. 1. In order to participate in the employee training incentive program, a business entity must satisfy all of the following criteria:

(a) The business entity must operate in the state predominantly in a strategic industry;

(b) The business entity must demonstrate that it is obtaining eligible training from an approved provider;

(c) The business entity must create at least ten net new jobs or make a significant capital investment in connection with the eligible training; and

(d) The business entity must be in compliance with all worker protection and environmental laws and regulations. In addition, the business entity may not owe past due state taxes or local property taxes.

§ 443. Application and approval process. 1. A business entity must submit a completed application in such form and with such information as prescribed by the commissioner.

2. As part of such application, each business entity must:

(a) provide such documentation as the commissioner may require in order for the commissioner to determine that the business entity intends to procure eligible training for its employees from an approved provider;

(b) agree to allow the department of taxation and finance to share its tax information with the department. However, any information shared as

a result of this agreement shall not be available for disclosure or inspection under the state freedom of information law;

(c) agree to allow the department of labor to share its tax and employer information with the department. However, any information shared as a result of this agreement shall not be available for disclosure or inspection under the state freedom of information law;

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

(e) provide a clear and detailed presentation of all related persons to the applicant to assure the department that jobs are not being shifted within the state; and

(f) certify, under penalty of perjury, that it is in substantial compliance with all environmental, worker protection, and local, state, and federal tax laws.

3. The commissioner may approve an application from a business entity upon determining that such business entity meets the eligibility criteria established in section four hundred forty-two of this article. Following approval by the commissioner of an application by a business entity to participate in the employee training incentive program, the commissioner shall issue a certificate of tax credit to the business entity upon its demonstrating successful completion of such eligible training to the satisfaction of the commissioner. The amount of the credit shall be equal to fifty percent of eligible training costs, up to ten thousand dollars per employee receiving eligible training. The tax credits shall be claimed by the qualified employer as specified in subdivision fifty of section two hundred ten-B and subsection (ddd) of section six hundred six of the tax law.

§ 444. Powers and duties of the commissioner. 1. The commissioner shall, in consultation with the commissioner of labor, promulgate regulations consistent with the purposes of this article that, notwithstanding any provisions to the contrary in the state administrative procedure act, may be adopted on an emergency basis. Such regulations shall include, but not be limited to, eligibility criteria for business entities desiring to participate in the employee training incentive program, procedures for the receipt and evaluation of applications from business entities to participate in the program, and such other provisions as the commissioner deems to be appropriate in order to implement the provisions of this article.

2. The commissioner shall, in consultation with the department of taxation and finance, develop a certificate of tax credit that shall be issued by the commissioner to participating business entities. Participants may be required by the commissioner of taxation and finance to include the certificate of tax credit with their tax return to receive any tax benefits under this article.

3. The commissioner shall solely determine the eligibility of any applicant applying for entry into the program and shall remove any participant from the program for failing to meet any of the requirements set forth in subdivision one of section four hundred forty-two of this article or for making a material misrepresentation with respect to its participation in the employee training incentive program.

§ 445. Recordkeeping requirements. Each business entity participating in the employee training incentive program shall maintain all relevant records for the duration of its program participation plus three years.

§ 446. Cap on tax credit. The total amount of tax credits listed on certificates of tax credit issued by the commissioner for any taxable

year may not exceed five million dollars, and shall be allotted from the funds available for tax credits under the excelsior jobs program act pursuant to section three hundred fifty-nine of this chapter.

§ 2. Section 210-B of the tax law is amended by adding a new subdivision 50 to read as follows:

50. Employee training incentive program tax credit. (a) A taxpayer that has been approved by the commissioner of economic development to participate in the employee training incentive program and has been issued a certificate of tax credit pursuant to section four hundred forty-three of the economic development law shall be allowed to claim a credit against the tax imposed by this article. The credit shall equal fifty percent of a taxpayer's eligible training costs, up to ten thousand dollars per employee receiving eligible training. In no event shall a taxpayer be allowed a credit greater than the amount of credit listed on the certificate of tax credit issued by the commissioner of economic development. The credit will be allowed in the taxable year in which the eligible training for all employees is completed.

(b) The credit allowed under this subdivision for any taxable year may not reduce the tax due for that year to less than the amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount, or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit thus not deductible in that taxable year will be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section

one thousand eighty-eight of this chapter notwithstanding, no interest will be paid thereon.

(c) The taxpayer may be required to attach to its tax return its certificate of tax credit issued by the commissioner of economic development pursuant to section four hundred forty-three of the economic development law. In no event shall the taxpayer be allowed a credit greater than the amount of the credit listed in the certificate of tax credit, or in the case of a taxpayer who is a partner in a partnership or a member of a limited liability company, its pro rata share of the amount of credit listed in the certificate of tax credit issued to the partnership or limited liability company.

§ 3. Section 606 of the tax law is amended to add a new subsection (ddd) to read as follows:

(ddd) Employee training incentive program tax credit. (1) A taxpayer that has been approved by the commissioner of economic development to participate in the employee training incentive program and has been issued a certificate of tax credit pursuant to section four hundred forty-three of the economic development law shall be allowed to claim a credit against the tax imposed by this article. The credit shall equal fifty percent of a taxpayer's eligible training costs, up to ten thousand dollars per employee receiving eligible training. In no event shall a taxpayer be allowed a credit greater than the amount listed on the certificate of tax credit issued by the commissioner of economic development. In the case of a taxpayer who is a partner in a partnership, member of a limited liability company or shareholder in an S corporation, the taxpayer shall be allowed its pro rata share of the credit earned by the partnership, limited liability company or S corporation.

The credit will be allowed in the taxable year in which the eligible training for all employees is completed.

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

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

(xlii) Employee training incentive program credit under subsection (ddd)	Amount of credit under subdivision fifty of section two hundred ten-B

§ 5. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2015.

PART P

Section 1. Subdivision 1 of section 184 of the tax law, as amended by section 62 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

1. The term "corporation" as used in this section shall include an association, within the meaning of paragraph three of subsection (a) of section seventy-seven hundred one of the internal revenue code (including a limited liability company), a publicly traded partnership treated as a corporation for purposes of the internal revenue code pursuant to section seventy-seven hundred four thereof.

Every corporation, joint-stock company or association formed for or principally engaged in the conduct of canal, steamboat, ferry (except a ferry company operating between any of the boroughs of the city of New York under a lease granted by the city), express, navigation, pipe line, transfer, baggage express, omnibus, taxicab, telegraph, mobile telecommunications or local telephone business, or formed for or principally engaged in the conduct of two or more of such businesses, and every corporation, joint-stock company or association formed for or principally engaged in the conduct of surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car, sleeping car or trucking business or formed for or principally engaged in the conduct of two or more such businesses and which has made an election pursuant to subdivision ten of section one hundred eighty-three of this article, and every other corporation, joint-stock company or association formed for or principally engaged in the conduct of a transportation or transmission business (other than a telephone business), except a corporation, joint-stock company or association formed for or principally engaged in the conduct of a surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car, sleeping car or trucking business or formed for or principally engaged in the conduct of two or more of such businesses and which has not made the election provided for in subdivision ten of section one hundred eighty-three of this article, and, except a corporation, joint-stock company or association principally engaged in the conduct of aviation (including air freight forwarders acting as principal and like indirect air carriers) and except a corporation principally engaged in providing telecommunication services between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of

the foregoing), at least ninety percent of the voting stock of which corporation is owned, directly or indirectly, by air carriers and which corporation's principal function is to fulfill the requirements of (i) the federal aviation administration (or the successor thereto) or (ii) the international civil aviation organization (or the successor thereto), relating to the existence of a communication system between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing) for the purposes of air safety and navigation and for the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in this state in a corporate or organized capacity, or maintaining an office in this state, shall pay a franchise tax which shall be equal to three-eighths of one percent for taxable years commencing after two thousand, upon its gross earnings from all sources within this state; except that, for taxable years commencing on or after January first, nineteen hundred ninety, every corporation, joint-stock company or association formed for or principally engaged in the conduct of <u>a mobile telecommunications business,</u> local telephone business, or telegraph business shall pay a franchise tax which shall be equal to three-eighths of one percent for taxable years commencing after two thousand, upon its gross earnings from all sources within this state, except that a corporation, joint-stock company or association formed for or principally engaged in the conduct of a local telephone business shall exclude the following earnings (but not in any event earnings derived by such taxpayer from the provision of carrier access services) derived by such taxpayer from sales for ultimate consumption of telecommunications service to its customers (i) thirty percent of separately charged intra-LATA toll service (which shall also

include interregion regional calling plan service) and (ii) one hundred percent of separately charged inter-LATA, interstate or international telecommunications service; and except that corporations, joint-stock companies or associations formed for or principally engaged in the conduct of canal, steamboat, ferry (except a ferry company operating between any of the boroughs of the city of New York under a lease granted by the city), navigation or any corporation formed for or principally engaged in the operation of vessels, shall pay a franchise tax which shall be equal to three-quarters of one per centum upon its gross earnings from all sources within this state, excluding earnings derived from business of an interstate or foreign character; except that for taxable years beginning in nineteen hundred ninety-seven or thereafter, in the case of a corporation, joint-stock company or association which, with respect to taxable years beginning after nineteen hundred ninety-seven, has made an election pursuant to subdivision ten of section one hundred eighty-three of this article and which is formed for or principally engaged in the conduct of surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car, sleeping car or trucking business or formed for or principally engaged in the conduct of two or more of such businesses, such corporation, joint-stock company or association shall pay a franchise tax which shall be equal to three-eighths of one percent for taxable years commencing after two thousand, upon its gross earnings from all sources within this state, provided that in the case of a corporation, joint-stock company or association formed for or principally engaged in the conduct of surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car or sleeping car business, or formed for or principally engaged in the conduct of two or more of such businesses, such gross

earnings shall not include earnings derived from business of an interstate or foreign character.

Provided, however, with respect to railroad, elevated railroad, palace car or sleeping car business or any other corporation formed for or principally engaged in the conduct of a railroad business and canal, steamboat, ferry (except a ferry company operating between any of the boroughs of the city of New York under a lease granted by the city), navigation or any corporation formed for or principally engaged in the operation of vessels where the gross earnings from such transportation business both originating and terminating within this state and traversing both this state and another state or states or country shall be subject to the franchise tax imposed by this section (except where such corporation, joint-stock company or association is formed for or principally engaged in the conduct of a railroad (including surface railroad, whether or not operated by steam, subway railroad or elevated railroad), palace car or sleeping car business or formed for or principally engaged in the conduct of two or more of such businesses, and has not made the election provided for under subdivision ten of section one hundred eighty-three of this article) and such earnings shall be allocated to this state in the same ratio that the mileage within the state bears to the total mileage of such business. Provided, further, a corporation, joint-stock company or association formed for or principally engaged in the transportation, transmission or distribution of gas, electricity or steam shall not be subject to tax under this section or section one hundred eighty-three of this article.

The term "local telephone business" means the provision or furnishing of telecommunication services for hire wherein the service furnished by the provider thereof consists of carrier access service or the service

originates and terminates within the same local access and transport area ("LATA"), a local access and transport area being that geographic area as established and approved, and as so set and in existence on July first, nineteen hundred ninety-four, pursuant to the modification of final judgment in United States v. Western Electric Company (civil action no. 82-0192) in the United States district court for the District of Columbia or within the LATA-like Rochester non-associated independent area.

The term "mobile telecommunications business" means the provision or furnishing of "mobile telecommunications service" as such term is defined in paragraph twenty-four of subdivision (b) of section eleven hundred one of this chapter.

The term "telecommunication services" shall have the meaning ascribed to such term in section one hundred eighty-six-e of this article.

§ 2. Subdivision 1 of section 184-a of the tax law, as amended by section 2 of part C of chapter 60 of the laws of 2004, the opening paragraph as amended by section 63 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

1. The term "corporation" as used in this section shall include an association, within the meaning of paragraph three of subsection (a) of section seventy-seven hundred one of the internal revenue code (including a limited liability company), and a publicly traded partnership treated as a corporation for purposes of the internal revenue code pursuant to section seventy-seven hundred four thereof. Every corporation, joint-stock company or association formed for or principally engaged in the conduct of canal, steamboat, ferry (except a ferry company operating between any of the boroughs of the city of New York under a lease granted by the city), express, navigation, pipe line, transfer,

baggage express, omnibus, taxicab, telegraph, mobile telecommunications or local telephone business, or formed for or principally engaged in the conduct of two or more such businesses, and every corporation, joint-stock company or association formed for or principally engaged in the conduct of a surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car, sleeping car or trucking business or principally engaged in the conduct of two or more such businesses and which has made an election pursuant to subdivision ten of section one hundred eighty-three of this article, and every other corporation, joint-stock company or association formed for or principally engaged in the conduct of a transportation or transmission business (other than a telephone business) except a corporation, joint-stock company or association formed for or principally engaged in the conduct of a surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car, sleeping car or trucking business or principally engaged in the conduct of two or more such businesses and which has not made the election provided for in subdivision ten of section one hundred eighty-three of this article, and except a corporation, joint-stock company or association principally engaged in the conduct of aviation (including air freight forwarders acting as principal and like indirect air carriers) and except a corporation principally engaged in providing telecommunication services between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing), at least ninety percent of the voting stock of which corporation is owned, directly or indirectly, by air carriers and which corporation's principal function is to fulfill the requirements of (i) the federal aviation administration (or the successor thereto) or (ii) the international civil

aviation organization (or the successor thereto), relating to the existence of a communication system between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing) for the purposes of air safety and navigation, shall pay for the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in the metropolitan commuter transportation district in such corporate or organized capacity, or of maintaining an office in such district, a tax surcharge, which tax surcharge, in addition to the tax imposed by section one hundred eighty-four of this article, shall be computed at the rate of seventeen percent of the tax imposed under such section for such taxable years or any part of such taxable years after the deduction of any credits otherwise allowable under this article; provided, however, that such rates of tax surcharge shall be applied only to that portion of the tax imposed under section one hundred eighty-four of this article after the deduction of any credits otherwise allowable under this article which is attributable to the taxpayer's business activity carried on within the metropolitan commuter transportation district. Provided, however, that for taxable years beginning in two thousand and thereafter, for purposes of this subdivision the tax imposed under section one hundred eighty-four of this article shall be deemed to have been imposed at the rate of three-quarters of one percent, except that in the case of a corporation, joint-stock company or association which has made an election pursuant to subdivision ten of section one hundred eighty-three of this article, for purposes of this subdivision the tax imposed under section one hundred eighty-four of this article shall be deemed to have been imposed at the rate of six-tenths of one percent.

The term "local telephone business" shall have the same meaning as such term is used in section one hundred eighty-four of this article. The term "telecommunication services" shall have the meaning ascribed to such term in section one hundred eighty-six-e of this article.

The term "mobile telecommunications business" means the provision or furnishing of "mobile telecommunications service" as such term is defined in paragraph twenty-four of subdivision (b) of section eleven hundred one of this chapter.

§ 3. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2015.

PART Q

Section 1. The tax law is amended by adding a new section 195 to read as follows:

§ 195. Limitation on refunds or credits. Where any person subject to tax under this article passes through the economic incidence of any tax imposed by this article as a separately stated amount on a bill or invoice furnished to its customer, no refund or credit shall be made to such person of any such amount unless such person shall first establish to the satisfaction of the commissioner that such amount had been repaid to such customer. For purposes of this section, the term "person" shall have the same meaning that is ascribed to it in paragraph (c) of subdivision one of section one hundred eighty-six-e of this article.

§ 2. This act shall take effect immediately and shall apply to any amended return or claim for refund submitted on and after January 1, 2015.

PART R

Section 1. Subdivision (b) of section 27-1318 of the environmental conservation law, as amended by section 2 of part E of chapter 577 of the laws of 2004, is amended to read as follows:

(b) Within [sixty] one hundred eighty days of commencement of the remedial design, the owner of an inactive hazardous waste disposal site, and/or any person responsible for implementing a remedial program at such site, where institutional or engineering controls are employed pursuant to this title, shall execute an environmental easement pursuant to title thirty-six of article seventy-one of this chapter.

§ 2. Subdivision 2 of section 27-1405 of the environmental conservation law, as amended by section 2 of part A of chapter 577 of the laws of 2004, is amended and a new subdivision 29 is added to read as follows:

2. "Brownfield site" or "site" shall mean any real property[, the redevelopment or reuse of which may be complicated by the presence or potential presence of] where a contaminant is present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by the department that are applicable based on the reasonably anticipated use of the property, as determined by the department in accordance with applicable regulations. Such term shall not include real property:

(a) listed in the registry of inactive hazardous waste disposal sites under section 27-1305 of this article at the time of application to this program and given a classification as described in subparagraph one or two of paragraph b of subdivision two of section 27-1305 of this article; provided, however [except until July first, two thousand five],

real property listed in the registry of inactive hazardous waste disposal sites under subparagraph two of paragraph b of subdivision two of section 27-1305 of this article [prior to the effective date of this article], where such real property is owned by a volunteer or under contract to be transferred to a volunteer, shall not be deemed ineligible to participate, provided that, prior to the site being accepted into the brownfield cleanup program, the department has not identified any responsible party for that property having the ability to pay for the investigation or cleanup of the property and further provided that the status of any such site as listed in the registry shall not be altered prior to the issuance of a certificate of completion pursuant to section 27-1419 of this title. The department's assessment of eligibility under this paragraph shall not constitute a finding concerning liability with respect to the property;

(b) listed on the national priorities list established under authority of 42 U.S.C. section 9605;

(c) subject to an enforcement action under title seven or nine of this article, [except] or permitted or required to be permitted as a treatment, storage or disposal facility [subject to a permit]; provided, that nothing herein contained shall be deemed otherwise to exclude from the scope of the term "brownfield site" a hazardous waste treatment, storage or disposal facility having interim status according to regulations promulgated by the commissioner;

(d) subject to an order for cleanup pursuant to article twelve of the navigation law or pursuant to title ten of article seventeen of this chapter except such property shall not be deemed ineligible if it is subject to a stipulation agreement; or

(e) subject to any other on-going state or federal environmental enforcement action related to the contamination which is at or emanating from the site subject to the present application.

29. "Affordable housing project" means a project subject to a regulatory agreement with a federal, state or local government housing agency that is (a) a rental building in which at least twenty percent of the dwelling units are restricted by the regulatory agreement for occupancy by tenants whose annual incomes upon initial occupancy do not exceed ninety percent of the area median income and in which at least an additional thirty percent of the dwelling units are restricted by the regulatory agreement for occupancy by tenants whose annual incomes upon initial occupancy do not exceed one hundred thirty percent of the area median income; (b) a cooperative or condominium project with at least ten dwelling units where at least fifty percent of the dwelling units are intended for buyers whose average annual incomes upon initial occupancy do not exceed one hundred thirty percent of the area median income; or (c) a single-family home-ownership project with one to three units, consisting of not less than twenty fee-simple properties where at least fifty percent of the homes are intended for buyers whose annual incomes upon initial occupancy do not exceed one hundred thirty percent of the area median income. Area median income means the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.

§ 3. Subdivision 1 of section 27-1407 of the environmental conservation law, as amended by section 3 of part A of chapter 577 of the laws

of 2004, is amended and two new subdivisions 1-a and 1-b are added to read as follows:

1. A person who seeks to participate in this program shall submit a request to the department on a form provided by the department. Such form shall include information to be determined by the department sufficient to allow the department to determine eligibility and the current, intended and reasonably anticipated future land use of the site pursuant to section 27-1415 of this title. Any such person shall submit an investigation report sufficient to demonstrate that the site requires remediation in order to meet the remedial requirements of this title.

1-a. If the person is also seeking to receive the tangible property credit component of the brownfield redevelopment tax credit pursuant to paragraph three of subdivision (a) of section twenty-one of the tax law such person shall submit information sufficient to demonstrate that: (a) at least half of the site area is located in an environmental zone as defined in section twenty-one of the tax law; (b) the projected cost of the investigation and remediation which is protective for the anticipated use of the site exceeds the certified appraised value of the property absent contamination; or (c) the project is an affordable housing project. For any site located within a brownfield opportunity area designated by the secretary of state pursuant to section nine hundred seventy-r of the general municipal law such persons must also certify that the development of the site will be in conformance with such brownfield opportunity area plan. An applicant may request an eligibility determination for tangible property credits at any time from application until the site receives a certificate of completion pursuant to section 27-1419 of this title.

Sites are not eligible for tangible property tax credits if: (a) the contamination is solely emanating from property other than the site subject to the present application; or (b) the department has determined that the property has previously been remediated such that it may be developed for its then intended use.

1-b. The department is authorized to accept the request of an applicant which is currently active in its administrative voluntary cleanup program for participation in this program, provided, however, that:

(a) the applicant shall not be eligible for tax credits pursuant to section twenty-one of the tax law; and

(b) the applicant commits to prompt and diligent implementation of all remaining investigation and/or remediation of the contamination.

§ 4. Subdivision 3 of section 27-1407 of the environmental conservation law, as amended by section 3 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

3. The department shall notify the person requesting participation in this program within [ten] thirty days after receiving such request that such request is either complete or incomplete. In the event the application is determined to be incomplete the department shall specify in writing the missing necessary information required pursuant to this article to complete the application and shall have ten days after receipt of the missing information to issue a written determination if the application is complete.

§ 5. Subdivision 6 of section 27-1407 of the environmental conservation law, as added by section 1 of part A of chapter 1 of the laws of 2003, is amended to read as follows:

6. The department shall use all best efforts to expeditiously notify the applicant within forty-five days after receiving [their request] a

complete application for participation that such request is either accepted or rejected, and, for any applicant seeking to receive the tangible property credit component of the brownfield redevelopment tax credit pursuant to paragraph three of subdivision (a) of section twenty-one of the tax law, shall concurrently notify the applicant whether the criteria for receiving such component as set forth in subdivision one of this section have been met.

§ 6. Subdivision 9 of section 27-1407 of the environmental conservation law is amended by adding a new paragraph (g) to read as follows:

(g) The person's participation in any remedial program under the department's oversight was terminated by the department or by a court for failure to substantially comply with an agreement or order.

§ 7. Subdivision 2 of section 27-1409 of the environmental conservation law, as amended by section 4 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

2. One requiring: (a) the [applicant] participant to pay for state costs, including the recovery of state costs incurred before the effective date of such agreement; provided, however, that such costs may be based on a reasonable flat-fee for oversight, which shall reflect the projected future state costs incurred in negotiating and overseeing implementation of such agreement; and

(b) with respect to a brownfield site which the department has determined constitutes a significant threat to the public health or environment the department may include a provision requiring the applicant to provide a technical assistance grant, as described in subdivision four of section 27-1417 of this title and under the conditions described therein, to an eligible party in accordance with procedures established under such program, with the cost of such a grant incurred by a volun-

teer serving as an offset against such state costs[. Where the applicant is a participant, the department shall include provisions relating to recovery of state costs incurred before the effective date of such agreement];

§ 8. Section 27-1411 of the environmental conservation law is amended by adding a new subdivision 6 to read as follows:

6. An applicant shall commence implementation of any work plan within ninety days of approval of the plan by the department and complete the activities provided for in such work plan in accordance with the schedule set forth therein, or as otherwise approved by the department in writing.

§ 9. Subdivision 2 of section 27-1413 of the environmental conservation law, as amended by section 6 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

2. For all [other] sites seeking to receive the tangible property credit component pursuant to paragraph three of subdivision (a) of section twenty-one of the tax law and all sites accepted pursuant to subdivision one-b of section 27-1407 of this title, the applicant shall develop and evaluate at least two remedial alternatives, one of which would achieve a Track 1 cleanup. The department shall have the discretion to require the evaluation of additional alternatives at a site that has been determined to pose a significant threat. The applicant shall submit the alternatives analysis [as a part of the remedial work plan to the department] within sixty days of the acceptance of the remedial investigation by the department for review, approval, modification or rejection by the department.

§ 10. Subdivision 4 of section 27-1415 of the environmental conservation law, as amended by section 7 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

4. Tracks. The commissioner, in consultation with the commissioner of health, shall propose within twelve months and thereafter timely promulgate regulations which create a multi-track approach for the remediation of contamination, and, commencing on the effective date of such regulations, utilize such multi-track approach. Such regulations shall provide that groundwater use in Tracks 2, 3 or 4 can be either restricted or unrestricted. The tracks shall be as follows:

Track 1: The remedial program shall achieve a cleanup level that will allow the site to be used for any purpose without restriction and without reliance on the long-term employment of institutional or engineering controls, and shall achieve contaminant-specific remedial action objectives for soil which conform with those contained in the generic table of contaminant-specific remedial action objectives for unrestricted use developed pursuant to subdivision six of this section. Provided, however, that volunteers whose proposed remedial program [for the remediation of groundwater] (a) (i) may require the long-term employment of institutional or engineering controls for the remediation of groundwater after the bulk reduction of groundwater contamination to asymptotic levels has been achieved or (ii) may require an institutional or engineering control for more than five years solely to address soil vapor intrusion but (b) whose program would otherwise conform with the requirements necessary to qualify for Track 1, shall qualify for Track 1.

Track 2: The remedial program may include restrictions on the use of the site or reliance on the long-term employment of engineering and/or institutional controls, but shall achieve contaminant-specific remedial

action objectives for soil which conform with those contained in one of the generic tables developed pursuant to subdivision six of this section without the use of institutional or engineering controls to reach such objectives.

Track 3: The remedial program shall achieve contaminant-specific remedial action objectives for soil which conform with the criteria used to develop the generic tables for such objectives developed pursuant to subdivision six of this section but may use site specific data to determine such objectives.

Track 4: The remedial program shall achieve a cleanup level that will be protective for the site's current, intended or reasonably anticipated residential, commercial, or industrial use with restrictions and with reliance on the long-term employment of institutional or engineering controls to achieve such level. The regulations shall include a provision requiring that a cleanup level which poses a risk in exceedance of an excess cancer risk of one in one million for carcinogenic end points and a hazard index of one for non-cancer end points for a specific contaminant at a specific site may be approved by the department without requiring the use of institutional or engineering controls to eliminate exposure only upon a site specific finding by the commissioner, in consultation with the commissioner of health, that such level shall be protective of public health and environment. Such finding shall be included in the draft remedial work plan for the site and fully described in the notice and fact sheet provided for such work plan.

§ 11. Paragraphs (b), (c) and (d) of subdivision 7 of section 27-1415 of the environmental conservation law are relettered paragraphs (c), (d) and (e) and a new paragraph (b) is added to read as follows:

(b) Within one hundred eighty days of commencement of the remedial design or at least three months prior to the date of the anticipated issuance of the certificate of completion, the owner of a brownfield site, and/or any person responsible for implementing a remedial program at such site, where institutional or engineering controls are employed pursuant to this title, shall execute an environmental easement pursuant to title thirty-six of article seventy-one of this chapter.

§ 12. Paragraph (h) of subdivision 3 of section 27-1417 of the environmental conservation law is REPEALED, paragraph (i) is relettered paragraph (h) and paragraph (f), as amended by section 8 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

(f) Before the department [finalizes] selects a proposed [remedial work plan] remedy from the alternatives set forth in the alternatives analysis as prescribed by section 27-1413 of this title or makes a determination that site conditions meet the requirements of this title without the necessity for remediation pursuant to section 27-1411 of this title, the department, in consultation with the applicant, must notify individuals on the brownfield site contact list. Such notice shall include a fact sheet describing such plan and provide for a forty-five day public comment period. The commissioner shall hold a public meeting if requested by the affected community and the commissioner has found that the site constitutes a significant threat to the public health or the environment. Further, the affected community may request a public meeting at sites that do not constitute a significant threat. (1) To the extent that the department has determined that site conditions do not pose a significant threat and the site is being addressed by a volunteer, the notice shall state that the department has determined that no remediation is required for the off-site areas and

that the department's determination of a significant threat is subject to this forty-five day comment period. (2) If the [remedial work plan] remedy includes a Track 2, Track 3 or Track 4 remedy at a non-significant threat site, such comment period shall apply both to the approval of the alternatives analysis by the department, if applicable, and the proposed remedy selected by the applicant.

§ 13. Paragraph (a) of subdivision 2 and subdivision 3 of section 27-1419 of the environmental conservation law, paragraph (a) of subdivision 2 as added by section 1 of part A of chapter 1 of the laws of 2003, subdivision 3 as amended by chapter 390 of the laws of 2008, are amended to read as follows:

(a) a description of the remediation activities completed pursuant to the remedial work plan and any interim remedial measures for the brownfield site and the costs paid for those activities;

3. Upon receipt of the final engineering report, the department shall review such report and the data submitted pursuant to the brownfield site cleanup agreement as well as any other relevant information regarding the brownfield site. Upon satisfaction of the commissioner that the remediation requirements set forth in this title have been or will be achieved in accordance with the timeframes, if any, established in the remedial work plan, the commissioner shall issue a written certificate of completion[, such]. The certificate shall include such information as determined by the department of taxation and finance, including but not limited to the brownfield site boundaries included in the final engineering report, the date of the brownfield site cleanup agreement [pursuant to section 27-1409 of this title], identification of the entity or entities eligible for credits pursuant to sections twenty-one, twenty-two or twenty-three of the tax law, and the applicable percent-

ages available as of the date of the certificate of completion for that site for purposes of section twenty-one of the tax law[, with such percentages to be determined as follows with respect to such qualified site]. For those sites for which the department has issued a notice to the applicant on or after April first, two thousand fifteen that its request for participation has been accepted under subdivision six of section 27-1407 of this title, the tangible property credit component of the brownfield redevelopment tax credit pursuant to paragraph three of subdivision (a) of section twenty-one of the tax law shall only be available to the taxpayer if the criteria for receiving such tax compo-nent have been met. For those sites for which the department has issued a notice to the taxpayer after June twenty-third, two thousand eight that its request for participation has been accepted under subdivision six of section 27-1407 of this title[:

For the purposes of calculating], the applicable percentage for the site preparation credit component pursuant to paragraph two of subdivi-sion (a) of section twenty-one of the tax law, and the on-site groundwa-ter remediation credit component pursuant to paragraph four of subdivi-sion (a) of section twenty-one of the tax law[, the applicable percentage] shall be based on the level of cleanup achieved pursuant to subdivision four of section 27-1415 of this title and the level of cleanup of soils to contaminant-specific soil cleanup objectives promul-gated pursuant to subdivision six of section 27-1415 of this title, up to a maximum of fifty percent, as follows:

(a) soil cleanup for unrestricted use, the protection of groundwater or the protection of ecological resources, the applicable percentage shall be fifty percent;

(b) soil cleanup for residential use, the applicable percentage shall be forty percent, except for Track 4 which shall be twenty-eight percent;

(c) soil cleanup for commercial use, the applicable percentage shall be thirty-three percent, except for Track 4 which shall be twenty-five percent;

(d) soil cleanup for industrial use, the applicable percentage shall be twenty-seven percent, except for Track 4 which shall be twenty-two percent.

§ 14. Subdivision 5 of section 27-1419 of the environmental conservation law, as amended by section 9 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

5. A certificate of completion issued pursuant to this section may be transferred [to the applicant's successors or assigns upon transfer or sale of the brownfield site] by the applicant or subsequent holder of the certificate of completion to a successor to a real property interest, including legal title, equitable title or leasehold, in all or a part of the brownfield site for which the certificate of completion was issued. Notwithstanding any provision of this chapter to the contrary, a certificate of completion shall not be transferred to a responsible party. Further, a certificate of completion may be modified or revoked by the commissioner upon a finding that:

(a) Either the applicant, or the applicant's successors or assigns, has failed to comply with the terms and conditions of the brownfield site cleanup agreement;

(b) The applicant made a misrepresentation of a material fact tending to demonstrate that: (i) it was qualified as a volunteer; or (ii) met the criteria set forth in subdivision one-a of section 27-1407 of this

title for the purpose of receiving the tangible property credit component of the brownfield redevelopment tax credit pursuant to paragraph three of subdivision (a) of section twenty-one of the tax law;

(c) Either the applicant, or the applicant's successors or assigns, made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the brownfield site cleanup agreement were reached; [or]

(d) The environmental easement created and recorded pursuant to title thirty-six of article seventy-one of this chapter no longer provides an effective or enforceable means of ensuring the performance of maintenance, monitoring or operating requirements, or the restrictions on future uses, including restrictions on drilling for or withdrawing groundwater; or

(e) There is good cause for such modification or revocation.

§ 15. Section 27-1423 of the environmental conservation law is REPEALED.

§ 16. Section 27-1429 of the environmental conservation law, as amended by section 13 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

§ 27-1429. Permit waivers.

The department[, by and through the commissioner,] shall be exempt, and shall be authorized to exempt a person from the requirement to obtain any state or local permit or other authorization for any activity needed to implement a program for the investigation and/or remediation of contamination at or emanating from a brownfield site; provided that the activity is conducted in a manner which satisfies all substantive technical requirements applicable to like activity conducted pursuant to a permit.

§ 17. Subdivision 1 of section 27-1431 of the environmental conservation law is amended by adding a new paragraph c to read as follows:

c. to inspect for compliance with the site management plan approved by the department, including (i) inspection of the performance of maintenance, monitoring and operational activities required as part of the remedial program for the site, (ii) inspection for the purpose of ascertaining current uses of the site, and (iii) taking samples in accordance with paragraph (a) of this subdivision.

§ 17-a. Section 27-1435 of the environmental conservation law is REPEALED.

§ 18. The environmental conservation law is amended by adding a new section 27-1437 to read as follows:

§ 27-1437. BCP-EZ Program.

1. Notwithstanding the provisions of this title or any other provision of law, the department shall promulgate regulations which authorize the department to exempt an applicant from procedural requirements of this title as the department may specify which are otherwise applicable to implementation of an investigation and/or remediation of contamination, provided that:

(a) at the time of the application, the department has not determined that the brownfield site poses a significant threat pursuant to section 27-1411 of this title;

(b) the applicant has waived in writing any claim for tax credits pursuant to section twenty-one of the tax law on a form prescribed by the department; and

(c) the activity is conducted in a manner which satisfies all substantive technical requirements applicable to like activity conducted pursuant to this title, including meeting applicable soil cleanup objectives

established pursuant to subdivision six of section 27-1417 of this title except as provided in subdivision three of this section.

2. Where an exemption has been granted pursuant to subdivision one of this section, the approved work plan for a brownfield site shall include the procedural requirements the department determines appropriate based on site specific considerations and consideration of section 27-1417 of this title.

3. For any site accepted into the BCP-EZ program pursuant to this section which is pursuing a Track 4 remediation, if a contaminant is identified in soil in excess of the remedial action objectives contained in an applicable generic table developed pursuant to subdivision six of section 27-1415 of this title, the applicant may use site-specific data to demonstrate to the department that the concentration of the contaminant in the soils reflects background conditions and, in that case, a contaminant-specific action objective for such contaminant equal to such background concentration may be established provided that such objective is protective of the public health and the environment and is determined in a manner acceptable to the department.

4. Upon the department's acceptance of the certification by the applicant that the remediation requirements of this title have been achieved for the brownfield site and an environmental easement, if necessary, has been created and filed pursuant to title thirty-six of article seventy-one of this chapter, a site in the BCP-EZ shall be eligible to receive a certificate of completion in accordance with section 27-1419 of this title; provided, however, that such certificate of completion shall not entitle the holder to any tax credits provided by section twenty-one of the tax law.

§ 19. The opening paragraph of subdivision 10 of section 71-3605 of the environmental conservation law, as added by section 2 of part A of chapter 1 of the laws of 2003, is amended to read as follows:

An environmental easement may be enforced in law or equity by its grantor, by the state, or any affected local government as defined in section 71-3603 of this title. Such easement is enforceable against the owner of the burdened property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, reversion or waiver. No general law of the state which operates to defeat the enforcement of any interest in real property shall operate to defeat the enforcement of any environmental easement unless such general law expressly states the intent to defeat the enforcement of such easement or provides for the exercise of the power of eminent domain. It is not a defense in any action to enforce an environmental easement that:

§ 20. Paragraph 2 of subdivision (a) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004, is amended to read as follows:

(2) Site preparation credit component. The site preparation credit component shall be equal to the applicable percentage of the site preparation costs paid [or] within six months of the date the expense is incurred by the taxpayer with respect to a qualified site. The credit component amount so determined with respect to a site's qualification for a certificate of completion shall be allowed for the taxable year in which the effective date of the certificate of completion occurs. The credit component amount determined other than with respect to such qualification shall be allowed for the taxable year in which the improvement

to which the applicable costs apply is placed in service for up to five taxable years after the issuance of such certificate of completion.

§ 21. Paragraph 3 of subdivision (a) of section 21 of the tax law, as amended by chapter 390 of the laws of 2008, is amended to read as follows:

(3) Tangible property credit component.

(i) The tangible property credit component shall be equal to the applicable percentage of the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings, which constitute qualified tangible property; provided[, however,] that in determining the cost or other basis of such property, the taxpayer shall exclude the acquisition cost of any item of property with respect to which a credit under this section was allowable to another taxpayer. The credit component amount so determined shall be allowed for the taxable year in which such qualified tangible property is first placed in service on a qualified site with respect to which a certificate of completion has been issued to the taxpayer, or for the taxable year in which the certificate of completion is issued if the qualified tangible property is placed in service prior to the issuance of the certificate of completion. This credit component shall only be allowed for up to [ten] five consecutive taxable years [after] from the start of the redevelopment of the site provided that all credits must be claimed within ten years of the date of the issuance of such certificate of completion.

(ii) The tangible property credit component shall be allowed with respect to property leased to a second party only if such second party is either [(i)] (A) not a party responsible for the disposal of hazardous waste or the discharge of petroleum at the site according to appli-

cable principles of statutory or common law liability, or [(ii)] (B) a party responsible according to applicable principles of statutory or common law liability if such party's liability arises solely from operation of the site subsequent to the disposal of hazardous waste or the discharge of petroleum, and is so certified by the commissioner of environmental conservation at the request of the taxpayer, pursuant to section 27-1419 of the environmental conservation law. Notwithstanding any other provision of law to the contrary, in the case of allowance of credit under this section to such a lessor, the commissioner shall have the authority to reveal to such lessor any information, with respect to the issue of qualified use of property by the lessee, which is the basis for the denial in whole or in part, or for the recapture, of the credit claimed by such lessor. For purposes of the tangible property credit component allowed under this section the taxpayer to whom the certificate of completion is issued, as provided for under subdivision five of section 27-1419 of the environmental conservation law, may transfer the benefits and burdens of the certificate of completion, which run with the land and to the applicant's successors or assigns upon transfer or sale of all or any portion of an interest or estate in the qualified site. However, the taxpayer to whom certificate's benefits and burdens are transferred shall not include the cost of acquiring all or any portion of an interest or estate in the site and the amounts included in the cost or other basis for federal income tax purposes of qualified tangible property already claimed by the previous taxpayer pursuant to this section.

(iii) The tangible property credit component shall not include costs paid to a related party or parties, as such term "related person" is

defined in subparagraph (c) of paragraph three of subdivision (b) of section four hundred sixty-five of the internal revenue code.

(iv) Eligible costs for the tangible property credit component are limited to costs associated with actual construction of tangible property incorporated as part of the physical structure, and costs associated with the foundation of any buildings constructed as part of the site cover that are not properly included in the site preparation component.

(v) With respect to any qualified site for which the department of environmental conservation has issued a notice to the taxpayer on or after April first, two thousand fifteen that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law, and the site is eligible for the tangible property credit component because it is an affordable housing project pursuant to subdivision one-a of section 27-1407 of the environmental conservation law, the portion of eligible costs to be included in the calculation of the tangible property credit component will be determined by multiplying the total costs qualified for the tangible property credit component by a fraction, the numerator of which shall be the square footage of space of the affordable housing units dedicated to residential occupancy and the denominator of which shall be the total square footage of the building together with the total square footage of any other improvements on the site.

§ 22. Subparagraph (A) of paragraph 3-a of subdivision (a) of section 21 of the tax law, as added by chapter 390 of the laws of 2008, is amended to read as follows:

(A) Notwithstanding any other provision of law to the contrary, the tangible property credit component available for any qualified site pursuant to paragraph three of this subdivision shall not exceed thir-

ty-five million dollars or three times the sum of the costs included in the calculation of the site preparation credit component and the on-site groundwater remediation credit component under paragraphs two and four, respectively, of this subdivision, and the costs that would have been included in the calculation of such components if not treated as an expense and deducted pursuant to section one hundred ninety-eight of the internal revenue code, whichever is less; provided, however, that: (1) in the case of a qualified site to be used primarily for manufacturing activities, the tangible property credit component available for any qualified site pursuant to paragraph three of this subdivision shall not exceed forty-five million dollars or six times the sum of the costs included in the calculation of the site preparation credit component and the on-site groundwater remediation credit component under paragraphs two and four, respectively, of this subdivision, and the costs that would have been included in the calculation of such components if not treated as an expense and deducted pursuant to section one hundred ninety-eight of the internal revenue code, whichever is less; and (2) the provisions of this paragraph shall not apply to any qualified site for which the department of environmental conservation has issued a notice to the taxpayer before June twenty-third, two thousand eight that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law.

§ 22-a. Subparagraph (C) of paragraph 3-a of subdivision (a) of section 21 of the tax law, as added by chapter 390 of the laws of 2008, is amended to read as follows:

(C) In order to properly administer the [credit] credits set forth in [paragraph three of] this subdivision, the department may disclose information about the calculation and the amounts of the credits claimed

under [paragraph three of] this subdivision on a taxpayer's return to the department of environmental conservation and other taxpayers claiming tax credits under this section with respect to the same qualifying site.

§ 23. Subparagraph (D) of paragraph 3-a of subdivision (a) of section 21 of the tax law, as added by chapter 390 of the laws of 2008, is amended to read as follows:

(D) [If] With respect to any qualified site for which the department of environmental conservation has issued a notice to the taxpayer before April first, two thousand fifteen that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law, or where the taxpayer has either been issued or received a certificate of completion from another taxpayer under section 27-1419 of the environmental conservation law before April first, two thousand fifteen, if the qualifying site is located in a brownfield opportunity area and is developed in conformance with the goals and priorities established for that applicable brownfield opportunity area as designated pursuant to section nine hundred seventy-r of the general municipal law, the applicable percentage of the tangible property credit component will be increased by two percent.

§ 24. Paragraph 4 of subdivision (a) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004, is amended to read as follows:

(4) On-site groundwater remediation credit component. The on-site groundwater remediation credit component shall be equal to the applicable percentage of the on-site groundwater remediation costs paid [or] within six months of the date the expense is incurred by the taxpayer with respect to a qualified site (to the extent that such groundwater

remediation costs are not included in the determination of the site preparation credit or the cost or other basis included in the determination of the tangible property credit). The credit component so determined for costs [incurred and] paid with respect to and prior to the issuance of a certificate of completion shall be allowed for the taxable year in which the effective date of the issuance of a certificate of completion occurs. The credit component amount determined in taxable years after the effective date of the issuance of a certificate of completion shall be allowed in the taxable year such qualified costs are [incurred and] paid for up to five taxable years after the issuance of such certificate of completion.

§ 25. Paragraph 5 of subdivision (a) of section 21 of the tax law, as amended by section 39 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(5) Applicable percentage. (A) For purposes of computing the site preparation and on-site groundwater remediation credit components pursuant to paragraphs two[, three] and four of this subdivision, with respect to such qualified sites for which the department of environmental conservation has issued a notice to the taxpayer before June twenty-third, two thousand eight that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law, or where the taxpayer has either been issued or received a certificate of completion from another taxpayer under section 27-1419 of the environmental conservation law for such a site, and, for purposes of computing the tangible property component pursuant to paragraph three of this subdivision with respect to such qualified sites for which the department of environmental conservation has issued a notice to the taxpayer before April first, two thousand fifteen that its

request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law, or where the taxpayer has either been issued or received a certificate of completion from another taxpayer under section 27-1419 of the environmental conservation law for such a site, the applicable percentage shall be twelve percent in the case of credits claimed under article nine, nine-A or thirty-three of this chapter, and ten percent in the case of credits claimed under article twenty-two of this chapter, except that where at least fifty percent of the area of the qualified site relating to the credit provided for in this section is located in an environmental zone as defined in paragraph six of subdivision (b) of this section, the applicable percentage shall be increased by an additional eight percent. Provided, however, as afforded in section 27-1419 of the environmental conservation law, if the certificate of completion indicates that the qualified site has been remediated to Track 1 as that term is described in subdivision four of section 27-1415 of the environmental conservation law, the applicable percentage set forth in the first sentence of this paragraph shall be increased by an additional two percent.

(B) With respect to such qualified site for which the department of environmental conservation has issued a notice to the taxpayer on or after April first, two thousand fifteen that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law, the applicable percentage for the tangible property credit component of the brownfield redevelopment tax credit pursuant to paragraph three of subdivision (a) of this section shall be the sum of ten percent and the following additional percentages, provided that the total percentage of the tangible property credit component shall not exceed twenty-four percent and is otherwise subject

to the limitations set forth in paragraphs three and three-a of subdivision (a) of this section:

(i) five percent for a site within an environmental zone;

(ii) five percent for a site located within a designated brownfield opportunity area;

(iii) five percent for a site developed as affordable housing, as defined in section 27-1405 of the environmental conservation law; and

(iv) five percent for a site to be used primarily for manufacturing activities as such term is defined in subparagraph (B) of paragraph three-a of this subdivision.

(C) The taxpayer shall submit, in the manner prescribed by the commissioner, information sufficient to demonstrate that the site qualifies for any credit components available under subparagraph (B) of this paragraph. If the site is located within a designated brownfield opportunity area, the taxpayer shall submit a certification from the secretary of state that the development is in conformance with such brownfield opportunity area plan pursuant to section nine hundred seventy-r of the general municipal law.

§ 26. Paragraph 6 of subdivision (a) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004, is amended to read as follows:

(6) Site preparation costs and on-site groundwater remediation costs paid [or] within six months of the date the expense is incurred by the taxpayer with respect to a qualified site and the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings, which constitute qualified tangible property shall only include costs paid [or] within six months of the date the expense is

incurred by the taxpayer on or after the date of the brownfield site cleanup agreement executed by the taxpayer and the department of environmental conservation pursuant to section 27-1409 of the environmental conservation law.

§ 27. Paragraphs 2, 4 and 6 of subdivision (b) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004 and subparagraph (B) and the closing paragraph of paragraph 6 as amended by section 1 of part G of chapter 62 of the laws of 2006, are amended to read as follows:

(2) Site preparation costs. The term "site preparation costs" shall mean all amounts properly [chargeable] charged to a capital account, (i) which are paid [or] within six months of the date the expense is incurred in connection with a site's qualification for a certificate of completion, and (ii) all other site preparation costs paid [or] within six months of the date the expense is incurred in connection with preparing a site for the erection of a building or a component of a building, or otherwise to establish a site as usable for its industrial, commercial (including the commercial development of residential housing), recreational or conservation purposes. Site preparation costs shall include, but not be limited to, the costs of excavation, temporary electric wiring, scaffolding, demolition costs, and the costs of fencing and security facilities and shall include costs attributable to activities undertaken under the oversight of the department of labor or in accordance with standards established by the department of health to remediate regulated materials including asbestos, lead or polychlorinated biphenyls in buildings which will remain on the site. For a building foundation, only costs equivalent to the cost of a site cover for the area covered by the foundation shall be included in site preparation

costs. Site preparation costs shall not include the cost of acquiring the site and shall not include amounts included in the cost or other basis for federal income tax purposes of qualified tangible property, as described in paragraph three of this subdivision. "Site preparation costs" shall not include costs paid to a related party or parties, as such term "related person" is defined in subparagraph (c) of paragraph three of subdivision (b) of section four hundred sixty-five of the internal revenue code. Eligible site preparation costs are limited to costs directly associated with actual site preparation-related construction, including costs associated with all requirements of site remediation and easements required pursuant to title fourteen of article twenty-seven and title thirty-six of article seventy-one of the environmental conservation law such as architectural and engineering fees, appraisal, surveys, soil borings/other investigations, legal fees associated with any environmental easement required, operation, maintenance and monitoring of treatment systems, testing for asbestos or lead paint, legal fees associated with construction loan closing, cost certification and insurance.

(4) On-site groundwater remediation costs. The term "on-site groundwater remediation costs" shall mean all amounts properly [chargeable] charged to a capital account, (i) which are paid [or] within six months of the date the expense is incurred in connection with a site's qualification for a certificate of completion, and (ii) include costs which are paid [or] within six months of the date the expense is incurred in connection with the remediation of on-site groundwater contamination and [incurred] paid to implement a requirement of the remedial work plan or an interim remedial measure work plan for a qualified site which are imposed pursuant to subdivisions two and three of section 27-1411 of the

environmental conservation law. "On-site groundwater remediation costs" shall not include costs paid to a related party or parties, as such term "related person" is defined in subparagraph (c) of paragraph three of subdivision (b) of section four hundred sixty-five of the internal revenue code. On site groundwater remediation costs are limited to costs directly associated with actual groundwater remediation activities, including costs associated with all requirements of site remediation and easements required pursuant to title fourteen of article twenty-seven and title thirty-six of article seventy-one of the environmental conservation law such as architectural and engineering fees, appraisal, surveys, soil boring/other investigations, legal fees associated with any environmental easement required, operation, maintenance and monitoring of treatment systems, testing for asbestos or lead paint, legal fees associated with construction loan closing, cost certification and insurance.

(6) Environmental zones (EN-Zones). An "environmental zone" shall mean an area designated as such by the commissioner of [economic development] labor. Such areas [so designated are areas which are] shall be census tracts [and block numbering areas which, as of the two thousand census,] that satisfy either of the following criteria:

(A) areas that have both:

(i) a poverty rate of at least twenty percent [for the year to which the data relate] based on the most recent five year American Community Survey; and

(ii) an unemployment rate of at least one and one-quarter times the statewide unemployment rate [for the year to which the data relate] based on the most recent five year American Community Survey, or;

(B) areas that have a poverty rate of at least two times the poverty rate for the county in which the areas are located [for the year to which the data relate provided, however, that a qualified site shall only be deemed to be located in an environmental zone under this subparagraph (B) if such site was the subject of a brownfield site cleanup agreement pursuant to section 27-1409 of the environmental conservation law that was entered into prior to September first, two thousand ten] based on the most recent five year American Community Survey.

Such designation shall be made and a list of all such environmental zones shall be established by the commissioner of [economic development no later than December thirty-first, two thousand four provided, however, that a qualified site shall only be deemed to be located in an environmental zone under subparagraph (B) of this paragraph if such site was the subject of a brownfield site cleanup agreement pursuant to section 27-1409 of the environmental conservation law that was entered into prior to September first, two thousand ten] labor based on the two thousand nine through two thousand thirteen American Community Survey estimate. Upon request of the commissioner of environmental conservation, the commissioner of labor shall update such designation based on the most recent American Community Survey, or its successor.

The determination of whether a site is located in an environmental zone shall be based on the date the department of environmental conservation issued a notice to the taxpayer that its request for participation in the brownfield cleanup program has been deemed complete pursuant to subdivision three of section 27-1407 of the environmental conservation law.

§ 28. Section 171-r of the tax law is amended by adding a new subdivision (e) to read as follows:

(e) The commissioner, in consultation with the commissioner of environmental conservation, shall publish by January thirty-first, two thousand sixteen a supplemental brownfield credit report containing the information required by this section about the credits claimed for the years two thousand five, two thousand six, and two thousand seven.

§ 29. Section 171-s of the tax law is REPEALED.

§ 30. Paragraph b of subdivision 2 of section 970-r of the general municipal law, as added by section 1 of part F of chapter 1 of the laws of 2003, is amended to read as follows:

b. Activities eligible to receive such assistance shall include, but are not limited to, the assembly and development of basic information about:

(1) the borders of the [proposed] brownfield opportunity area;

(2) the number and size of known or suspected brownfield sites;

(3) current and anticipated uses of the properties in the [proposed] brownfield opportunity area;

(4) current and anticipated future conditions of groundwater in the [proposed] brownfield opportunity area;

(5) known data about the environmental conditions of the properties in the [proposed] brownfield opportunity area;

(6) ownership of the properties in the [proposed] brownfield opportunity area and whether the owners would like to participate directly in the brownfield opportunity planning process; and

(7) preliminary descriptions of possible remediation strategies, reuse opportunities, necessary infrastructure improvements and other public or private measures needed to stimulate investment, promote revitalization, and enhance community health and environmental conditions.

§ 31. Subparagraphs 2 and 5 of paragraph c of subdivision 2 of section 970-r of the general municipal law, as added by section 1 of part F of chapter 1 of the laws of 2003, are amended to read as follows:

(2) areas with concentrations of known or suspected brownfield sites;

(5) areas with known or suspected brownfield sites presenting strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.

§ 32. Paragraph a of subdivision 3 of section 970-r of the general municipal law, as amended by chapter 390 of the laws of 2008, is amended to read as follows:

a. Within the limits of appropriations therefor, the secretary is authorized to provide, on a competitive basis, financial assistance to municipalities, to community based organizations, to community boards, or to municipalities and community based organizations acting in cooperation to prepare a pre-nomination study for a brownfield opportunity area designation. Such financial assistance shall not exceed ninety percent of the costs of such pre-nomination study for any such area. A nomination study must include sufficient information to designate the brownfield opportunity area. The contents of the nomination study shall be developed based on pre-nomination study information, which shall principally consist of an area-wide study, documenting the historic brownfield uses in the area proposed for designation. A nomination study is not intended to be equivalent to or to serve as a master plan, comprehensive plan, or other equivalent land use study, but rather is intended to be a basic plan for designation of the brownfield opportunity area based on historic brownfield use information and the community participation required in this section. A master plan, comprehensive plan or equivalent land use study may be separately developed under this

program as an implementation strategy for the final brownfield opportunity area plan. Since a nomination study is not equivalent to a final land use plan, the preparation of the nomination study does not require review under the Environmental Quality Review Act pursuant to article eight of the environmental conservation law, and a brownfield opportunity area can be designated based exclusively on a nomination study. In the event the municipality and/or community based organization elect to develop implementation strategies, including but not limited to a master plan, comprehensive plan or urban renewal plan, review under the Environmental Quality Review Act under article eight of the environmental conservation law is required. No such nomination study shall supersede an existing master plan or equivalent land and use study.

§ 33. Subparagraphs 2 and 5 of paragraph e of subdivision 3 and subdivision 4 of section 970-r of the general municipal law, subparagraphs 2 and 5 of paragraph e of subdivision 3 as added by section 1 of part F of chapter 1 of the laws of 2003 and subdivision 4 as amended by chapter 390 of the laws of 2008, are amended to read as follows:

(2) areas with concentrations of known or suspected brownfield sites;

(5) areas with known or suspected brownfield sites presenting strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.

4. Designation of brownfield opportunity area. Upon completion of a nomination for designation of a brownfield opportunity area, it shall be forwarded by the applicant to the secretary, who shall determine whether it is consistent with the provisions of this section. The secretary may review and approve a nomination for designation of a brownfield opportunity area at any time. If the secretary determines that the nomination is consistent with the provisions of this section, the brownfield oppor-

tunity area shall be designated. If the secretary determines that the nomination is not consistent with the provisions of this section, the secretary shall make recommendations in writing to the applicant of the manner and nature in which the nomination should be amended.

§ 34. The subdivision heading, paragraph a and subparagraphs 2 and 5 of paragraph e of subdivision 6 of section 970-r of the general municipal law, the subdivision heading and subparagraphs 2 and 5 of paragraph e as added by section 1 of part F of chapter 1 of the laws of 2003, and paragraph a as amended by chapter 386 of the laws of 2007, are amended to read as follows:

State assistance for brownfield site assessments in proposed or designated brownfield opportunity areas. a. Within the limits of appropriations therefor, [the commissioner, in consultation with] the secretary of state, is authorized to provide, on a competitive basis, financial assistance to municipalities, to community based organizations, to community boards, or to municipalities and community based organizations acting in cooperation to conduct brownfield site assessments [in a brownfield opportunity area designated pursuant to this section]. Such financial assistance shall not exceed ninety percent of the costs of such brownfield site assessment.

(2) areas with concentrations of known or suspected brownfield sites;

(5) areas with known or suspected brownfield sites presenting strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.

§ 35. Section 970-r of the general municipal law is amended by adding a new subdivision 10 to read as follows:

10. The secretary shall establish criteria for brownfield opportunity area conformance determinations for purposes of the brownfield cleanup

program pursuant to title fourteen of article twenty-seven of the environmental conservation law and the brownfield redevelopment tax credits pursuant to section twenty-one of the tax law. In establishing criteria, the secretary shall be guided by, but not limited to, the following considerations: how the proposed use and development advances the designated brownfield opportunity area plan's vision statement, goals and objectives for revitalization; how the density of development and associated buildings and structures advances the plan's objectives, desired redevelopment and priorities for investment; and how the project complies with zoning and other local laws and standards to guide and ensure appropriate use of the project site.

§ 36. Section 31 of part H of chapter 1 of the laws of 2003, amending the tax law relating to brownfield redevelopment tax credits, remediated brownfield credit for real property taxes for qualified sites and environmental remediation insurance credits, as amended by chapter 474 of the laws of 2012, is amended to read as follows:

§ 31. The tax credits allowed under section [21,] 22 or 23 of the tax law and the corresponding provisions in articles 9, 9-A, 22[, 32] and 33 of the tax law, as added by the provisions of sections one through twenty-nine of this act, shall not be applicable [if] to any site accepted into the brownfield cleanup program on and after April 1, 2015. The tax credits allowed under section 21 of the tax law and the corresponding provisions in articles 9, 9-A, 22 and 33 of the tax law, as added by the provisions of sections one through twenty-nine of this act, shall not be applicable to any site accepted into the brownfield cleanup program after December 31, 2022, provided, however that any sites accepted on or before December 31, 2022 must have received the [remediation] certif-

icate of completion required to qualify for any of such credits [is issued after] by December 31, [2015] 2025.

§ 37. Any site for which a brownfield cleanup agreement with the department of environmental conservation was entered into prior to April 1, 2015 which has not received a certificate of completion by December 31, 2017, shall only be eligible for brownfield remediation tax credits available pursuant to section 21 of the tax law as if the site was accepted into the brownfield cleanup program on and after April 1, 2015 and shall be subject to the eligibility requirements for the tangible property credit component set forth in subdivision 1-a of section 27-1407 of the environmental conservation law.

§ 38. Paragraph c of subdivision 3 of section 27-0923 of the environmental conservation law, as amended by section 5 of part I of chapter 577 of the laws of 2004, is amended to read as follows:

c. For the purpose of this section, generation of hazardous waste shall not include retrieval or creation of hazardous waste which must be disposed of under an order of or agreement with the department pursuant to title thirteen or title fourteen of this article or under a contract with the department pursuant to title five of article fifty-six of this chapter or under an order of or agreement with the United States environmental protection agency or an order of a court of competent jurisdiction, related to a facility addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) or under a written agreement with a municipality which is subject to a memorandum of agreement with the department related to the remediation of brownfield sites.

§ 39. Subparagraphs (i) and (vi) of paragraph d of subdivision 1 of section 72-0402 of the environmental conservation law, as amended by chapter 99 of the laws of 2010, are amended to read as follows:

(i) under a contract with the department, or with the department's written approval and in compliance with department regulations, or pursuant to an order of the department, the United States environmental protection agency or a court of competent jurisdiction, related to the cleanup or remediation of a hazardous materials or hazardous waste spill, discharge, or surficial cleanup, pursuant to this chapter; or

(vi) under a brownfield site cleanup agreement with the department pursuant to section 27-1409 of this chapter or under an agreement with a municipality which is subject to a memorandum of agreement with the department related to the remediation of brownfield sites; or

§ 40. Section 56-0501 of the environmental conservation law, as added by chapter 413 of the laws of 1996, is amended to read as follows:

§ 56-0501. Allocation of moneys.

1. Of the moneys received by the state from the sale of bonds pursuant to the Clean Water/Clean Air Bond Act of 1996, two hundred million dollars ($200,000,000) shall be available for disbursements for environmental restoration projects.

2. Environmental restoration projects may be funded using the proceeds of bonds issued pursuant to section twelve hundred eighty-five-q of the public authorities law.

§ 41. Subdivision 6 of section 56-0502 of the environmental conservation law, as amended by section 2 of part D of chapter 577 of the laws of 2004, is amended to read as follows:

6. "State assistance", for purposes of this title, shall mean in the case of a contract authorized by subdivision one of section 56-0503 of

this title, payments made to a municipality to reimburse the municipality for the state share of the costs incurred by the municipality to undertake an environmental restoration project or in the case of an agreement authorized by subdivision three of section 56-0503 of this title, costs incurred by the state to undertake an environmental restoration project but not reimbursed by a municipality.

§ 42. Paragraph (c) of subdivision 2 of section 56-0503 of the environmental conservation law, as amended by section 4 of part D of chapter 1 of the laws of 2003, is amended and a new subdivision 3 is added to read as follows:

(c) A provision that the municipality shall assist in identifying a responsible party by searching local records, including property tax rolls, or document reviews, and if, in accordance with the required departmental approval of any settlement with a responsible party, any responsible party payments become available to the municipality, before, during or after the completion of an environmental restoration project, which were not included when the state share was calculated pursuant to this section, the state assistance share shall be recalculated, and the municipality shall pay to the state, for deposit into the environmental restoration project account of the hazardous waste remedial fund established under section ninety-seven-b of the state finance law, the difference between the original state assistance payment and the recalculated state share. Recalculation of the state share shall be done each time a payment from a responsible party is received by the municipality;

3. The department may undertake an environmental restoration project on behalf of a municipality upon request. If the department undertakes the project on behalf of the municipality, the state shall enter into an agreement with the municipality and the agreement shall require the

municipality to periodically provide its share to the state for costs incurred during the progress of such project. The municipality's share shall be the same as would be required under subdivision one of this section. The agreement shall include all provisions specified in subdivision two of this section as appropriate. For purposes of projects subject to agreements under this subdivision, all references to contracts in this title shall also apply to agreements under this subdivision as appropriate.

§ 43. Subdivision 4 of section 56-0505 of the environmental conservation law, as amended by section 5 part of part D of chapter 1 of the laws of 2003, is amended to read as follows:

4. After completion of such project, the municipality may use the property for public purposes or may dispose of it. If the municipality shall dispose of such property by sale to a responsible party, such party shall pay to such municipality, in addition to such other consideration, an amount of money constituting the amount of state assistance provided [to the municipality] under this title plus accrued interest and transaction costs and the municipality shall deposit that money into the environmental restoration project account of the hazardous waste remedial fund established under section ninety-seven-b of the state finance law.

§ 44. Subdivisions 3 and 4 of section 56-0508 of the environmental conservation law, as added by section 7 of part D of chapter 1 of the laws of 2003, are amended to read as follows:

3. such temporary incidents of ownership by such taxing district shall also qualify it as being the owner of such property [for the purposes of obtaining] to be eligible for funding from the state of New York for such environmental restoration investigation project under this article

or for such funding from any source pursuant to any other state, federal, or local law, but such incidents of ownership shall not be sufficient to qualify it as the owner of such property for the purposes of holding it wholly or partially liable for any damages, past, present, or future from any release of any hazardous material, substance, or contaminant into the air, ground, or water, unless such release was caused by such taxing district.

4. within thirty days of the completion of the environmental restoration investigation project and the receipt by the taxing jurisdiction of the final report of such investigation, such taxing jurisdiction shall file such report with the court on notice to the court and all other parties of record, and the stay of the foreclosure shall be lifted (unless lifted earlier by a prior court order), and all incidents of temporary ownership of the taxing jurisdiction that was awarded such taxing district, except any right [to receive funding] for the environmental restoration investigation project <u>to be funded</u>, shall cease to exist, and nothing in this subdivision shall preclude the taxing jurisdiction that conducted the environmental restoration investigation project or the taxing jurisdiction that commenced the foreclosure action, if it is a different taxing jurisdiction than the taxing jurisdiction which conducted the investigation, from withdrawing the parcel from foreclosure pursuant to section eleven hundred thirty-eight of the real property tax law.

§ 45. Subdivision 2 and paragraph (f) of subdivision 3 of section 97-b of the state finance law, as amended by section 4 of part I of chapter 1 of the laws of 2003, are amended to read as follows:

2. Such fund shall consist of all of the following:

(a) moneys appropriated for transfer to the fund's site investigation and construction account; (b) all fines and other sums accumulated in the fund prior to April first, nineteen hundred eighty-eight pursuant to section 71-2725 of the environmental conservation law for deposit in the fund's site investigation and construction account; (c) all moneys collected or received by the department of taxation and finance pursuant to section 27-0923 of the environmental conservation law for deposit in the fund's industry fee transfer account; (d) all moneys paid into the fund pursuant to section 72-0201 of the environmental conservation law which shall be deposited in the fund's industry fee transfer account; (e) all moneys paid into the fund pursuant to section one hundred eighty-six of the navigation law which shall be deposited in the fund's industry fee transfer account; (f) [all moneys paid into the fund by municipalities for repayment of landfill closure loans made pursuant to title five of article fifty-two of the environmental conservation law for deposit in the fund's site investigation and construction account; (g)] all monies recovered under sections 56-0503, 56-0505 and 56-0507 of the environmental conservation law into the fund's environmental restoration project account; [(h) all] (g) fees paid into the fund pursuant to section [72-0403] 72-0402 of the environmental conservation law which shall be deposited in the fund's industry fee transfer account; [(i)] (h) payments received for all state costs incurred in negotiating and overseeing the implementation of brownfield site cleanup agreements pursuant to title fourteen of article twenty-seven of the environmental conservation law shall be deposited in the hazardous waste remediation oversight and assistance account; and [(j)] (i) other moneys credited or transferred thereto from any other fund or source for deposit in the fund's site investigation and construction account.

(f) to undertake such remedial measures as the department of environmental conservation may determine necessary due to environmental conditions related to the property subject to an agreement [to provide state assistance] or contract under title five of article fifty-six of the environmental conservation law [that were unknown to such department at the time of its approval of such agreement which indicates that conditions on such property are not sufficiently protective of human health for its reasonably anticipated uses or due to information received, in whole or in part, after such department's approval of such agreement's final engineering report and certification], which indicates that such agreement's remedial activities are not sufficiently protective of human health for such property's reasonably anticipated uses; and, [respecting the monies in the environmental restoration project account in excess of ten million dollars,] shall provide state assistance under title five of article fifty-six of the environmental conservation law;

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

§ 47. This act shall take affect April 1, 2015; provided, however, that the department of environmental conservation shall not charge volunteers in the brownfield cleanup program for oversight costs for any sites in the program incurred on or after April 1, 2015; provided,

however, that the amendments made by section two of this act relating to the definition of brownfield site, section twenty-one of this act relating to the length of time a taxpayer may claim the tangible property credit component, and all amendments to the brownfield redevelopment tax credits made by sections twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six and twenty-seven of this act shall apply only to sites for which the department of environmental conservation has issued a notice to the applicant on or after April 1, 2015 that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law; provided, further, that the department of labor shall update the environmental zones as required by section twenty-seven of this act within ninety days of this act becoming law.

PART S

Section 1. Paragraph (r) of section 104-A of the business corporation law, as amended by chapter 172 of the laws of 2000, is amended to read as follows:

(r) For filing a statement or amendment pursuant to section four hundred eight of this chapter <u>with the department of state</u>, nine dollars.

§ 2. Paragraphs (b) and (c) of section 306-A of the business corporation law, as added by chapter 469 of the laws of 1997, are amended to read as follows:

(b) Upon the failure of the designating corporation to file a certificate of amendment or change providing for the designation by the corporation of the new address after the filing of a certificate of resigna-

tion for receipt of process with the secretary of state, its authority to do business in this state shall be suspended unless the corporation has previously filed a statement [of addresses and directors] under section four hundred eight of this chapter, in which case the address of the principal executive office stated in the last filed statement [of addresses and directors], shall constitute the new address for process of the corporation provided such address is different from the previous address for process, and the corporation shall not be deemed suspended.

(c) The filing by the department of state of a certificate of amendment or change or statement under section four hundred eight of this chapter providing for a new address by a designating corporation shall annul the suspension and its authority to do business in this state shall be restored and continue as if no suspension had occurred.

§ 3. Section 408 of the business corporation law, as added by chapter 55 of the laws of 1992, the section heading as amended by chapter 375 of the laws of 1998, subparagraph (a) of paragraph 1 and paragraph 2 as amended by chapter 172 of the laws of 1999, subparagraph (b) of paragraph 3 as amended by chapter 170 of the laws of 1994, paragraph 6 as added by chapter 469 of the laws of 1997, and paragraph 7 as added by chapter 172 of the laws of 2000, is amended to read as follows:

§ 408. [Biennial statement] Statement; filing.

1. [Each] Except as provided in paragraph eight of this section, each domestic corporation, and each foreign corporation authorized to do business in this state, shall, during the applicable filing period as determined by subdivision three of this section, file a statement setting forth:

(a) The name and business address of its chief executive officer.

(b) The street address of its principal executive office.

(c) The post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her. Such address shall supersede any previous address on file with the department of state for this purpose.

2. [Such] Except as provided in paragraph eight of this section, such statement shall be made on forms prescribed by the secretary of state, and the information therein contained shall be given as of the date of the execution of the statement. Such statement shall only request reporting of information required under paragraph one of this section. It shall be signed and delivered to the department of state.

3. [For] Except as provided in paragraph eight of this section, for the purpose of this section the applicable filing period for a corporation shall be the calendar month during which its original certificate of incorporation or application for authority were filed or the effective date thereof if stated. The applicable filing period shall only occur: (a) annually, during the period starting on April 1, 1992 and ending on March 31, 1994; and (b) biennially, during a period starting on April 1 and ending on March 31 thereafter. Those corporations that filed between April 1, 1992 and June 30, 1994 shall not be required to file such statements again until such time as they would have filed, had this subdivision not been amended.

4. The provisions of [subdivision eleven of section ninety-six of the executive law and] paragraph (g) of section one hundred four of this chapter shall not be applicable to filings pursuant to this section.

5. The provisions of this section and section 409 of this article shall not apply to a farm corporation. For the purposes of this subdivision, the term "farm corporation" shall mean any domestic corporation or foreign corporation authorized to do business in this state under this

chapter engaged in the production of crops, livestock and livestock products on land used in agricultural production, as defined in section 301 of the agriculture and markets law. However, this exception for farm corporations shall not be applicable if an agreement is made pursuant to paragraph eight of this section so that these statements will be filed with the department of taxation and finance.

6. No such statement shall be accepted for filing when a certificate of resignation for receipt of process has been filed under section three hundred six-A of this chapter unless the corporation has stated a different address for process which does not include the name of the party previously designated in the address for process in such certificate.

7. A domestic corporation or foreign corporation may amend its statement to change the information required by [subdivisions] subparagraphs (a) and (b) of paragraph one of this section. Such amendment shall be made on forms prescribed by the secretary of state. It shall be signed and delivered to the department of state.

8. (a) The commissioner of taxation and finance and the secretary of state may agree to allow corporations to provide the statement specified in paragraph one of this section on tax reports filed with the department of taxation and finance in lieu of biennial reports. This agreement may apply to tax reports due for tax years starting on or after January first, two thousand sixteen.

(b) If the agreement described in subparagraph (a) of this paragraph is made, each corporation required to file the statement specified in paragraph one of this section that is also subject to tax under article nine or nine-A of the tax law shall include such statement annually on its tax report filed with the department of taxation and finance in lieu

of filing a statement under this section with the department of state and in a manner prescribed by the commissioner of taxation and finance. However, each corporation required to file a statement under this section must continue to file the biennial statement required by this section with the department of state until the corporation in fact has filed a tax report with the department of taxation and finance that includes all required information. After that time, the corporation shall continue to deliver annually the statement specified in paragraph one of this section on its tax report in lieu of the biennial statement required by this section.

(c) If the agreement described in subparagraph (a) of this paragraph is made, the department of taxation and finance shall deliver to the department of state for filing the statement specified in paragraph one of this section for each corporation that files a tax report containing such statement. The department of taxation and finance must, to the extent feasible, also include the current name of the corporation, department of state identification number for such corporation, the name, signature and capacity of the signer of the statement, name and street address of the filer of the statement, and the email address, if any, of the filer of the statement.

§ 4. Section 409 of the business corporation law is amended by adding a new paragraph 4 to read as follows:

4. This section shall not apply to a failure to file a statement for any situation for which a penalty under subdivision (v) of section one thousand eighty-five of the tax law is applicable.

§ 5. Subdivision (e) of section 301 of the limited liability company law, as amended by chapter 643 of the laws of 1995, is amended to read as follows:

(e) [Every] (1) Except as otherwise provided in this subdivision, every limited liability company to which this chapter applies, shall biennially in the calendar month during which its articles of organization or application for authority were filed, or effective date thereof if stated, file on forms prescribed by the secretary of state, a statement setting forth the post office address within or without this state to which the secretary of state shall mail a copy of any process accepted against it served upon him or her. Such address shall supersede any previous address on file with the department of state for this purpose.

(2) The commissioner of taxation and finance and the secretary of state may agree to allow limited liability companies to include the statement specified in paragraph one of this subdivision on tax reports filed with the department of taxation and finance in lieu of biennial reports and in a manner prescribed by the commissioner of taxation and finance. If this agreement is made, starting with taxable years beginning on or after January first, two thousand sixteen, each limited liability company required to file the statement specified in paragraph one of this subdivision that is subject to the filing fee imposed by paragraph three of subsection (c) of section six hundred fifty-eight of the tax law shall provide such statement annually on its filing fee payment form filed with the department of taxation and finance in lieu of filing a statement under this section with the department of state. However, each limited liability company required to file a statement under this section must continue to file the biennial statement required by this section with the department of state until the limited liability company in fact has filed a filing fee payment form with the department of taxation and finance that includes all required information. After

that time, the limited liability company shall continue to provide annually the statement specified in paragraph one of this subdivision on its filing fee payment form in lieu of the biennial statement required by this subdivision.

(3) If the agreement described in paragraph two of this subdivision is made, the department of taxation and finance shall deliver to the department of state the statement specified in paragraph one of this subdivision contained on filing fee payment forms. The department of taxation and finance must, to the extent feasible, also include the current name of the limited liability company, department of state identification number for such limited liability company, the name, signature and capacity of the signer of the statement, name and street address of the filer of the statement, and the email address, if any, of the filer of the statement.

§ 6. Subdivision (c) of section 301-A of the limited liability company law, as added by chapter 448 of the laws of 1998, is amended to read as follows:

(c) The filing by the department of state of a certificate of amendment or certificate of change or the filing of a statement under section three hundred one of this article providing for a new address by a designating limited liability company shall annul the suspension and its authority to do business in this state shall be restored and continued as if no suspension had occurred.

§ 7. Subdivision (c) of section 1101 of the limited liability company law is amended to read as follows:

(c) For the statement of address of the post office address to which the secretary of state shall mail a copy of any process against the limited liability company served upon him or her pursuant to section

three hundred one of this chapter, nine dollars. This fee shall not apply if this statement is filed directly with the department of taxation and finance.

§ 8. Subdivision (g) of section 121-1500 of the partnership law, as amended by chapter 643 of the laws of 1995, is amended to read as follows:

(g) Each registered limited liability partnership shall, within sixty days prior to the fifth anniversary of the effective date of its registration and every five years thereafter, furnish a statement to the department of state setting forth: (i) the name of the registered limited liability partnership, (ii) the address of the principal office of the registered limited liability partnership, (iii) the post office address within or without this state to which the secretary of state shall mail a copy of any process accepted against it served upon him or her, which address shall supersede any previous address on file with the department of state for this purpose, and (iv) a statement that it is eligible to register as a registered limited liability partnership pursuant to subdivision (a) of this section. The statement shall be executed by one or more partners of the registered limited liability partnership. The statement shall be accompanied by a fee of twenty dollars if submitted directly to the department of state. The commissioner of taxation and finance and the secretary of state may agree to allow registered limited liability partnerships to provide the statement specified in this subdivision on tax reports filed with the department of taxation and finance in lieu of statements filed directly with the secretary of state and in a manner prescribed by the commissioner of taxation and finance. If this agreement is made, starting with taxable years beginning on or after January first, two thousand sixteen, each

limited liability partnership required to file the statement specified in this subdivision that is subject to the filing fee imposed by paragraph three of subsection (c) of section six hundred fifty-eight of the tax law shall provide such statement annually on its filing fee payment form filed with the department of taxation and finance in lieu of filing a statement under this subdivision with the department of state. However, each registered limited liability partnership required to file a statement under this section must continue to file a statement with the department of state as required by this section until the registered limited liability partnership in fact has filed a filing fee payment form with the department of taxation and finance that includes all required information. After that time, the limited liability partnership shall continue to provide annually the statement specified in this subdivision on its filing fee payment form in lieu of the statement required by this subdivision. The commissioner of taxation and finance shall deliver the completed statement specified in this subdivision to the department of state for filing. The department of taxation and finance must, to the extent feasible, also include in such delivery the current name of the registered limited liability partnership, department of state identification number for such registered limited liability partnership, the name, signature and capacity of the signer of the statement, name and street address of the filer of the statement, and the email address, if any, of the filer of the statement. If a registered limited liability partnership shall not timely file the statement required by this subdivision, the department of state may, upon sixty days' notice mailed to the address of such registered limited liability partnership as shown in the last registration or statement or certificate of amendment filed by such registered limited liability partner-

ship, make a proclamation declaring the registration of such registered limited liability partnership to be revoked pursuant to this subdivision. The department of state shall file the original proclamation in its office and shall publish a copy thereof in the state register no later than three months following the date of such proclamation. Upon the publication of such proclamation in the manner aforesaid, the registration of each registered limited liability partnership named in such proclamation shall be deemed revoked without further legal proceedings. Any registered limited liability partnership whose registration was so revoked may file in the department of state a [certificate of consent certifying that either a] statement required by this subdivision [has been filed or accompanies the certificate of consent and all fees imposed under this chapter on the registered limited liability partnership have been paid]. The filing of such [certificate of consent] statement shall have the effect of annulling all of the proceedings theretofore taken for the revocation of the registration of such registered limited liability partnership under this subdivision and (1) the registered limited liability partnership shall thereupon have such powers, rights, duties and obligations as it had on the date of the publication of the proclamation, with the same force and effect as if such proclamation had not been made or published and (2) such publication shall not affect the applicability of the provisions of subdivision (b) of section twenty-six of this chapter to any debt, obligation or liability incurred, created or assumed from the date of publication of the proclamation through the date of the filing of the [certificate of consent. The filing of a certificate of consent shall be accompanied by a fee of fifty dollars and if accompanied by a statement, the fee required by this subdivision] statement with the department of state. If, after the

publication of such proclamation, it shall be determined by the department of state that the name of any registered limited liability partnership was erroneously included in such proclamation, the department of state shall make appropriate entry on its records, which entry shall have the effect of annulling all of the proceedings theretofore taken for the revocation of the registration of such registered limited liability partnership under this subdivision and (A) such registered limited liability partnership shall have such powers, rights, duties and obligations as it had on the date of the publication of the proclamation, with the same force and effect as if such proclamation had not been made or published and (B) such publication shall not affect the applicability of the provisions of subdivision (b) of section twenty-six of this chapter to any debt, obligation or liability incurred, created or assumed from the date of publication of the proclamation through the date of the making of the entry on the records of the department of state. Whenever a registered limited liability partnership <u>whose registration was revoked</u> shall have filed a [certificate of consent] <u>statement</u> pursuant to this subdivision or if the name of a registered limited liability partnership was erroneously included in a proclamation and such proclamation was annulled, the department of state shall publish a notice thereof in the state register.

§ 9. Paragraph (I) of subdivision (f) of section 121-1502 of the partnership law, as amended by chapter 643 of the laws of 1995 and as designated by chapter 767 of the laws of 2005, is amended to read as follows:

(I) Each New York registered foreign limited liability partnership shall, within sixty days prior to the fifth anniversary of the effective date of its notice and every five years thereafter, furnish a statement to the department of state setting forth:

(i) the name under which the New York registered foreign limited liability partnership is carrying on or conducting or transacting business or activities in this state, (ii) the address of the principal office of the New York registered foreign limited liability partnership, (iii) the post office address within or without this state to which the secretary of state shall mail a copy of any process accepted against it served upon him or her, which address shall supersede any previous address on file with the department of state for this purpose, and (iv) a statement that it is a foreign limited liability partnership. The statement shall be executed by one or more partners of the New York registered foreign limited liability partnership. The statement shall be accompanied by a fee of fifty dollars if submitted directly to the department of state. The commissioner of taxation and finance and the secretary of state may agree to allow New York registered foreign limited liability partnerships to provide the statement specified in this paragraph on tax reports filed with the department of taxation and finance in lieu of statements filed directly with the secretary of state and in a manner prescribed by the commissioner of taxation and finance. If this agreement is made, starting with taxable years beginning on or after January first, two thousand sixteen, each New York registered foreign limited liability partnership required to file the statement specified in this paragraph that is subject to the filing fee imposed by paragraph three of subsection (c) of section six hundred fifty-eight of the tax law shall provide such statement annually on its filing fee payment form filed with the department of taxation and finance in lieu of filing a statement under this paragraph directly with the department of state. However, each New York registered foreign limited liability partnership required to file a statement under this section must contin-

ue to file a statement with the department of state as required by this section until the New York registered foreign limited liability partnership in fact has filed a filing fee payment form with the department of taxation and finance that includes all required information. After that time, the New York registered foreign limited liability partnership shall continue to provide annually the statement specified in this paragraph on its filing fee payment form in lieu of filing the statement required by this paragraph directly with the department of state. The commissioner of taxation and finance shall deliver the completed statement specified in this paragraph to the department of state for filing. The department of taxation and finance must, to the extent feasible, also include in such delivery the current name of the New York registered foreign limited liability partnership, department of state identification number for such New York registered foreign limited liability partnership, the name, signature and capacity of the signer of the statement, name and street address of the filer of the statement, and the email address, if any, of the filer of the statement. If a New York registered foreign limited liability partnership shall not timely file the statement required by this subdivision, the department of state may, upon sixty days' notice mailed to the address of such New York registered foreign limited liability partnership as shown in the last notice or statement or certificate of amendment filed by such New York registered foreign limited liability partnership, make a proclamation declaring the status of such New York registered foreign limited liability partnership to be revoked pursuant to this subdivision. The department of state shall file the original proclamation in its office and shall publish a copy thereof in the state register no later than three months following the date of such proclamation. Upon the publication of such

proclamation in the manner aforesaid, the status of each New York registered foreign limited liability partnership named in such proclamation shall be deemed revoked without further legal proceedings. Any New York registered foreign limited liability partnership whose status was so revoked may file in the department of state a [certificate of consent certifying that either a] statement required by this subdivision [has been filed or accompanies the certificate of consent and all fees imposed under this chapter on the New York registered foreign limited liability partnership have been paid]. The filing of such [certificate of consent] statement shall have the effect of annulling all of the proceedings theretofore taken for the revocation of the status of such New York registered foreign limited liability partnership under this subdivision and (1) the New York registered foreign limited liability partnership shall thereupon have such powers, rights, duties and obligations as it had on the date of the publication of the proclamation, with the same force and effect as if such proclamation had not been made or published and (2) such publication shall not affect the applicability of the laws of the jurisdiction governing the agreement under which such New York registered foreign limited liability partnership is operating (including laws governing the liability of partners) to any debt, obligation or liability incurred, created or assumed from the date of publication of the proclamation through the date of the filing of the [certificate of consent. The filing of a certificate of consent shall be accompanied by a fee of fifty dollars and if accompanied by a statement, the fee required by this subdivision] statement with the department of state. If, after the publication of such proclamation, it shall be determined by the department of state that the name of any New York registered foreign limited liability partnership was erroneously

included in such proclamation, the department of state shall make appropriate entry on its records, which entry shall have the effect of annulling all of the proceedings theretofore taken for the revocation of the status of such New York registered foreign limited liability partnership under this subdivision and (1) such New York registered foreign limited liability partnership shall have such powers, rights, duties and obligations as it had on the date of the publication of the proclamation, with the same force and effect as if such proclamation had not been made or published and (2) such publication shall not affect the applicability of the laws of the jurisdiction governing the agreement under which such New York registered foreign limited liability partnership is operating (including laws governing the liability of partners) to any debt, obligation or liability incurred, created or assumed from the date of publication of the proclamation through the date of the making of the entry on the records of the department of state. Whenever a New York registered foreign limited liability partnership <u>whose status was revoked</u> shall have filed a [certificate of consent] <u>statement</u> pursuant to this subdivision or if the name of a New York registered foreign limited liability partnership was erroneously included in a proclamation and such proclamation was annulled, the department of state shall publish a notice thereof in the state register.

§ 10. Subdivision (d) of section 121-1506 of the partnership law, as amended by chapter 172 of the laws of 1999, is amended to read as follows:

(d) The filing by the department of state of a certificate of amendment <u>or the filing of a statement</u> providing for a new address by a designating limited liability partnership shall annul the suspension and

its authority to do business in this state shall be restored and continued as if no suspension had occurred.

§ 11. Section 192 of the tax law is amended by adding a new subdivision 5 to read as follows:

5. Notwithstanding the provisions of section two hundred two of this article, the commissioner shall provide the statements and other required information requested on tax reports under section four hundred eight of the business corporation law to the secretary of state for filing. Such provision may also include a copy or image of that portion of the report solely pertinent to such information to the extent feasible. The commissioner may also provide information on noncompliance.

§ 12. Section 211 of the tax law is amended by adding a new subdivision 15 to read as follows:

15. Notwithstanding the provisions of subdivision eight of this section, the commissioner shall provide the statements and other required information requested on tax reports under section four hundred eight of the business corporation law to the secretary of state for filing. Such provision may also include a copy or image of that portion of the report solely pertinent to such information to the extent feasible. The commissioner any also provide information on noncompliance.

§ 13. Paragraph 3 of subsection (c) of section 658 of the tax law is amended by adding a new subparagraph (E) to read as follows:

(E) Notwithstanding the provisions of subsection (e) of section six hundred ninety-seven of this article, the commissioner shall provide the statements and other required information included on the filing fee payment form under section three hundred one of the limited liability company law, subdivision (f) of section 121-1502 of the partnership law, and subdivision (d) of section 121-1506 of the partnership law to the

secretary of state for filing. Such provision may also include a copy or image of that portion of the report solely pertinent to such information to the extent feasible. The commissioner may also provide information on noncompliance.

§ 14. Section 1085 of the tax law is amended by adding a new subsection (v) to read as follows:

(v) Failure to supply all the information required or to provide correct information in secretary of state statements. Unless it is shown that such failure to provide the statement and information required by section four hundred eight of the business corporation law is due to reasonable cause and not to willful neglect, there shall, upon notice and demand by the commissioner and in the same manner as tax, be paid by the taxpayer failing to supply complete and correct information, a penalty of two hundred fifty dollars per taxpayer required to provide such information.

§ 15. Section 685 of the tax law is amended by adding a new subsection (dd) to read as follows:

(dd) Failure to supply all the information required or to provide correct information in secretary of state statements. Unless it is shown that such failure to provide the statement and information required by subdivision (e) of section three hundred one of the limited liability company law, subdivision (f) of section 121-1502 of the partnership law, or subdivision (d) of section 121-1506 of the partnership law is due to reasonable cause and not to willful neglect, there shall, upon notice and demand by the commissioner and in the same manner as tax, be paid by the taxpayer failing to supply complete and correct information, a penalty of two hundred and fifty dollars per limited liability company required to provide such information on its filing fee payment form.

§ 16. This act shall take effect immediately.

PART T

Section 1. Paragraph (a) of subdivision 5 of section 208 of the tax law, as amended by section 4 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(a) The term "investment capital" means investments in stocks that are held by the taxpayer for more than six consecutive months but are not [held for sale to customers] and have never been used by the taxpayer in the regular course of business, or, if the taxpayer makes the election provided for in subparagraph one of paragraph (a) of subdivision five of section two hundred ten-A of this article, are not qualified financial instruments as described in subdivision five of section two hundred ten-A of this article. Stock in a corporation that is conducting a unitary business with the taxpayer, stock in a corporation that is included in a combined report with the taxpayer pursuant to the commonly owned group election in subdivision three of section two hundred ten-C of this article, and stock issued by the taxpayer shall not constitute investment capital. For purposes of this subdivision, if the taxpayer owns or controls, directly or indirectly, less than twenty percent of the voting power of the stock of a corporation, that corporation will be presumed to be conducting a business that is not unitary with the business of the taxpayer.

§ 2. Paragraph (d) of subdivision 5 of section 208 of the tax law, as added by section 4 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(d) If a taxpayer acquires stock during the second half of its taxable year and owns that stock on the last day of the taxable year, it will be presumed, solely for purposes of determining whether that stock should be classified as investment capital after it is acquired, that the taxpayer held that stock for more than six consecutive months during the taxable year. This presumption shall apply only if the taxpayer in fact owns the stock at the time it files its original report for the taxable year in which it acquires the stock. However, if the taxpayer does not in fact hold that stock as investment capital for more than six consecutive months, the taxpayer must increase its total business capital in the immediately succeeding taxable year by the amount included in investment capital for that stock, net of any liabilities attributable to that stock computed as provided in paragraph (b) of this subdivision and must increase its business income in the immediately succeeding taxable year by the amount of income and net gains (but not less than zero) from that stock included in investment income, less any interest deductions directly or indirectly attributable to that stock, as provided in subdivision six of this section.

§ 3. Paragraph (e) of subdivision 5 of section 208 of the tax law, as added by section 4 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(e) When income or gain from a debt obligation or other security cannot be apportioned to the state using the [business allocation percentage] apportionment factor determined under section two hundred ten-A of this article as a result of United States constitutional principles, the debt obligation or other security will be included in investment capital.

§ 4. Paragraph (f) of subdivision 5 of section 208 of the tax law is REPEALED.

§ 5. Paragraph (a) of subdivision 6 of section 208 of the tax law, as amended by section 4 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(a) The term "investment income" means income, including capital gains in excess of capital losses, from investment capital, to the extent included in computing entire net income, less, (i) in the discretion of the commissioner, any interest deductions allowable in computing entire net income which are directly or indirectly attributable to investment capital or investment income, [and (ii) the taxpayer's loss, deduction and/or expense attributable to any transaction, or series of transactions, entered into to manage the risk of price changes or currency fluctuations with respect to any item of investment capital that is held or to be held by the taxpayer, or the aggregate investment capital that is held or to be held by the taxpayer, if all of the risk, or all but a de minimis amount of the risk, is with respect to investment capital,] provided, however, that in no case shall investment income exceed entire net income. (ii) If the amount of interest deductions subtracted under [subparagraph (i) or subparagraph (ii) of this paragraph or under both of those subparagraphs] subparagraph (i) of this paragraph exceeds investment income, the excess of such amount over investment income must be added back to entire net income.

§ 6. Subclause (ii) of clause (B) of subparagraph 1 of paragraph (r) of subdivision 9 of section 208 of the tax law, as added by section 4 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(ii) Measurement of assets. For purposes of this paragraph: (I) Total assets are those assets that are properly reflected on a balance sheet,

computed in the same manner as is required by the banking regulator of the taxpayers included in the combined return.

(II) Assets will only be included if the income or expenses of which are properly reflected (or would have been properly reflected if not fully depreciated or expensed, or depreciated or expensed to a nominal amount) in the computation of the combined group's entire net income for the taxable year. Assets will not include deferred tax assets and intangible assets identified as "goodwill".

(III) Tangible real and personal property, such as buildings, land, machinery, and equipment shall be valued at cost. Leased assets will be valued at the annual lease payment multiplied by eight. Intangible property, such as loans and investments, shall be valued at book value exclusive of reserves.

(IV) Intercorporate stockholdings and bills, notes and accounts receivable, and other intercorporate indebtedness between the corporations included in the combined report shall be eliminated.

(V) Average assets are computed using the assets measured on the first day of the taxable year, and on the last day of each subsequent quarter of the taxable year or month or day during the taxable year.

§ 7. Clause (B) of subparagraph 2 and clause (B) of subparagraph 2-a of paragraph (s) of subdivision 9 of section 208 of the tax law, as added by section 4 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

(B) The average value during the taxable year of the assets of the taxpayer, or<u>, if the taxpayer is included in a combined report,</u> the assets of the combined reporting group of the taxpayer under section two hundred ten-C of this article, must not exceed eight billion dollars.

(B) The average value during the taxable year of the assets of the taxpayer, or, if the taxpayer is included in a combined report, the assets of the combined reporting group of the taxpayer under section two hundred ten-C of this article, must not exceed eight billion dollars.

§ 8. Paragraph (d) of subdivision 1 of section 209 of the tax law, as added by section 5 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(d)(i) A corporation with less than one million dollars but at least ten thousand dollars of receipts within this state in a taxable year that is part of a [combined reporting] unitary group that meets the ownership test under section two hundred ten-C of this article is deriving receipts from activity in this state if the receipts within this state of the members of the [combined reporting] unitary group that have at least ten thousand dollars of receipts within this state in the aggregate meet the threshold set forth in paragraph (b) of this subdivision.

(ii) A corporation that does not meet any of the thresholds set forth in paragraph (c) of this subdivision but has at least ten customers, or locations, or customers and locations, as described in paragraph (c) of this subdivision, and is part of a [combined reporting] unitary group that meets the ownership test under section two hundred ten-C of this article [that] is doing business in this state if the number of customers, locations, or customers and locations, within this state of the members of the [combined reporting] unitary group that have at least ten customers, locations, or customers and locations, within this state in the aggregate meets any of the thresholds set forth in paragraph (c) of this subdivision.

§ 9. Paragraph (d) of subdivision 1 of section 209-B of the tax law, as added by section 7 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(d)(i) A corporation with less than one million dollars but at least ten thousand dollars of receipts within the metropolitan commuter transportation district in a taxable year that is part of a [combined reporting] unitary group that meets the ownership test under section two hundred ten-C of this article is deriving receipts from activity in the metropolitan commuter transportation district if the receipts within the metropolitan commuter transportation district of the members of the [combined reporting] unitary group that have at least ten thousand dollars of receipts within the metropolitan commuter transportation district in the aggregate meet the threshold set forth in paragraph (b) of this subdivision.

(ii) A corporation that does not meet any of the thresholds set forth in paragraph (c) of this subdivision but has at least ten customers, or locations, or customers and locations, as described in paragraph (c), and is part of a [combined reporting] unitary group that meets the ownership test under section two hundred ten-C of this article [that] is doing business in the metropolitan commuter transportation district if the number of customers, locations, or customers and locations, within the metropolitan commuter transportation district of the members of the [combined reporting] unitary group that have at least ten customers, locations, or customers and locations, within the metropolitan commuter transportation district in the aggregate meets any of the thresholds set forth in paragraph (c) of this subdivision.

§ 10. The opening paragraph of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

For taxable years beginning before January first, two thousand sixteen, the amount prescribed by this paragraph shall be computed at the rate of seven and one-tenth percent of the taxpayer's business income base. For taxable years beginning on or after January first, two thousand sixteen, the amount prescribed by this paragraph shall be six and one-half percent of the taxpayer's business income base. The taxpayer's business income base shall mean the portion of the taxpayer's business income allocated within the state as hereinafter provided. However, in the case of a small business taxpayer, as defined in paragraph (f) of this subdivision, the amount prescribed by this paragraph shall be computed pursuant to subparagraph (iv) of this paragraph and in the case of a manufacturer, as defined in subparagraph (vi) of this paragraph, the amount prescribed by this paragraph shall be computed pursuant to subparagraph (vi) of this paragraph<u>, and, in the case of a qualified emerging technology company, as defined in subparagraph (vii) of this paragraph, the amount prescribed by this paragraph shall be computed pursuant to subparagraph (vii) of this paragraph</u>.

§ 11. Subparagraph (vi) of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(vi) for taxable years beginning on or after January first, two thousand fourteen, the amount prescribed by this paragraph for a taxpayer which is a qualified New York manufacturer, shall be computed at the rate of zero percent of the taxpayer's business income base. The term "manufacturer" shall mean a taxpayer which during the taxable year is

principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing. However, the generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity shall not be qualifying activities for a manufacturer under this subparagraph. Moreover, in the case of a combined report, the combined group shall be considered a "manufacturer" for purposes of this subparagraph only if the combined group during the taxable year is principally engaged in the activities set forth in this paragraph, or any combination thereof. A taxpayer or, in the case of a combined report, a combined group shall be "principally engaged" in activities described above if, during the taxable year, more than fifty percent of the gross receipts of the taxpayer or combined group, respectively, are derived from receipts from the sale of goods produced by such activities. In computing a combined group's gross receipts, intercorporate receipts shall be eliminated. A "qualified New York manufacturer" is a manufacturer which has property in New York which is described in clause (A) of subparagraph (i) of paragraph (b) of subdivision one of section two hundred ten-B of this article and either (I) the adjusted basis of such property for federal income tax purposes at the close of the taxable year is at least one million dollars or (II) all of its real and personal property is located in New York. A taxpayer or, in the case of a combined report, a combined group, that does not satisfy the principally engaged test may be a qualified New York manufacturer if the taxpayer or the combined group employs during the taxable year at least two thousand five hundred employees in manufacturing in New York and the taxpayer or the combined group has property in the state used in manu-

facturing, the adjusted basis of which for federal income tax purposes at the close of the taxable year is at least one hundred million dollars.

§ 12. Subparagraph (vii) of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(vii) For a taxpayer that is defined as a qualified emerging technology company under paragraph (c) of subdivision one of section thirty-one hundred two-e of the public authorities law regardless of the ten million dollar limitation expressed in subparagraph one of such paragraph (c) the amount prescribed by this paragraph shall be computed at the rate [at which the tax is computed in effect for taxable years beginning on or after January first, two thousand thirteen and before January first, two thousand fourteen for such qualified emerging technology companies shall be reduced by nine and two-tenths percent for taxable years commencing on or after January first, two thousand fourteen and before January first, two thousand fifteen, twelve and three-tenths percent for taxable years commencing on or after January first, two thousand fifteen and before January first, two thousand sixteen, fifteen and four-tenths percent for taxable years commencing on or after January first, two thousand sixteen and before January first, two thousand eighteen, and twenty-five percent for taxable years beginning on or after January first, two thousand eighteen] of 5.7 percent for taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen, 5.5 percent for taxable years beginning on or after January first two thousand sixteen and before January first, two thousand eighteen, and 4.875 percent for taxable years beginning on or after January first, two thousand eighteen. In

the case of a combined report, each corporation included in the combined report must qualify as a qualified emerging technology company in order for the tax rates provided by this subparagraph to apply.

§ 13. Item (IV) of subclause 2 of clause (B) of subparagraph (viii) of paragraph (a) of subdivision 1 of section 210 of the tax law, as added by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(IV) In lieu of the subtraction described in item (III) of this subclause, if the taxpayer so elects, the taxpayer's prior net operating loss conversion subtraction for the tax years beginning on or after January first, two thousand fifteen and before January first, two thousand seventeen shall equal in each year, not more than one-half of its net operating loss conversion subtraction pool until the pool is exhausted. If the pool is not exhausted at the end of such time period, the remainder of the pool shall be forfeited. The taxpayer shall make such election on its first return for the tax year beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen by the due date for such return (determined with regard to extensions).

§ 14. Subclause 4 of clause (B) of subparagraph (viii) of paragraph (a) of subdivision 1 of section 210 of the tax law, as added by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(4) The prior net operating loss conversion subtraction may be used to reduce the taxpayer's tax on allocated business income to the higher of the tax on the capital base under paragraph (b) of this subdivision or the fixed dollar minimum under paragraph (d) of this subdivision. [Any] Unless the taxpayer has made the election provided for in item (IV) of

subclause two of this clause, any amount of unused subtraction shall be carried forward to subsequent tax year or years until [tax] the prior net operating loss conversion subtraction pool is exhausted, but for no longer than twenty taxable years or the taxable year beginning on or after January first, two thousand thirty-five but before January first, two thousand thirty-six, whichever comes first. Such amount carried forward shall not be subject to the one-tenth limitation for the subsequent tax year or years. However, if the taxpayer elects to compute its prior net operating loss conversion subtraction pursuant to item (IV) of subclause two of this clause, the taxpayer shall not carry forward any unused amount of such subtraction [beyond its] to any tax year beginning on or after [January first, two thousand sixteen and before] January first, two thousand seventeen.

§ 15. The opening paragraph of subparagraph (ix) of paragraph (a) of subdivision 1 of section 210 of the tax law, as added by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

In computing the business income base, a net operating loss deduction shall be allowed. A net operating loss deduction is the amount of net operating loss or losses from one or more taxable years that are carried forward or carried back to a particular [income] taxable year. A net operating loss is the amount of a business loss incurred in a particular tax year multiplied by the apportionment factor for that year as determined under section two hundred ten-A of this article. The maximum net operating loss deduction that is allowed in a taxable year is the amount that reduces the taxpayer's tax on [allocated] apportioned business income to the higher of the tax on the capital base or the fixed dollar minimum. Such deduction and loss are determined in accordance with the following:

§ 16. Clauses 4 and 6 of subparagraph (ix) of paragraph (a) of subdivision 1 or section 210 of the tax law, as added by section 12 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

(4) [A net operating loss may be carried forward to each of the twenty taxable years following the taxable year of the loss. A net operating loss may be carried back to each of the three taxable years preceding the taxable year of the loss; provided, however no loss can be carried back to a tax year prior to a tax year beginning on or after January, first, two thousand fifteen. A taxpayer must apply both of these limitations in computing such net operating loss deduction.] A net operating loss may be carried back three taxable years preceding the taxable year of the loss. However no loss can be carried back to a taxable year beginning before January first, two thousand fifteen. The loss is first carried to the earliest of the three taxable years. If it is not entirely used in that year, it is carried to the second taxable year preceding the loss year, and any remaining amount is carried to the taxable year immediately preceding the loss year. Any unused amount of loss then remaining may be carried forward for as many as twenty taxable years following the loss year. Losses carried forward are carried forward first to the taxable year immediately following the loss year, then to the second taxable year following the loss year, and then to the next immediately subsequent taxable year or years until the loss is used up or the twentieth taxable year following the loss year, whichever comes first.

(6) Where there are two or more allocated net operating losses, or portions thereof, carried back or carried forward to be deducted in one particular tax year from allocated business income, the earliest allocated loss incurred must be applied first.

§ 17. Subparagraph (ix) of paragraph (a) of subdivision 1 of section 210 of the tax law is amended by adding a new clause 7 to read as follows:

(7) A taxpayer may elect to waive the entire carryback period with respect to a net operating loss. Such election must be made on the taxpayer's original timely filed return (determined with regard to extensions) for the taxable year of the net operating loss for which the election is to be in effect. Once an election is made for a taxable year, it shall be irrevocable for that taxable year. A separate election must be made for each loss year. This election applies to all members of a combined group.

§ 18. Paragraph (b) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(b) Capital base. (1) The amount prescribed by this paragraph shall be computed at .15 percent for each dollar of the taxpayer's total business capital, or the portion thereof allocated within the state as hereinafter provided for taxable years beginning before January first, two thousand sixteen. However, in the case of a cooperative housing corporation as defined in the internal revenue code, the applicable rate shall be .04 percent until taxable years beginning on or after January first, two thousand twenty. The rate of tax for subsequent tax years shall be as follows: .125 percent for taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen; .100 percent for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen; .075 percent for taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand

nineteen; .050 percent for taxable years beginning on or after January first, two thousand nineteen and before January first, two thousand twenty; .025 percent for taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one; and zero percent for years beginning on or after January first, two thousand twenty-one. The rate of tax for a qualified New York manufacturer [for tax years subsequent to taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen] shall be .132 percent for taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen, .106 percent for taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen, .085 percent for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen; .056 percent for taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen; .038 percent for taxable years beginning on or after January first, two thousand nineteen and before January first, thousand twenty; .019 percent for taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one; and zero percent for years beginning on or after January first, two thousand twenty-one. In no event shall the amount prescribed by this paragraph exceed three hundred fifty thousand dollars for qualified New York manufacturers and for all other taxpayers five million dollars.

(2) For purposes of subparagraph one of this paragraph, the term "manufacturer" shall mean a taxpayer which during the taxable year is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture,

horticulture, floriculture, viticulture or commercial fishing. Moreover, for purposes of computing the capital base in a combined report, the combined group shall be considered a "manufacturer" for purposes of this subparagraph only if the combined group during the taxable year is principally engaged in the activities set forth in this subparagraph, or any combination thereof. A taxpayer or, in the case of a combined report, a combined group shall be "principally engaged" in activities described above if, during the taxable year, more than fifty percent of the gross receipts of the taxpayer or combined group, respectively, are derived from receipts from the sale of goods produced by such activities. In computing a combined group's gross receipts, intercorporate receipts shall be eliminated. A "qualified New York manufacturer" is a manufacturer that has property in New York that is described in subdivision one of section [210-B] two hundred ten-B of this article and either (i) the adjusted basis of that property for federal income tax purposes at the close of the taxable year is at least one million dollars or (ii) all of its real and personal property is located in New York. In addition, a "qualified New York manufacturer" means a taxpayer that is defined as a qualified emerging technology company under paragraph (c) of subdivision one of section thirty-one hundred two-e of the public authorities law regardless of the ten million dollar limitation expressed in subparagraph one of such paragraph. In the case of a combined report, each corporation included in the combined report must qualify as a qualified emerging technology company in order for the preferential tax rates provided by this paragraph to apply. A taxpayer or, in the case of a combined report, a combined group, that does not satisfy the principally engaged test may be a qualified New York manufacturer if the taxpayer or the combined group employs during the taxable year at least two thousand

five hundred employees in manufacturing in New York and the taxpayer or the combined group has property in the state used in manufacturing, the adjusted basis of which for federal income tax purposes at the close of the taxable year is at least one hundred million dollars.

§ 19. Subparagraph 1 of paragraph (d) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(1) (A) The amount prescribed by this paragraph for New York S corporations, other than New York S corporations that are qualified New York manufacturers or qualified emerging technology companies, will be determined in accordance with the following table:

If New York receipts are:	The fixed dollar minimum tax is:
not more than $100,000	$ 25
more than $100,000 but not over $250,000	$ 50
more than $250,000 but not over $500,000	$ 175
more than $500,000 but not over $1,000,000	$ 300
more than $1,000,000 but not over $5,000,000	$1,000
more than $5,000,000 but not over $25,000,000	$3,000
Over $25,000,000	$4,500

(B) Provided further, the amount prescribed by this paragraph for New York S corporations that are qualified New York manufactures, as defined in subparagraph (vi) of paragraph (a) of this subdivision, and for New York S corporations that are qualified emerging technology companies under paragraph (c) of subdivision one of section thirty-one hundred two-e of the public authorities law regardless of the ten million dollar

limitation expressed in subparagraph one of such paragraph (c), will be determined in accordance with the following tables.

For taxable years beginning on or after January 1, 2015 and before January 1, 2016:

If New York receipts are:	The fixed dollar minimum tax is:
not more than $100,000	$ 22
more than $100,000 but not over $250,000	$ 44
more than $250,000 but not over $500,000	$ 153
more than $500,000 but not over $1,000,000	$ 263
more than $1,000,000 but not over $5,000,000	$ 877
more than $5,000,000 but not over $25,000,000	$2,631
Over $25,000,000	$3,947

For taxable years beginning on or after January 1, 2016 and before January 1, 2018:

If New York receipts are:	The fixed dollar minimum tax is:
not more than $100,000	$ 21
more than $100,000 but not over $250,000	$ 42
more than $250,000 but not over $500,000	$ 148
more than $500,000 but not over $1,000,000	$ 254
more than $1,000,000 but not over $5,000,000	$ 846
more than $5,000,000 but not over $25,000,000	$2,538
Over $25,000,000	$3,807

For taxable years beginning on or after January 1, 2018:

If New York receipts are:	The fixed dollar minimum tax is:
not more than $100,000	$ 19
more than $100,000 but not over $250,000	$ 38
more than $250,000 but not over $500,000	$ 131
more than $500,000 but not over $1,000,000	$ 225
more than $1,000,000 but not over $5,000,000	$ 750
more than $5,000,000 but not over $25,000,000	$2,250
Over $25,000,000	$3,375

(C) Provided further, the amount prescribed by this paragraph for a qualified New York manufacturer, as defined in subparagraph (vi) of paragraph (a) of this subdivision, and a qualified emerging technology company under paragraph (c) of subdivision one of section thirty-one hundred two-e of the public authorities law regardless of the ten million dollar limitation expressed in subparagraph one of such paragraph (c), that is not a New York S corporation, will be determined in accordance with the following tables[:]. However, with respect to qualified New York manufacturers, the amounts in these tables will apply in the case of a combined report only if the combined group satisfies the requirements to be a qualified New York manufacturer as set forth in such subparagraph (vi). With respect to qualified emerging technology companies, the amounts in these tables will apply in the case of a combined report only if each corporation included in the combined report qualifies as a qualified emerging technology company.

[For tax years beginning on or after January 1, 2014 and before January 1, 2015:

If New York receipts are:	The fixed dollar minimum tax is:

not more than $100,000	$ 23
more than $100,000 but not over $250,000	$ 68
more than $250,000 but not over $500,000	$ 159
more than $500,000 but not over $1,000,000	$ 454
more than $1,000,000 but not over $5,000,000	$1,362
more than $5,000,000 but not over $25,000,000	$3,178
Over $25,000,000	$4,500]

For tax years beginning on or after January 1, 2015 and before January 1, 2016:

If New York receipts are:	The fixed dollar minimum tax is:
not more than $100,000	$ 22
more than $100,000 but not over $250,000	$ 66
more than $250,000 but not over $500,000	$ 153
more than $500,000 but not over $1,000,000	$ 439
more than $1,000,000 but not over $5,000,000	$1,316
more than $5,000,000 but not over $25,000,000	$3,070
Over $25,000,000	$4,385

For tax years beginning on or after January 1, 2016 and before January 1, 2018:

If New York receipts are:	The fixed dollar minimum tax is:
not more than $100,000	$ 21
more than $100,000 but not over $250,000	$ 63
more than $250,000 but not over $500,000	$ 148
more than $500,000 but not over $1,000,000	$ 423

more than $1,000,000 but not over $5,000,000	$1,269
more than $5,000,000 but not over $25,000,000	$2,961
Over $25,000,000	$4,230

For tax years beginning on or after January 1, 2018:

If New York receipts are:	The fixed dollar minimum tax is:
not more than $100,000	$ 19
more than $100,000 but not over $250,000	$ 56
more than $250,000 but not over $500,000	$ 131
more than $500,000 but not over $1,000,000	$ 375
more than $1,000,000 but not over $5,000,000	$1,125
more than $5,000,000 but not over $25,000,000	$2,625
Over $25,000,000	$3,750

(D) Otherwise, for all other taxpayers not covered by clauses (A), (B) and (C) of this subparagraph, the amount prescribed by this paragraph will be determined in accordance with the following table:

If New York receipts are:	The fixed dollar minimum tax is:
not more than $100,000	$ 25
more than $100,000 but not over $250,000	$ 75
more than $250,000 but not over $500,000	$ 175
more than $500,000 but not over $1,000,000	$ 500
more than $1,000,000 but not over $5,000,000	$1,500
more than $5,000,000 but not over $25,000,000	$3,500
more than $25,000,000 but not over $50,000,000	$5,000
more than $50,000,000 but not over $100,000,000	$10,000

more than $100,000,000 but not over $250,000,000	$20,000
more than $250,000,000 but not over $500,000,000	$50,000
more than $500,000,000 but not over $1,000,000,000	$100,000
Over $1,000,000,000	$200,000

(E) For purposes of this paragraph, New York receipts are the receipts included in the numerator of the apportionment factor determined under section two hundred ten-A for the taxable year.

§ 20. Paragraph (f) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(f) For purposes of this section, the term "small business taxpayer" shall mean a taxpayer (i) which has an entire net income of not more than three hundred ninety thousand dollars for the taxable year; (ii) the aggregate amount of money and other property received by the corporation for stock, as a contribution to capital, and as paid-in surplus, does not exceed one million dollars; (iii) which is not part of an affiliated group, as defined in section 1504 of the internal revenue code, unless such group, if it had filed a report under this article on a combined basis, would have itself qualified as a "small business taxpayer" pursuant to this subdivision; and (iv) which has an average number of individuals, excluding general executive officers, employed full-time in the state during the taxable year of one hundred or fewer. If the taxable period to which subparagraph (i) of this paragraph applies is less than twelve months, entire net income under such subparagraph shall be placed on an annual basis by multiplying the entire net income by twelve and dividing the result by the number of months in the period. For purposes of subparagraph (ii) of this paragraph, the amount

taken into account with respect to any property other than money shall be the amount equal to the adjusted basis to the corporation of such property for determining gain, reduced by any liability to which the property was subject or which was assumed by the corporation. The determination under the preceding sentence shall be made as of the time the property was received by the corporation. For purposes of subparagraph [(iii)] (iv) of this [section] paragraph, "average number of individuals, excluding general executive officers, employed full-time" shall be computed by ascertaining the number of such individuals employed by the taxpayer on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September and the thirty-first day of December during each taxable year or other applicable period, by adding together the number of such individuals ascertained on each of such dates and dividing the sum so obtained by the number of such dates occurring within such taxable year or other applicable period. An individual employed full-time means an employee in a job consisting of at least thirty-five hours per week, or two or more employees who are in jobs that together constitute the equivalent of a job at least thirty-five hours per week (full-time equivalent). Full-time equivalent employees in the state [includes] include all employees regularly connected with or working out of an office or place of business of the taxpayer within the state.

§ 21. Subdivision 1 of section 210-A of the tax law, as added by section 16 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

1. General. Business income and capital shall be apportioned to the state by the apportionment factor determined pursuant to this section. The apportionment factor is a fraction, determined by including only those receipts, net income, net gains, and other items described in this

section that are included in the computation of the taxpayer's business income (determined without regard to the modification provided in subparagraph nineteen of paragraph (a) of subdivision nine of section two hundred eight of this article) for the taxable year. The numerator of the apportionment fraction shall be equal to the sum of all the amounts required to be included in the numerator pursuant to the provisions of this section and the denominator of the apportionment fraction shall be equal to the sum of all the amounts required to be included in the denominator pursuant to the provisions of this section.

§ 22. Paragraph (c) of subdivision 2 of section 210-A of the tax law, as added by section 16 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(c) Receipts from sales of tangible personal property and electricity that are traded as commodities, as [described] the term "commodity" is defined in section 475 of the internal revenue code, are included in the apportionment fraction in accordance with clause (I) of subparagraph two of paragraph (a) of subdivision five of this section.

§ 23. The opening paragraph and paragraph 1 of paragraph (a) of subdivision 5 of section 210-A of the tax law, as added by section 16 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

A financial instrument is a "qualified financial instrument" if it is eligible or required to be marked to market under section 475 or section 1256 of the internal revenue code, provided that loans secured by real property shall not be qualified financial instruments. A financial instrument is a "nonqualified financial instrument" if it is not a qualified financial instrument.

(1) Fixed percentage method for qualified financial instruments. In determining the inclusion of receipts and net gains from qualified

financial instruments in the apportionment fraction, taxpayers may elect to use the fixed percentage method described in this subparagraph for qualified financial instruments. The election is irrevocable, applies to all qualified financial instruments, and must be made on an annual basis on the taxpayer's original, timely filed return. If the taxpayer elects the fixed percentage method, then all income, gain or loss, <u>including marked to market net gains as defined in clause (J) of subparagraph two of this paragraph,</u> from qualified financial instruments constitutes business income, gain or loss. If the taxpayer does not elect to use the fixed percentage method, then receipts and net gains are included in the apportionment fraction in accordance with the customer sourcing method described in subparagraph two of this paragraph. Under the fixed percentage method, eight percent of all net income (not less than zero) from qualified financial instruments is included in the numerator of the apportionment fraction. All net income (not less than zero) from qualified financial instruments is included in the denominator of the apportionment fraction.

§ 24. Subclause (iv) of clause (A) of subparagraph 2 of paragraph (a) of subdivision 5 of section 210-A of the tax law, as added by section 16 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(iv) Net gains (not less than zero) from sales of loans not secured by real property are included in the numerator of the apportionment fraction as provided in this subclause. The amount of net gains from the sale of loans not secured by real property included in the numerator of the apportionment fraction is determined by multiplying the net gains by a fraction, the numerator of which is the amount of gross proceeds from sales of loans not secured by real property to purchasers located within

the state and the denominator of which is the amount of gross [receipts] proceeds from sales of loans not secured by real property to purchasers located within and without the state. Gross proceeds shall be determined after the deduction of any cost incurred to acquire the loans but shall not be less than zero. Net gains (not less than zero) from sales of loans not secured by real property are included in the denominator of the apportionment fraction.

§ 25. Clause (A) of subparagraph 2 of paragraph (a) of subdivision 5 of section 210-A of the tax law is amended by adding a new subclause (v) to read as follows:

(v) For purposes of this subdivision, a loan is secured by real property if fifty percent or more of the value of the collateral used to secure the loan, when valued at fair market value as of the time the loan was entered into, consists of real property.

§ 26. Subparagraph 2 of paragraph (a) of subdivision 5 of section 210-A of the tax law is amended by adding a new clause (J) to read as follows:

(J) Marked to market net gains. (i) For purposes of this clause, "marked to market" mean that a financial instrument is, under section 475 or section 1256 of the internal revenue code, treated by the taxpayer as sold for its fair market value on the last business day of the taxpayer's taxable year. "Marked to market gain or loss" means the gain or loss recognized by the taxpayer under section 475 or section 1256 of the internal revenue code because the financial instrument is treated as sold for its fair market value on the last business day of the taxable year.

(ii) The amount of marked to market net gains (not less than zero) from each type of financial instrument that is marked to market included

in the numerator of the apportionment fraction is determined by multiplying the marked to market net gains (but not less than zero) from such type of the financial instrument by a fraction, the numerator of which is the numerator of the apportionment fraction for the net gains from that type of financial instrument determined under the applicable clause of this subparagraph and the denominator of which is the denominator of the apportionment fraction for the net gains for that type of financial instrument determined under the applicable clause of this subparagraph. Marked to market net gains (not less than zero) from financial instruments for which the numerator of the apportionment fraction is determined under the immediately preceding sentence are included in the denominator of the apportionment fraction.

(iii) If the type of financial instrument that is marked to market is not otherwise sourced by the taxpayer under this subparagraph, or if the taxpayer has a net loss from the sales of that type of financial instrument under the applicable clause of this subparagraph, the amount of marked to market net gains (not less than zero) from that type of financial instrument included in the numerator of the apportionment fraction is determined by multiplying the marked to market net gains (but not less than zero) from that type of financial instrument by a fraction, the numerator of which is the sum of the amount of receipts included in the numerator of the apportionment fraction under clauses (A), (B), (C), (D), (E), (F), (G), (H) or (I) of this subparagraph and subclause (ii) of this clause, and the denominator of which is the sum of the amount of reciepts included in the denominator of the apportionment fraction under clauses (A), (B), (C), (D), (E), (F), (G), (H) or (I) and subclause (ii) of this clause. Marked to market net gains (not less than zero) for which the amount to be included in the numerator of the apportionment

fraction is determined under the immediately preceding sentence are included in the denominator of the apportionment fraction.

§ 27. Paragraph (e) of subdivision 5 of section 210-A of the tax law, as added by section 16 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(e) For purposes of this subdivision, a taxpayer shall use the following hierarchy to determine the commercial domicile of a business entity, based on the information known to the taxpayer or information that would be known upon reasonable inquiry: (i) [the location of the treasury function of the business entity; (ii)] the seat of management and control of the business entity; and [(iii)] (ii) the billing address of the business entity in the taxpayer's records. The taxpayer must exercise due diligence before rejecting [a] the first method in this hierarchy and proceeding to the next method.

§ 28. Section 210-A of the tax law is amended by adding a new subdivision 6-a to read as follows:

6-a. Receipts from the operation of vessels. Receipts from the operation of vessels are included in the numerator of the apportionment fraction as follows. The amount of receipts from the operation of vessels included in the numerator of the apportionment fraction is determined by multiplying the amount of such receipts by a fraction, the numerator of which is the aggregate number of working days of the vessels owned or leased by the taxpayer in territorial waters of the state during the period covered by the taxpayer's report and the denominator of which is the aggregate number of working days of all vessels owned or leased by the taxpayer during such period.

§ 29. The opening paragraph of clause (A) of subparagraph 1 of paragraph (b) of subdivision 7 of section 210-A of the tax law, as added by

section 16 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

The portion of receipts of a taxpayer from aviation services (other than services described in paragraph (a) of this subdivision, but including the receipts of a qualified air freight forwarder) to be included in the numerator of the apportionment fraction shall be determined by multiplying its receipts from such aviation services by a percentage which is equal to the arithmetic average of the following three percentages:

§ 30. Paragraph (b) of subdivision 7 of section 210-A of the tax law is amended by adding a new subparagraph 3 to read as follows:

(3) A corporation is a qualified air freight forwarder with respect to another corporation:

(A) if it owns or controls either directly or indirectly all of the capital stock of such other corporation, or if all of its capital stock is owned or controlled either directly or indirectly by such other corporation, or if all of the capital stock of both corporations is owned or controlled either directly or indirectly by the same interests,

(B) if it is principally engaged in the business of air freight forwarding, and

(C) if its air freight forwarding business is carried on principally with the airline or airlines operated by such other corporation.

§ 31. Subparagraph (i) of paragraph (b) and paragraph (d) of subdivision 1 of section 210-B of the tax law, as added by section 17 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

(i) A credit shall be allowed under this subdivision with respect to tangible personal property and other tangible property, including buildings and structural components of buildings, which are: depreciable

pursuant to section one hundred sixty-seven of the internal revenue code, have a useful life of four years or more, are acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code, have a situs in this state and are (A) principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing, (B) industrial waste treatment facilities or air pollution control facilities, used in the taxpayer's trade or business, (C) research and development property, or (D) principally used in the ordinary course of the taxpayer's trade or business as a broker or dealer in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of stocks, bonds or other securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code, or of commodities as defined in section four hundred seventy-five (e) of the Internal Revenue Code, (E) principally used in the ordinary course of the taxpayer's trade or business of providing investment advisory services for a regulated investment company as defined in section eight hundred fifty-one of the Internal Revenue Code, or lending, loan arrangement or loan origination services to customers in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code, (F) [originally] <u>principally</u> used in the ordinary course of the taxpayer's business as an exchange registered as a national securities exchange within the meaning of sections 3(a)(1) and 6(a) of the Securities Exchange Act of 1934 or a board of trade as defined in

[section 1410(a)(1) of the New York Not-for-Profit Corporation Law] subparagraph one of paragraph (a) of section fourteen hundred ten of the not-for-profit corporation law or as an entity that is wholly owned by one or more such national securities exchanges or boards of trade and that provides automation or technical services thereto, or (G) principally used as a qualified film production facility including qualified film production facilities having a situs in an empire zone designated as such pursuant to article eighteen-B of the general municipal law, where the taxpayer is providing three or more services to any qualified film production company using the facility, including such services as a studio lighting grid, lighting and grip equipment, multi-line phone service, broadband information technology access, industrial scale electrical capacity, food services, security services, and heating, ventilation and air conditioning. For purposes of clauses (D), (E) and (F) of this subparagraph, property purchased by a taxpayer affiliated with a regulated broker, dealer, registered investment advisor, national securities exchange or board of trade, is allowed a credit under this subdivision if the property is used by its affiliated regulated broker, dealer, registered investment advisor, national securities exchange or board of trade in accordance with this subdivision. For purposes of determining if the property is principally used in qualifying uses, the uses by the taxpayer described in clauses (D) and (E) of this subparagraph may be aggregated. In addition, the uses by the taxpayer, its affiliated regulated broker, dealer and registered investment advisor under either or both of those clauses may be aggregated. Provided, however, a taxpayer shall not be allowed the credit provided by clauses (D), (E) and (F) of this subparagraph unless the property is first placed in service before October first, two thousand fifteen and (i) eighty percent or

more of the employees performing the administrative and support functions resulting from or related to the qualifying uses of such equipment are located in this state or (ii) the average number of employees that perform the administrative and support functions resulting from or related to the qualifying uses of such equipment and are located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety-five percent of the average number of employees that perform these functions and are located in this state during the thirty-six months immediately preceding the year for which the credit is claimed, or (iii) the number of employees located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety percent of the number of employees located in this state on December thirty-first, nineteen hundred ninety-eight or, if the taxpayer was not a calendar year taxpayer in nineteen hundred ninety-eight, the last day of its first taxable year ending after December thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes subject to tax in this state after the taxable year beginning in nineteen hundred ninety-eight, then the taxpayer is not required to satisfy the employment test provided in the preceding sentence of this subparagraph for its first taxable year. For purposes of clause (iii) of this subparagraph the employment test will be based on the number of employees located in this state on the last day of the first taxable year the taxpayer is subject to tax in this state. If the uses of the property must be aggregated to determine whether the property is principally used in qualifying uses, then either each affiliate using the property must satisfy this employment test or this employment test must be satisfied through the aggregation of the employees of the taxpayer, its affiliated regulated broker, dealer, and registered investment adviser using the

property. For purposes of this subdivision, the term "goods" shall not include electricity.

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

§ 32. Subdivision 27 of section 210-B of the tax law, as added by section 17 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

27. Credits of New York S corporations. (a) General. Notwithstanding the provisions of this section, no carryover of credit allowable in a New York C year shall be deducted from the tax otherwise due under this article in a New York S year, and no credit allowable in a New York S year, or carryover of such credit, shall be deducted from the tax imposed by this article. However, a New York S year shall be treated as a taxable year for purposes of determining the number of taxable years to which a credit may be carried over under this section. Notwithstanding the first sentence of this subdivision, however, the credit for the special additional mortgage recording tax shall be allowed as provided in subdivision [fifteen] nine of this section, and the carryover of any such credit shall be determined without regard to whether the credit is carried from a New York C year to a New York S year or vice-versa.

§ 33. Subdivision 1, subparagraphs (i) and (ii) of paragraph (d) and paragraphs (d-1) and (e) of subdivision 4, and subdivision 7 of section 210-C of the tax law, as added by section 18 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

1. Tax. (a) The tax on a combined report shall be the highest of (i) the combined business income base multiplied by the tax rate specified in paragraph (a) of subdivision one of section two hundred ten of this article; (ii) the combined capital base multiplied by the tax rate specified in paragraph (b) of subdivision one of section two hundred ten of this article, but not exceeding the limitation provided for in that paragraph (b); or (iii) the fixed dollar minimum that is attributable to the designated agent of the combined group. In addition, the tax on a

combined report shall include the fixed dollar minimum tax specified in paragraph (d) of subdivision one of section two hundred ten of this article for each member of the combined group, other than the designated agent, that is a taxpayer.

(b) The combined business income base is the amount of the combined business income of the combined group that is apportioned to the state, reduced by any prior net operating loss conversion subtraction and any net operating loss deduction for the combined group. The combined capital base is the amount of the combined capital of the combined group that is apportioned to the state.

(i) A net operating loss deduction is allowed in computing the combined business income base. Such deduction may reduce the tax on the combined business income base to the higher of the tax on the combined capital base or the fixed dollar minimum amount that is attributable to the designated agent of the combined group. A combined net operating loss deduction is equal to the amount of combined net operating loss or losses from one or more taxable years that are carried forward or carried back to a particular [income] taxable year. A combined net operating loss is the combined business loss incurred in a particular taxable year multiplied by the combined apportionment factor for that year determined as provided in subdivision five of this section.

(ii) The combined net operating loss deduction and combined net operating loss are also subject to the provisions contained in clauses one through [six] seven of subparagraph (ix) of paragraph (a) of subdivision one of section two hundred ten of this article.

(d-1) A prior net operating loss conversion subtraction is allowed in computing the combined business income base, as provided in subparagraph (viii) of paragraph (a) of subdivision one of section two hundred ten of

this article. Such subtraction may reduce the tax on the combined business income base to the higher of the tax on the combined capital base or the fixed dollar minimum amount that is attributable to the designated agent of the combined group.

(e) Any election made pursuant to paragraph (b) of subdivision six, [and] paragraphs (b) and (c) of subdivision six-a of section two hundred eight, and item (IV) of subclause two of clause (B) of subparagraph (viii) and clause seven of subparagraph (ix) of paragraph (a) of subdivision one of section two hundred ten of this article shall apply to all members of the combined group.

7. Designated agent. Each combined group shall have one designated agent for the combined group, which shall be a taxpayer. [The designated agent is the parent corporation of the combined group. If there is no such parent corporation, or the parent corporation is not a taxpayer, then another member of the combined group that is a taxpayer may be appointed as the designated agent.] Only the designated agent may act on behalf of the members of the combined group for matters relating to the combined report.

§ 34. Paragraph 1 of subdivision (c) of section 40 of the tax law, as added by section 4 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(1) ascertaining the percentage that the average value of the business's real and tangible personal property, whether owned or rented to it, in the tax-free NY area in which the business was located during the period covered by the taxpayer's report or return bears to the average value of the business's real and tangible personal property, whether owned or rented to it, within the state during such period; provided that the term "value of the business's real and tangible personal prop-

erty" shall have the same meaning as such term has in [subparagraph one of] paragraph (a) of subdivision [three] two of section [two hundred ten] two hundred nine-B of this chapter; and

§ 35. Clause (ii) of subparagraph (B) of paragraph 2 of subdivision (d) of section 40 of the tax law, as added by section 4 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(ii) For purposes of article nine-A of this chapter, the term "partner's income from the partnership" means partnership items of income, gain, loss and deduction, and New York modifications thereto, entering into [entire net] business income [or minimum taxable income] and the term "partner's entire income" means [entire net] business income [or minimum taxable income], allocated within the state. For purposes of article twenty-two of this chapter, the term "partner's income from the partnership" means partnership items of income, gain, loss and deduction, and New York modifications thereto, entering into New York adjusted gross income, and the term "partner's entire income" means New York adjusted gross income.

§ 36. Subparagraph (C) of paragraph 2 of subdivision (d) of section 40 of the tax law, as added by section 4 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(C) (i) Where the taxpayer is a shareholder of a New York S corporation that is a business located in a tax-free NY area, the shareholder's tax factor shall be that portion of the amount determined in paragraph one of this subdivision that is attributable to the income of the S corporation. Such attribution shall be made in accordance with the ratio of the shareholder's income from the S corporation allocated within the state, entering into New York adjusted gross income, to the shareholder's New York adjusted gross income, or in accordance with such

other methods as the commissioner may prescribe as providing an apportionment that reasonably reflects the portion of the shareholder's tax attributable to the income of such business. The income of the S corporation allocated within the state shall be determined by multiplying the income of the S corporation by [the] a business allocation factor [computed under paragraph (a) of subdivision three of section two hundred ten of this article without regard to subparagraph ten of such paragraph (a)] that shall be determined in clause (ii) of this subparagraph. In no event may the ratio so determined exceed 1.0.

(ii) The business allocation factor for purposes of this subparagraph shall be computed by adding together the property factor specified in subclause (I) of this clause, the wage factor specified in subclause (II) of this clause and the apportionment factor determined under section two hundred ten-A of this chapter and dividing by three.

(I) The property factor shall be determined by ascertaining the percentage that the average value of the business's real and tangible personal property, whether owned or rented to it, within the state during the period covered by the taxpayer's report or return bears to the average value of the business's real and tangible personal property, whether owned or rented to it, within and without the state during such period; provided that the term "value of the business's real and tangible personal property" shall have the same meaning as such term has in paragraph (a) of subdivision two of section two hundred nine-B of this chapter.

(II) The wage factor shall be determined by ascertaining the percentage that the total wages, salaries and other personal service compensation, similarly computed, during such period of employees, except general executive officers, employed at the business's location or

locations within the state, bears to the total wages, salaries and other personal service compensation, similarly computed, during such period, of all the business's employees within and without the state, except general executive officers.

§ 37. Subparagraph (B) of paragraph 3 of subdivision (d) of section 40 of the tax law, as added by section 4 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(B) The term "income of the business located in a tax-free NY area" means [entire net] business income [or minimum taxable income] calculated as if the taxpayer was filing separately and the term "combined group's income" means [entire net] business income [or minimum taxable income] as shown on the combined report, allocated within the state.

§ 38. Paragraph 1 of subdivision (e) of section 40 of the tax law, as added by section 4 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(1) Article 9-A: section [210] 210-B, subdivision [47] 41.

§ 39. Paragraph 1 of subsection (i) of section 660 of the tax law, as amended by section 74 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(1) Notwithstanding the provisions in subsection (a) of this section, in the case of an eligible S corporation for which the election under subsection (a) of this section is not in effect for the current taxable year, the shareholders of an eligible S corporation are deemed to have made that election effective for the eligible S corporation's entire current taxable year, if the eligible S corporation's investment income for the current taxable year is more than fifty percent of its federal gross income for such year. In determining whether an eligible S [corporation's investment income] corporation is deemed to have made that

election, the [investment] income of a qualified subchapter S subsidiary owned directly or indirectly by the eligible S corporation shall be included with the income of the eligible S corporation.

§ 40. This act shall take effect immediately and shall be deemed to be in full force and effect on the same date as part A of chapter 59 of the laws of 2014.

PART U

Section 1. Paragraph 33 of subdivision (a) of section 1115 of the tax law, as added by section 99 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(33) Wine or wine product, and the bottles, corks, caps, and labels used to package such wine or wine product, furnished by the official agent of a farm winery, winery, wholesaler, or importer at a wine tasting held in accordance with [section eighty of] the alcoholic beverage control law to a customer or prospective customer who consumes such wine at such wine tasting.

§ 2. Section 1118 of the tax law is amended by adding a new subdivision (13) to read as follows:

(13) In respect to the use of the following items at a tasting held by a licensed brewery, farm brewery, cider producer, farm cidery, distillery or farm distillery in accordance with the alcoholic beverage control law: (i) the alcoholic beverage or beverages authorized by the alcoholic beverage control law to be furnished at no charge to a customer or prospective customer at such tasting for consumption at such tasting; and (ii) bottles, corks, caps and labels used to package such alcoholic beverages.

§ 3. This act shall take effect immediately, provided, however, section two of this act shall take effect June 1, 2015 and shall apply in accordance with the transition provisions of section 1106 and 1217 of the tax law.

PART V

Section 1. Paragraph 22 of subdivision (b) of section 1101 of the tax law, as amended by chapter 651 of the laws of 1999, is amended to read as follows:

(22) (A) "Prepaid telephone calling service" means the right to exclusively purchase telecommunication services, that must be paid for in advance and enable the origination of one or more intrastate, interstate or international telephone calls using an access number (such as a toll free network access number) and/or authorization code, whether manually or electronically dialed, for which payment to a vendor must be made in advance, whether or not that right is represented by the transfer by the vendor to the purchaser of an item of tangible personal property. Such term includes a prepaid mobile calling service. In no event shall a credit card constitute a prepaid telephone calling service. If the sale or recharge of a prepaid telephone calling service does not take place at the vendor's place of business, it shall be conclusively determined to take place at the purchaser's shipping address or, if there is no item shipped, at the purchaser's billing address or the location associated with the purchaser's mobile telephone number, or, if the vendor does not have the address or the location associated with the customer's mobile telephone number, at such address, as approved by the commission-

er, that reasonably reflects the customer's location at the time of the sale or recharge.

(B) "Prepaid mobile calling service" means the right to use a commercial mobile radio service, whether or not sold with other property or services, that must be paid for in advance and is sold in predetermined units or dollars that decline with use in a known amount, whether or not that right is represented by or includes the transfer to the purchaser of an item of tangible personal property.

§ 2. This act shall take effect immediately.

PART W

Section 1. The section heading and subdivisions 1, 2, 3, 4, 6, 7 and 9 of section 875 of the general municipal law, as added by section 2 of part J of chapter 59 of the laws of 2013, are amended to read as follows:

Special provisions applicable to state [sales and compensating use] taxes and certain types of facilities. 1. For purposes of this section: "state sales and use taxes" means sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight. "State taxes" means any or all of the following: state sales and use taxes, any mortgage recording tax imposed under section two hundred fifty-three of the tax law, any state real estate transfer tax imposed by article thirty-one of the tax law. "IDA" means an industrial development agency established by this article or an industrial development authority created by the public authorities law. "Commissioner" means the commis-

sioner of taxation and finance. "ABO" means the authorities budget office established by section four of the public authorities law.

2. An IDA shall keep records of the amount of state and local sales and use tax exemption benefits and any other state tax exemption benefits provided to each project and each agent or project operator and shall make such records available to the commissioner upon request. Such IDA shall also, within thirty days of providing financial assistance to a project that includes any amount of state [sales and use] tax exemption benefits, report to the commissioner the amount of such benefits for such project, the project to which they are being provided, together with such other information and such specificity and detail as the commissioner may prescribe. This report may be made in conjunction with the statement required by subdivision nine of section eight hundred seventy-four of this title or it may be made as a separate report, at the discretion of the commissioner. An IDA that fails to make such records available to the commissioner or to file such reports shall be prohibited from providing any state [sales and use] tax exemption benefits for any project unless and until such IDA comes into compliance with all such requirements.

3. (a) An IDA shall include within its resolutions and project documents establishing any project or appointing an agent or project operator for any project the terms and conditions in this subdivision, and every agent, project operator or other person or entity that shall enjoy any state [sales and use] tax exemption benefits provided by an IDA shall agree to such terms as a condition precedent to receiving or benefiting from any such state [sales and use exemptions] tax exemption benefits.

(b) The IDA shall recover, recapture, receive, or otherwise obtain from an agent, project operator or other person or entity any state [sales and use exemptions] tax exemption benefits taken or purported to be taken by any such person to which the person is not entitled or which are in excess of the amounts authorized or, as to state sales and use taxes, which are for property or services not authorized or taken in cases where such agent or project operator, or other person or entity failed to comply with a material term or condition to use property or services in the manner required by the person's agreement with the IDA. Such agent or project operator, or other person or entity shall cooperate with the IDA in its efforts to recover, recapture, receive, or otherwise obtain any such state [sales and use] tax exemptions benefits and shall promptly pay over any such amounts to the IDA that it requests. The failure to pay over such amounts to the IDA shall be grounds for the commissioner to assess and determine state [sales and use] taxes due from the person under [article twenty-eight of] the tax law, together with any relevant penalties and interest due on such amounts.

(c) If an IDA recovers, recaptures, receives, or otherwise obtains, any amount of state [sales and use] tax exemption benefits from an agent, project operator or other person or entity, the IDA shall, within thirty days of coming into possession of such amount, remit it to the commissioner, together with such information and report that the commissioner deems necessary to administer payment over of such amount. An IDA shall join the commissioner as a party in any action or proceeding that the IDA commences to recover, recapture, obtain, or otherwise seek the return of, any state [sales and use] tax exemption benefits from an agent, project operator or other person or entity.

(d) An IDA shall prepare an annual compliance report detailing its terms and conditions described in paragraph (a) of this subdivision and its activities and efforts to recover, recapture, receive, or otherwise obtain any state [sales and use exemptions] tax exemption benefits described in paragraph (b) of this subdivision, together with such other information as the commissioner and the commissioner of economic development may require. The report required by this subdivision shall be filed with the commissioner, the director of the division of the budget, the commissioner of economic development, the state comptroller, the governing body of the municipality for whose benefit the agency was created, and may be included with the annual financial statement required by paragraph (b) of subdivision one of section eight hundred fifty-nine of this title. Such report required by this subdivision shall be filed regardless of whether the IDA is required to file such financial statement described by such paragraph (b) of subdivision one of section eight hundred fifty-nine. The failure to file or substantially complete the report required by this subdivision shall be deemed to be the failure to file or substantially complete the statement required by such paragraph (b) of subdivision one of such section eight hundred fifty-nine, and the consequences shall be the same as provided in paragraph (e) of subdivision one of such section eight hundred fifty-nine.

(e) This subdivision shall apply to any amounts of state [sales and use] tax exemption benefits that an IDA recovers, recaptures, receives, or otherwise obtains, regardless of whether the IDA or the agent, project operator or other person or entity characterizes such benefits recovered, recaptured, received, or otherwise obtained, as a penalty or liquidated or contract damages or otherwise. The provisions of this subdivision shall also apply to any interest or penalty that the IDA

imposes on any such amounts or that are imposed on such amounts by operation of law or by judicial order or otherwise. Any such amounts or payments that an IDA recovers, recaptures, receives, or otherwise obtains, together with any interest or penalties thereon, shall be deemed to be state sales and use taxes, mortgage recording tax, or real estate transfer tax, as the case may be, and the IDA shall receive any such amounts or payments, whether as a result of court action or otherwise, as trustee for and on account of the state.

4. The commissioner shall deposit and dispose of any amount of any payments or moneys received from or paid over by an IDA or from or by any person or entity, or received pursuant to an action or proceeding commenced by an IDA, together with any interest or penalties thereon, pursuant to subdivision three of this section, as state sales and use taxes in accord with the provisions of article twenty-eight of the tax law, or as mortgage recording tax imposed under section two hundred fifty-three of the tax law or real estate transfer tax imposed under article thirty-one of the tax law, as the case may be. The amount of any such payments or moneys in respect of sales or use taxes, together with any interest or penalties thereon, shall be attributed to the taxes imposed by sections eleven hundred five and eleven hundred ten, on the one hand, and section eleven hundred nine of the tax law, on the other hand, or to any like taxes or fees imposed by such article, based on the proportion that the rates of such taxes or fees bear to each other, unless there is evidence to show that only one or the other of such taxes or fees was imposed or received or paid over.

6. The commissioner is hereby authorized to audit the records, actions, and proceedings of an IDA and of its agents and project operators to ensure that the IDA and its agents and project operators comply

with all the requirements of this section. In addition, the commissioner is hereby authorized to audit IDA projects and IDA agents and project operators with regard to the requirements and restrictions of this title and title eleven or fifteen of article eight of the public authorities law to ensure that job targets, investment targets, construction, and expenditures described in subdivision five-a of this section, and any exemptions from any state taxes or from local sales and compensating use taxes administered by the commissioner comply with the details of the project and the application as approved by the department of economic development under such subdivision five-a. In addition, the department of economic development, the ABO, or another person or entity may report to the commissioner that an agent or project operator has not met any such targets or goals or otherwise complied with any such provisions. If the commissioner finds that any such job targets, investment targets, construction, expenditures, or tax exemption provisions or other conditions or provisions have not been met or complied with, the commissioner shall determine the amount of any exemption from state taxes that the agent or project operator claimed and such agent or project operator shall pay such amounts as tax. If the commissioner finds that the agent or project operator has partially met such targets, goals, or conditions, the commissioner may determine the degree of compliance to determine the amount of such tax exemptions claimed that the agent or project operator must pay as tax. In making such compliance determination, the commissioner may consider the number of years or other period of time in which such agent or project operator met the targets, goals, or conditions, as compared to the total years or other period of time of the project, the percentage of compliance with regard to the number of jobs created as compared to the job targets, the severity of failure to

comply with tax exemption limitations based on the number of dollars by which the agent or project operator exceeded the allowed amount of tax exemptions approved, and such other factors as the commissioner deems reasonable and pertinent. The commissioner shall be authorized to assess or otherwise bill the agent or project operator for any such amounts that the commissioner determined the agent or project operator must pay as tax, in the manner that the commissioner would assess or bill for the tax from which such exemptions were claimed. Any information the commissioner finds in the course of any such audit may be used by the commissioner to assess and determine state and local taxes of the IDA's agent or project operator.

7. In addition to any other reporting or filing requirements an IDA has under this article or other law, an IDA shall [also] maintain a public internet web site and report and make available on [the internet] such web site, without charge, copies of its resolutions and agreements appointing an agent or project operator or otherwise related to any project it establishes. In addition, every IDA shall post on such web site the following information and shall timely update all such information so that it remains current and accurate within thirty days of any change:

(a) the name and title of each member and officer of the IDA,

(b) public notice of every meeting to be held by the IDA, as required by subdivision five-c of this section;

(c) the agenda of every such meeting to be held, at least ten days prior to the commencement of the meeting;

(d) minutes of every meeting the IDA holds, together with the details of every vote each member of the IDA casts at any meeting; and

(e) a description of every project established by the IDA, together with a description of any state or local tax exemption benefits the IDA intends to provide or extend in duration, or has provided or extended, with respect to the project, including what the exemption applies to, the type of tax exempted or to be exempted and the duration and annual and total dollar value of each such exemption.

It shall also provide, without charge, copies of all such reports and information to a person who asks for [it] any of them in writing or in person. The IDA may, at the request of its agent or project operator delete from any such copies posted on the internet or provided to a person described in the prior sentence portions of its records that are specifically exempted from disclosure under article six of the public officers law. If the ABO finds, on its own, or after recommendation by the department of economic development, the commissioner, or any other person or entity, that an IDA has failed to comply with the requirements of this section, the ABO shall advise the IDA of its findings, and the IDA shall have thirty days to come into compliance. If the IDA fails to do so, the IDA shall not be able to establish any project or provide any financial assistance in the nature of exemptions from any state taxes; and the ABO shall notify the department of economic development and the commissioner, and the department of economic development shall not approve any application from the IDA for any state tax exemptions.

9. To the extent that a provision of this section conflicts with a provision of any other section of this article or with a provision of title eleven or fifteen of article eight of the public authorities law, the provisions of this section shall control.

§ 2. Section 875 of the general municipal law is amended by adding three new subdivisions 5-a, 5-b, and 5-c, to read as follows:

5-a. In addition to any other requirement of this article or other law: Every IDA and its members and officers shall comply with the applicable provisions of the public officers law, including among other things the open meetings law and the freedom of information law, the applicable provisions of the public authorities law, and this title. If the ABO or any other person or entity finds that an IDA or its member or officer has failed to comply with an applicable provision of the public officers law or of the public authorities law, or with this title, the ABO or such other person or entity shall notify the department of economic development of such non-compliance. The department of economic development shall not approve any project or benefits for a project unless and until the IDA and its member or officer corrects or causes to be corrected such non-compliance and the ABO has certified that such compliance has been achieved; and such IDA shall, among other things, not provide or extend in duration any financial assistance consisting of exemption from any state tax to any project. Such an IDA that has been found not to be in compliance shall be required to correct any such non-compliance and demonstrate its compliance to the satisfaction of the ABO, before any such state tax exemption benefit shall be valid.

5-b. In addition to any other requirement of this article or other law: (a) An IDA shall be required to apply for and obtain prior approval from the department of economic development before the IDA can provide financial assistance consisting of any exemption from state taxes with respect to a project, or before it can increase or extend in duration any such financial assistance. The IDA shall submit its application to the department of economic development using a form prescribed by the department of economic development in consultation with the ABO. Such application shall include the types and amounts of financial

assistance proposed to be offered; IDA's target for the number of full-time equivalent jobs to be created in each year of such project; the IDA's target for investments in each year of such project; a schedule of construction, if any; and a plan of expenditures by the agent or project operator. Such application shall also include copies of the IDA's notice of public meeting regarding the project, minutes of the meeting's proceedings, details of votes taken at the meeting, and such other documents and other information as the department of economic development or the ABO may require.

(b) If the IDA submits a complete application in processible form, together with any such required documents and other information, the department of economic development shall approve or deny such application within forty-five days. If the department of economic development does not act on such application within forty-five days of receiving it, such application shall be deemed approved. An application shall not be complete and in processible form unless it includes, among other things, a construction schedule, and specific job creation and investment targets for each year that the IDA's proposed project would be in effect. Notwithstanding the foregoing or other law, the department of economic development shall not approve any project that provides financial assistance consisting substantially only of exemptions from state taxes.

(c) In considering such an IDA application, the department of economic development shall not approve financial assistance consisting of any exemption from state taxes unless the department of economic development concludes that such assistance shall not provide the project or the IDA's agent or project operator with a competitive advantage over an existing business in a similar industry in that area.

(d) No financial assistance consisting of an exemption from any state taxes shall be increased or extended in duration with respect to a project or to an agent or project operator that has benefitted from any such assistance in the past unless the IDA receives the prior approval of the department of economic development in the manner described in this subdivision.

5-c. In addition to any other requirement of this article or other law, and notwithstanding any other law, an IDA shall not establish a project or provide financial assistance with respect to a project, or provide additional financial assistance with respect to an existing project, without first having received from every applicant, agent, and project operator related to the project and from every person required to collect tax, as defined in subdivision one of section eleven hundred thirty-one of the tax law, with respect to every such applicant, agent or project operator, a tax clearance under section one hundred seventy-one-w of the tax law.

§ 3. Section 862 of the general municipal law is amended by adding a new subdivision 3 to read as follows:

(3) The provisions of this section shall also apply to the industrial development authority created by title eleven of article eight of the public authorities law with the same force and effect as if the provisions of this section had been incorporated in full into such title eleven and expressly referred to the provisions of such title and to such authority, with such changes to this section as are necessary to refer to the provisions of such title eleven and to such authority created by such title.

§ 4. Section 4 of the public authorities law, as added by chapter 506 of the laws of 2009, is amended to read as follows:

§ 4. Establishment of the independent authorities budget office. There is hereby established the independent authorities budget office as an independent entity within the department of state, which shall have and exercise the powers and duties provided by this title and by section eight hundred seventy-five and related sections of the general municipal law.

§ 5. The tax law is amended by adding a new section 171-w to read as follows:

§ 171-w. Enforcement of delinquent tax liabilities through tax clearances. (1) For the purposes of this section, the term "tax liabilities" shall mean any tax, surcharge, or fee administered by the commissioner, or any penalty or interest owed by an individual or entity. The term "past-due tax liabilities" means any unpaid tax liabilities that have become fixed and final such that the taxpayer no longer has any right to administrative or judicial review. The term "government entity" means the state of New York, or any of its agencies, political subdivisions, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), or combination thereof.

(2) The commissioner, or his or her designee, shall cooperate with any government entity that is required by law or has elected to require tax clearances to establish procedures by which the department shall receive a tax clearance request and transmit such tax clearance to the government entity, and any other procedures deemed necessary to carry out the provisions of this section. These procedures shall, to the extent practicable, require secure electronic communication between the department and the requesting government entity for the transmission of tax clearance requests to the department and transmission of tax clearances to

the requesting entity. Notwithstanding any other law to the contrary, a government entity shall be authorized to share any applicant data or information with the department that is necessary to ensure the proper matching of the applicant to the tax records maintained by the department.

(3) Upon receipt of a tax clearance request, the department shall examine its records to determine whether the subject of the tax clearance request has past-due tax liabilities equal to or in excess of the dollar threshold applicable for such tax clearance request or, where no threshold has been established by law or otherwise, equal to or in excess of five hundred dollars. When a tax clearance request so requires, the department shall also determine whether (a) the subject of such request has complied with applicable tax return filing requirements for each of the past three years; and/or (b) whether a subject of such request that is an individual or entity that is a person required to register pursuant to section one thousand one hundred thirty-four of this chapter is registered pursuant to such section. The department shall deny a tax clearance if it determines that the subject of a tax clearance request has past-due tax liabilities equal to or in excess of the applicable threshold or, when the tax clearance request so requires, has not complied with applicable return filing and/or registration requirements.

(4) If a tax clearance is denied, the government entity that requested the clearance shall provide notice to the applicant to contact the department. Such notice shall be made by first class mail with a certificate of mailing and a copy of such notice also shall be provided to the department. When the applicant contacts the department, the department shall inform the applicant of the basis for the denial of the tax clear-

ance and shall also inform the applicant (a) that a tax clearance denied due to past-due tax liabilities may be issued once the taxpayer fully satisfies past-due tax liabilities or makes payment arrangements satisfactory to the commissioner; (b) that a tax clearance denied due to failure to file tax returns may be issued once the applicant has satisfied the applicable return filing requirements; (c) that a tax clearance denied for failure to register pursuant to section one thousand one hundred thirty-four of this chapter may be issued once the applicant has registered pursuant to such section; and (d) the grounds for challenging the denial of a tax clearance listed in subdivision five of this section.

(5) (a) Notwithstanding any other provision of law, and except as specifically provided herein, an applicant denied a tax clearance shall have no right to commence a court action or proceeding or seek any other legal recourse against the department or the government entity related to the denial of a tax clearance by the department.

(b) An applicant seeking to challenge the denial of a tax clearance must protest to the department or the division of tax appeals no later than sixty days from the date of the notification to the applicant that the tax clearance was denied. An applicant may challenge a department finding of past-due tax liabilities only on the grounds that (i) the individual or entity denied the tax clearance is not the individual or entity with the past-due tax liabilities at issue; (ii) the past-due tax liabilities were satisfied; (iii) the applicant's wages are being garnished for the payment of child support or combined child and spousal support pursuant to an income execution issued pursuant to section five thousand two hundred forty-one or five thousand two hundred forty-two of the civil practice laws and rules or another state's income withholding

order as authorized under part five of article five-B of the family court act, or garnished by the department for the payment of the past-due tax liabilities at issue; or (iv) the applicant is making child support payments or combined child and spousal support payments pursuant to a satisfactory payment arrangement under section one hundred eleven-b of the social services law with a support collection unit or otherwise making periodic payments in accordance with section four hundred forty of the family court act. An applicant may challenge a department finding of failure to comply with tax return filing requirements only on the grounds that all required tax returns have been filed for each of the past three years.

(c) Nothing in this subdivision is intended to limit any applicant from seeking relief from joint and several liability pursuant to section six hundred fifty-four of this chapter, to the extent that he or she is eligible pursuant to that section, or establishing to the department that the enforcement of the underlying tax liabilities has been stayed by the filing of a petition pursuant to the Bankruptcy Code of 1978 (Title Eleven of the United States Code).

(6) Notwithstanding any other provision of law, the department may exchange with a government entity any data or information that, in the discretion of the commissioner, is necessary for the implementation of a tax clearance requirement. However, no government entity may re-disclose this information to any other entity or person, other than for the purpose of informing the applicant that a required tax clearance has been denied, unless otherwise permitted by law.

(7) Except as otherwise provided in this section, the activities to collect past-due tax liabilities undertaken by the department pursuant to this section shall not in any way limit, restrict or impair the

department from exercising any other authority to collect or enforce tax liabilities under any other applicable provision of law.

(8) Except as otherwise provided in this section, the provisions of this section are not applicable to the tax clearance required by section one hundred seventy-one-v of this article.

§ 6. This act shall take effect immediately and shall apply to (a) any project established or any agent or project operator appointed, on or after the date this act shall have become a law and any financial assistance provided thereto, (b) any amendment or revision involving additional financial assistance, funds or benefits made on or after the date this act shall have become a law to any project established, agent or project operator appointed, or financial assistance provided, prior to that date, and (c) any state sales and compensating use tax or other state tax exemption benefits and any state sales and compensating use taxes or other taxes recovered, recaptured, received, or otherwise obtained by an industrial development agency established by the general municipal law or an industrial development authority created by title 11 or title 15 of article 8 of the public authorities law on or after such date.

PART X

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

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

(1) Marketplace provider. A person who, pursuant to an agreement with a marketplace seller, facilitates a sale, occupancy, or admission by such marketplace seller. A person "facilitates a sale, occupancy, or admission" for purposes of this paragraph when the person meets both of the following conditions: (i) such person, or an affiliated person, collects the receipts, rent, or amusement charge paid by a customer, occupant or patron to a marketplace seller; and (ii) such person performs either of the following activities: (A) provides the forum in which, or by means of which, the sale takes place or the offer of occupancy or admission is accepted, including a shop, store, or booth, or an internet website, catalog, or a similar forum; or (B) arranges for the exchange of information or messages between the customer, occupant, or patron, as the case may be, and the marketplace seller. A person who voluntarily registers to collect tax as a marketplace provider under section eleven hundred thirty-four of this article shall also qualify as a marketplace provider. For purposes of this paragraph, two persons are affiliated if one person has an ownership interest of more than five percent, whether direct or indirect, in the other, or where an ownership interest of more than five percent, whether direct or indirect, is held in each of such persons by another person or by a group of other persons which are affiliated persons with respect to each other.

(2) Marketplace seller. Any person, whether or not such person is required to register to collect tax under section eleven hundred thirty-four of this article, who (i) has an agreement with a marketplace provider under which the marketplace provider will facilitate sales, occupancies or admissions for such person within the meaning of paragraph one of this subdivision; and (ii) satisfies at least one of the following conditions: (A) sells tangible personal property or the

services described in subdivisions (a), (b) and (c) of section eleven hundred five of this article; (B) operates a restaurant, tavern or other establishment, or acts as a caterer, who sells food and drink or makes other charges taxable under subdivision (d) of such section eleven hundred five of this article; (C) is an operator of a hotel; or (D) is a recipient as defined by paragraph eleven of subdivision (d) of this section.

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

(1) "Persons required to collect tax" or "person required to collect any tax imposed by this article" shall include: every vendor of tangible personal property or services; every recipient of amusement charges; [and] every operator of a hotel, and every marketplace provider with respect to sales, occupancies, or admissions facilitated by it as described in paragraph one of subdivision (e) of section eleven hundred one of this article. Said terms shall also include any officer, director or employee of a corporation or of a dissolved corporation, any employee of a partnership, any employee or manager of a limited liability company, or any employee of an individual proprietorship who as such officer, director, employee or manager is under a duty to act for such corporation, partnership, limited liability company or individual proprietorship in complying with any requirement of this article; and any member of a partnership or limited liability company. Provided, however, that any person who is a vendor solely by reason of clause (D) or (E) of subparagraph (i) of paragraph (8) of subdivision (b) of section eleven hundred one shall not be a "person required to collect any tax imposed by this article" until twenty days after the date by

which such person is required to file a certificate of registration pursuant to section eleven hundred thirty-four.

§ 3. Section 1132 of the tax law is amended by adding a new subdivision (l) to read as follows:

(l)(1) A marketplace provider: (i) shall comply with all the provisions of this article and article twenty-nine of this chapter and of any regulations adopted pursuant thereto, and to all the requirements and obligations thereof, including the right to accept a certificate or other documentation from a customer substantiating an exemption or exclusion from tax, and have all the duties, benefits and entitlements of a person required to collect tax under this article and pursuant to the authority of such article twenty-nine with respect to such sale, occupancy, or admission, and such tax required to be collected, as if such marketplace provider were the vendor, operator, or recipient with respect to such sale, occupancy, or admission, including the right to receive the refund authorized by subdivision (e) of this section and the credit allowed by subdivision (f) of section eleven hundred thirty-seven of this part; and (ii) shall keep such records and information and cooperate with the commissioner to ensure the proper collection and remittance of tax imposed, collected or required to be collected under this article and such article twenty-nine.

(2) A marketplace seller is not a person required to collect tax for purposes of this section in regard to a particular sale, occupancy, or admission subject to tax under subdivisions (a) through (e) or paragraph one of subdivision (f) of section eleven hundred five of this article if, in regard to such sale, occupancy or admission: (i) the marketplace seller can show that such sale, occupancy, or admission was facilitated, as described in paragraph one of subdivision (e) of section eleven

hundred one of this article, by a marketplace provider from whom such seller has received in good faith a properly completed certificate of collection in a form prescribed by the commissioner certifying that the marketplace provider is registered to collect sales tax and will collect sales tax on all taxable sales, occupancies or admissions by the marketplace seller and with such other information as the commissioner may prescribe; and (ii) any failure of the marketplace provider to collect the proper amount of tax in regard to such sale, occupancy, or admission was not the result of such marketplace seller providing the marketplace provider with incorrect information. This provision shall be administered in a manner consistent with subparagraph (i) of paragraph one of subdivision (c) of this section as if a certificate of collection were a resale or exemption certificate for purposes of such subparagraph, including with regard to the completeness of such certificate of collection and the timing of its acceptance by the marketplace seller. Provided that, with regard to any sales, occupancies, or admissions sold by a marketplace seller that are facilitated by a marketplace provider who is affiliated with such marketplace seller within the meaning of paragraph one of subdivision (e) of section eleven hundred one of this article, the marketplace seller shall be deemed liable as a person under a duty to act for such marketplace provider for purposes of subdivision one of section eleven hundred thirty-one of this part.

(3) The commissioner may, in his or her discretion: (i) develop standard language, or approve language developed by a marketplace provider, in which the marketplace provider obligates itself to collect the tax on behalf of all the marketplace sellers for whom the marketplace provider facilitates sales, occupancies, or admissions, as described in paragraph one of subdivision (e) of section eleven hundred one of this article;

and (ii) provide by regulation or otherwise that the inclusion of such language in the marketplace provider's agreement with a marketplace seller that is publicly available will have the same effect as a marketplace seller's acceptance of a certificate of collection from such marketplace provider under subparagraph two of this paragraph.

§ 4. Section 1133 of the tax law is amended by adding a new subdivision (f) to read as follows:

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

§ 5. This act shall take effect March 1, 2016, and shall apply in accordance with the transition provisions in sections 1106 and 1217 of the tax law.

PART Y

Section 1. The tax law is amended by adding a new section 1118-A to read as follows:

§ 1118-A. Limitations on tax avoidance strategies. Notwithstanding the provisions of this article or other law to the contrary:

(a) The exclusion in subdivision two of section eleven hundred eighteen of this part for property or services purchased by a nonresident of this state shall not apply when a person (other than an individual)

brings such property or service into this state for use here, unless such person has been doing business outside this state for at least six months prior to the date such person brought such property or service into this state.

(b) A single member limited liability company and the member of that limited liability company shall be deemed to be one person, and, among other things, a purchase or sale by one shall be deemed to be the purchase or sale by the other and neither of them can make a purchase for resale to the other.

(c) A lease of any tangible personal property between related entities shall be subject to the provisions of subdivision (i) of section eleven hundred eleven of this article, including the provisions, among others, relating to leases entered into outside this state where the property subject to the lease is then brought into this state, as if such subdivision (i) referred to the lease described in this subdivision, with such changes as are necessary to make such provisions apply to this subdivision; provided that any payments due under such a lease under this subdivision shall be due at the inception of the lease regardless of the length of the term of such lease, including any option to renew or similar provision, or combination of them; and provided further that, if the commissioner finds that the sum of all such payments due under such lease do not reflect the true value or cost of the property subject to such lease, the commissioner shall be authorized to estimate such true value or cost from such information as may be available, including by means of external indices, and assess tax due under this subdivision based on such estimate. For purposes of this subdivision:

(1) "lease" means and includes a lease, rental agreement, or right to use or other agreement in the nature of a lease, rental agreement, or right to use;

(2) "related entities" means two or more persons that bear a relationship to each other as described in subparagraphs (ii) through (vi) of paragraph (b) of subdivision three of section five hundred four of this chapter.

§ 2. Subdivision (q) of section 1111 of the tax law, as added by section 3 of subpart B of part S of chapter 57 of the laws of 2010, is amended to read as follows:

(q) (1) The exclusions from the definition of retail sale in subparagraph (iv) of paragraph four of subdivision (b) of section eleven hundred one of this article shall not apply to transfers, distributions, or contributions of [an aircraft or vessel] tangible personal property, except where, in the case of the exclusion in subclause (I) of clause (A) of such subparagraph (iv), the two corporations to be merged or consolidated are not affiliated persons with respect to each other. For purposes of this subdivision, corporations are affiliated persons with respect to each other where (i) more than five percent of their combined shares are owned by members of the same family, as defined by paragraph four of subsection (c) of section two hundred sixty-seven of the internal revenue code of nineteen hundred eighty-six; (ii) one of the corporations has an ownership interest of more than five percent, whether direct or indirect, in the other; or (iii) another person or a group of other persons that are affiliated persons with respect to each other hold an ownership interest of more than five percent, whether direct or indirect, in each of the corporations.

(2) Notwithstanding any contrary provision of law, in relation to any transfer, distribution, or contribution of [an aircraft or vessel] tangible personal property that qualifies as a retail sale as a result of paragraph one of this subdivision, the sales tax imposed by subdivision (a) of section eleven hundred five of this part shall be computed based on the price at which the seller purchased the tangible personal property, provided that where the seller or purchaser affirmatively shows that the seller owned the property for six months prior to making the transfer, distribution or contribution covered by paragraph one of this subdivision, such [aircraft or vessel] tangible personal property shall be taxed on the basis of the current market value of the [aircraft or vessel] tangible personal property at the time of that transfer, distribution, or contribution. For the purposes of the prior sentence, "current market value" shall not exceed the cost of the [aircraft or vessel] tangible personal property. See subdivision (b) of this section for a similar rule on the computation of any compensating use tax due under section eleven hundred ten of this part on such transfers, distributions, or contributions.

(3) A purchaser of [an aircraft or vessel] tangible personal property covered by paragraph one of this subdivision will be entitled to a refund or credit against the sales or compensating use tax due as a result of a transfer, distribution, or contribution of such [aircraft or vessel] tangible personal property in the amount of any sales or use tax paid to this state or any other state on the seller's purchase or use of the [aircraft or vessel] tangible personal property so transferred, distributed or contributed, but not to exceed the tax due on the transfer, distribution, or contribution of the [aircraft or vessel] tangible personal property or on the purchaser's use in the state of the

[aircraft or vessel] tangible personal property so transferred, distributed or contributed. An application for a refund or credit under this subdivision must be filed and shall be in such form as the commissioner may prescribe. Where an application for credit has been filed, the applicant may immediately take such credit on the return which is due coincident with or immediately subsequent to the time the application for credit is filed. However, the taking of the credit on the return shall be deemed to be part of the application for credit. Provided that the commissioner may, in his or her discretion and notwithstanding any other law, waive the application requirement for any or all classes of persons where the amount of the credit or refund is equal to the amount of the tax due from the purchaser. The provisions of subdivisions (a), (b), and (c) of section eleven hundred thirty-nine of this article shall apply to applications for refund or credit under this subdivision. No interest shall be allowed or paid on any refund made or credit allowed under this subdivision. If a refund is granted or a credit allowed under this paragraph, the seller or purchaser shall not be eligible for a refund or credit pursuant to subdivision seven of section eleven hundred eighteen of this article with regard to the same purchase or use.

§ 3. This act shall take effect immediately and shall apply in accordance with applicable transitional provisions of sections 1106 and 1217 of the tax law.

PART Z

Section 1. Subdivision (ee) of section 1115 of the tax law, as added by chapter 306 of the laws of 2005, is amended to read as follows:

(ee) The following shall be exempt from tax under this article: (1) Receipts from the retail sale of, and consideration given or contracted to be given for, or for the use of, residential solar energy systems equipment and [of] the service of installing such systems [shall be exempt from tax under this article]. For the purposes of this subdivision, "residential solar energy systems equipment" shall mean an arrangement or combination of components installed in a residence that utilizes solar radiation to produce energy designed to provide heating, cooling, hot water and/or electricity. Such arrangement or components shall not include equipment that is part of a non-solar energy system or which uses any sort of recreational facility or equipment as a storage medium.

(2) Receipts from the sale of electricity by a person primarily engaged in the sale of solar energy system equipment and/or electricity generated by such equipment pursuant to a written agreement under which such electricity is generated by residential solar energy system equipment that is: (A) owned by a person other than the purchaser of such electricity; (B) installed on residential property of the purchaser of such electricity; and (C) used to provide heating, cooling, hot water or electricity to such property.

§ 2. Subdivision (ii) of section 1115 of the tax law, as amended by chapter 13 of the laws of 2013, is amended to read as follows:

(ii) The following shall be exempt from tax under this article: (1) Receipts from the retail sale of, and consideration given or contracted to be given for, or for the use of, commercial solar energy systems equipment and [of] the service of installing such systems [shall be exempt from taxes imposed by sections eleven hundred five and eleven hundred ten of this article]. For the purposes of this subdivision,

"commercial solar energy systems equipment" shall mean an arrangement or combination of components installed upon non-residential premises that utilize solar radiation to produce energy designed to provide heating, cooling, hot water and/or electricity. Such arrangement or components shall not include equipment that is part of a non-solar energy system.

(2) Receipts from the sale of electricity by a person primarily engaged in the sale of solar energy system equipment and/or electricity generated by such equipment pursuant to a written agreement under which the electricity is generated by commercial solar energy system equipment that is: (A) owned by a person other than the purchaser of such electricity; (B) installed on the non-residential premises of the purchaser of such electricity; and (C) used to provide heating, cooling, hot water or electricity to such premises.

§ 3. Paragraphs 1 and 4 of subdivision (a) of section 1210 of the tax law, paragraph 1 as amended by chapter 13 of the laws of 2012, and paragraph 4 as amended by chapter 200 of the laws of 2009, are amended to read as follows:

(1) Either, all of the taxes described in article twenty-eight of this chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be identical, except as to rate and except as otherwise provided, with the corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes authorized under this subdivision may not be imposed by a city or county unless the local law, ordinance or resolution imposes such taxes so as

to include all portions and all types of receipts, charges or rents, subject to state tax under sections eleven hundred five and eleven hundred ten of this chapter, except as otherwise provided. (i) Any local law, ordinance or resolution enacted by any city of less than one million or by any county or school district, imposing the taxes authorized by this subdivision, shall, notwithstanding any provision of law to the contrary, exclude from the operation of such local taxes all sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, generating, assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation, or in both; and, unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivision (a) or subdivision (d) of section eleven hundred nineteen of this chapter. (ii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment <u>and electricity</u> exemption provided for in subdivision (ee), the commercial solar energy systems equipment <u>and electricity</u> exemption provided for in subdivision (ii) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment <u>and electricity</u> exemption, such commercial solar energy

systems equipment and electricity exemption or such clothing and footwear exemption.

(4) Notwithstanding any other provision of law to the contrary, any local law enacted by any city of one million or more that imposes the taxes authorized by this subdivision (i) may omit the exception provided in subparagraph (ii) of paragraph three of subdivision (c) of section eleven hundred five of this chapter for receipts from laundering, drycleaning, tailoring, weaving, pressing, shoe repairing and shoe shining; (ii) may impose the tax described in paragraph six of subdivision (c) of section eleven hundred five of this chapter at a rate in addition to the rate prescribed by this section not to exceed two percent in multiples of one-half of one percent; (iii) shall provide that the tax described in paragraph six of subdivision (c) of section eleven hundred five of this chapter does not apply to facilities owned and operated by the city or an agency or instrumentality of the city or a public corporation the majority of whose members are appointed by the chief executive officer of the city or the legislative body of the city or both of them; (iv) shall not include any tax on receipts from, or the use of, the services described in paragraph seven of subdivision (c) of section eleven hundred five of this chapter; (v) shall provide that, for purposes of the tax described in subdivision (e) of section eleven hundred five of this chapter, "permanent resident" means any occupant of any room or rooms in a hotel for at least one hundred eighty consecutive days with regard to the period of such occupancy; (vi) may omit the exception provided in paragraph one of subdivision (f) of section eleven hundred five of this chapter for charges to a patron for admission to, or use of, facilities for sporting activities in which the patron is to be a participant, such as bowling alleys and swimming pools; (vii) may

provide the clothing and footwear exemption in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, and, notwithstanding any provision of subdivision (d) of this section to the contrary, any local law providing for such exemption or repealing such exemption, may go into effect on any one of the following dates: March first, June first, September first or December first; (viii) shall omit the exemption provided in paragraph forty-one of subdivision (a) of section eleven hundred fifteen of this chapter; (ix) shall omit the exemption provided in subdivision (c) of section eleven hundred fifteen of this chapter insofar as it applies to fuel, gas, electricity, refrigeration and steam, and gas, electric, refrigeration and steam service of whatever nature for use or consumption directly and exclusively in the production of gas, electricity, refrigeration or steam; (x) shall omit, unless such city elects otherwise, the provision for refund or credit contained in clause six of subdivision (a) or in subdivision (d) of section eleven hundred nineteen of this chapter; [and] (xi) shall provide that section eleven hundred five-C of this chapter does not apply to such taxes, and shall tax receipts from every sale, other than sales for resale, of gas service or electric service of whatever nature, including the transportation, transmission or distribution of gas or electricity, even if sold separately, at the rate set forth in clause one of subparagraph (i) of the opening paragraph of this section; (xii) shall omit, unless such city elects otherwise, the exemption for residential solar energy systems equipment and electricity provided in subdivision (ee) of section eleven hundred fifteen of this chapter; and (xiii) shall omit, unless such city elects otherwise, the exemption for commercial solar energy systems equipment and electricity provided in subdivision (ii) of section eleven hundred fifteen of this chapter. Any

reference in this chapter or in any local law, ordinance or resolution enacted pursuant to the authority of this article to former subdivisions (n) or (p) of this section shall be deemed to be a reference to clauses (xii) or (xiii) of this paragraph, respectively, and any such local law, ordinance or resolution that provides the exemptions provided in such former subdivisions (n) and/or (p) shall be deemed instead to provide the exemptions provided in clauses (xii) and/or (xiii) of this paragraph.

§ 4. Paragraph 1 and subparagraph (i) of paragraph 3 of subdivision (b) of section 1210 of the tax law, paragraph 1 as amended by section 36 of part S-1 of chapter 57 of the laws of 2009, and subparagraph (i) of paragraph 3 as amended by section 3 of part B of chapter 35 of the laws of 2006, are amended to read as follows:

(1) Or, one or more of the taxes described in subdivisions (b), (d), (e) and (f) of section eleven hundred five of this chapter, at the same uniform rate, including the transitional provisions in section eleven hundred six of this chapter covering such taxes, but not the taxes described in subdivisions (a) and (c) of section eleven hundred five of this chapter. Provided, further, that where the tax described in subdivision (b) of section eleven hundred five of this chapter is imposed, the compensating use taxes described in clauses (E), (G) and (H) of subdivision (a) of section eleven hundred ten of this chapter shall also be imposed. Provided, further, that where the taxes described in subdivision (b) of section eleven hundred five are imposed, such taxes shall omit: (A) the provision for refund or credit contained in subdivision (d) of section eleven hundred nineteen of this chapter with respect to such taxes described in such subdivision (b) of section eleven hundred five unless such city or county elects to provide such provision or, if

so elected, to repeal such provision; (B) the exemption provided in paragraph two of subdivision (ee) of section eleven hundred fifteen of this chapter unless such county or city elects otherwise; and (C) the exemption provided in paragraph two of subdivision (ii) of section eleven hundred fifteen of this chapter, unless such county or city elects otherwise.

(i) Notwithstanding any other provision of law to the contrary but not with respect to cities subject to the provisions of section eleven hundred eight of this chapter, any city or county, except a county wholly contained within a city, may provide that the tax imposed, pursuant to this subdivision, by such city or county on the sale, other than for resale, of propane (except when sold in containers of less than one hundred pounds), natural gas, electricity, steam and gas, electric and steam services of whatever nature used for residential purposes and on the use of gas or electricity used for residential purposes may be imposed at a lower rate than the uniform local rate imposed pursuant to the opening paragraph of this section, as long as such rate is one of the rates authorized by such paragraph or such sale or use may be exempted from such taxes. Provided, however, such lower rate must apply to all such energy sources and services and at the same rate and no such exemption, other than the exemption provided for in subdivision (ee) of section eleven hundred fifteen of this chapter, if such exemption is elected by such city or county, may be enacted unless such exemption applies to all such energy sources and services.

§ 4-a. Subdivision (d) of section 1210 of the tax law, as amended by section 37 of part S-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(d) A local law, ordinance or resolution imposing any tax pursuant to this section, increasing or decreasing the rate of such tax, repealing or suspending such tax, exempting from such tax the energy sources and services described in paragraph three of subdivision (a) or of subdivision (b) of this section or changing the rate of tax imposed on such energy sources and services or providing for the credit or refund described in clause six of subdivision (a) of section eleven hundred nineteen of this chapter, or electing or repealing the exemption for residential solar equipment and electricity in subdivision (ee) of section eleven hundred fifteen of this article, or the exemption for commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this article must go into effect only on one of the following dates: March first, June first, September first or December first; provided, that a local law, ordinance or resolution providing for the exemption described in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption or a local law, ordinance or resolution providing for a refund or credit described in subdivision (d) of section eleven hundred nineteen of this chapter or repealing such provision so provided must go into effect only on March first. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered or certified mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice requirement to a mailing of such certified copy by registered or certified mail within a period of not less than thirty days prior to such effective date if the commissioner deems such action to be consistent with the commissioner's duties

under section twelve hundred fifty of this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

§ 5. Subdivisions (n) and (p) of section 1210 of the tax law are REPEALED.

§ 6. Subdivision (a) of section 1212 of the tax law, as amended by section 40 of part S-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(a) Any school district which is coterminous with, partly within or wholly within a city having a population of less than one hundred twenty-five thousand, is hereby authorized and empowered, by majority vote of the whole number of its school authorities, to impose for school district purposes, within the territorial limits of such school district and without discrimination between residents and nonresidents thereof, the taxes described in subdivision (b) of section eleven hundred five (but excluding the tax on prepaid telephone calling services) and the taxes described in clauses (E) and (H) of subdivision (a) of section eleven hundred ten, including the transitional provisions in subdivision (b) of section eleven hundred six of this chapter, so far as such provisions can be made applicable to the taxes imposed by such school district and with such limitations and special provisions as are set forth in this article, such taxes to be imposed at the rate of one-half, one, one and one-half, two, two and one-half or three percent which rate shall be uniform for all portions and all types of receipts and uses subject to such taxes. In respect to such taxes, all provisions of the

resolution imposing them, except as to rate and except as otherwise provided herein, shall be identical with the corresponding provisions in such article twenty-eight of this chapter, including the applicable definition and exemption provisions of such article, so far as the provisions of such article twenty-eight of this chapter can be made applicable to the taxes imposed by such school district and with such limitations and special provisions as are set forth in this article. The taxes described in subdivision (b) of section eleven hundred five (but excluding the tax on prepaid telephone calling service) and clauses (E) and (H) of subdivision (a) of section eleven hundred ten, including the transitional provision in subdivision (b) of such section eleven hundred six of this chapter, may not be imposed by such school district unless the resolution imposes such taxes so as to include all portions and all types of receipts and uses subject to tax under such subdivision (but excluding the tax on prepaid telephone calling service) and clauses. Provided, however, that, where a school district imposes such taxes, such taxes shall omit the provision for refund or credit contained in subdivision (d) of section eleven hundred nineteen of this chapter with respect to such taxes described in such subdivision (b) of section eleven hundred five unless such school district elects to provide such provision or, if so elected, to repeal such provision, and shall omit the exemption provided in paragraph two of either subdivision (ee) or subdivision (ii) of section eleven hundred fifteen of this chapter unless such school district elects otherwise.

§ 7. Section 1224 of the tax law is amended by adding a new subdivision (c-1) to read as follows:

(c-1) Notwithstanding any other provision of law: (1) Where a county containing one or more cities with a population of less than one million

has elected the exemption for residential solar energy systems equipment and electricity provided in subdivision (ee) of section eleven hundred fifteen of this chapter, the exemption for commercial solar energy systems equipment and electricity provided in subdivision (ii) of such section eleven hundred fifteen, or both such exemptions, a city within such county shall have the prior right to impose tax on such exempt equipment and/or electricity to the extent of one half of the maximum rates authorized under subdivision (a) of section twelve hundred ten of this article;

(2) Where a city of less than one million has elected the exemption for residential solar energy systems equipment and electricity provided in subdivision (ee) of section eleven hundred fifteen of this chapter, the exemption for commercial solar energy systems equipment and electricity provided in subdivision (ii) of such section eleven hundred fifteen, or both such exemptions, the county in which such city is located shall have the prior right to impose tax on such exempt equipment and/or electricity to the extent of one half of the maximum rates authorized under subdivision (a) of section twelve hundred ten of this article.

§ 8. This act shall take effect December 1, 2015 and shall apply in accordance with the applicable transitional provisions in sections 1106 and 1217 of the tax law.

PART AA

Section 1. Subdivision (f) of section 301-c of the tax law, as amended by section 23 of part K of chapter 61 of the laws of 2011, is amended to read as follows:

(f) Motor fuel and highway diesel motor fuel used for farm production. No more than one thousand five hundred gallons of motor fuel and no more than four thousand five hundred gallons of highway diesel motor fuel purchased in this state in a thirty-day period or a greater amount which has been given prior clearance by the commissioner, by a consumer for use or consumption directly and exclusively in the production for sale of tangible personal property by farming, but only if all of such motor fuel or highway diesel motor fuel is delivered on the farm site and is consumed other than on the public highways of this state (except for the use of the public highway to reach adjacent farmlands). This reimbursement to such purchaser who used such motor fuel or highway diesel motor fuel in the manner specified in this subdivision may be claimed only where, (i) the tax imposed pursuant to this article has been paid with respect to such motor fuel or highway diesel motor fuel and the entire amount of such tax has been absorbed by such purchaser, and (ii) such purchaser possesses documentary proof satisfactory to the commissioner evidencing the absorption by it of the entire amount of the tax imposed pursuant to this article. Provided, however, that the commissioner shall require such documentary proof to qualify for any reimbursement of tax provided by this subdivision as the commissioner deems appropriate. The commissioner is hereby empowered to make such provisions as deemed necessary to define the procedures for granting prior clearance for purchases of more than one thousand five hundred gallons of motor fuel or four thousand five hundred gallons of highway diesel motor fuel in a thirty-day period.

§ 2. This act shall take effect immediately.

PART BB

Section 1. Subsection (b) of section 952 of the tax law, as amended by section 2 of part X of chapter 59 of the laws of 2014, is amended to read as follows:

(b) Computation of tax. The tax imposed by this section shall be computed on the deceased resident's New York taxable estate as follows:

[In the case of decedents dying on or after April 1, 2014 and before April 1, 2015]

If the New York taxable estate is:	The tax is:
Not over $500,000	3.06% of taxable estate
Over $500,000 but not over $1,000,000	$15,300 plus 5.0% of excess over $500,000
Over $1,000,000 but not over $1,500,000	$40,300 plus 5.5% of excess over $1,000,000
Over $1,500,000 but not over $2,100,000	$67,800 plus 6.5% of excess over $1,500,000
Over $2,100,000 but not over $2,600,000	$106,800 plus 8.0% of excess over $2,100,000
Over $2,600,000 but not over $3,100,000	$146,800 plus 8.8% of excess over $2,600,000
Over $3,100,000 but not over $3,600,000	$190,800 plus 9.6% of excess over $3,100,000
Over $3,600,000 but not over $4,100,000	$238,800 plus 10.4% of excess over $3,600,000
Over $4,100,000 but not over $5,100,000	$290,800 plus 11.2% of excess over $4,100,000
Over $5,100,000 but not over $6,100,000	$402,800 plus 12.0% of excess over $5,100,000
Over $6,100,000 but not over $7,100,000	$522,800 plus 12.8% of excess

	over $6,100,000
Over $7,100,000 but not over $8,100,000	$650,800 plus 13.6% of excess over $7,100,000
Over $8,100,000 but not over $9,100,000	$786,800 plus 14.4% of excess over $8,100,000
Over $9,100,000 but not over $10,100,000	$930,800 plus 15.2% of excess over $9,100,000
Over $10,100,000	$1,082,800 plus 16.0% of excess over $10,100,000

§ 2. Paragraph 3 of subsection (a) of section 954 of the tax law, as added by section 3 of part X of chapter 59 of the laws of 2014, is amended to read as follows:

(3) Increased by the amount of any taxable gift under section 2503 of the internal revenue code not otherwise included in the decedent's federal gross estate, made during the three year period ending on the decedent's date of death, but not including any gift made: [(1)] (A) when the decedent was not a resident of New York state; [(2)] or (B) before April first, two thousand fourteen[; or (3)]. Provided, however that this paragraph shall not apply to the estate of a decendent dying on or after January first, two thousand nineteen.

§ 3. Subsection (b) of section 960 of the tax law, as amended by section 5 of part X of chapter 59 of the laws of 2014, is amended to read as follows:

(b) Computation of tax.--The tax imposed under subsection (a) shall be the same as the tax that would be due, if the decedent had died a resident, under subsection (a) of section nine hundred fifty-two, except that for purposes of computing the tax under subsection (b) of section nine hundred fifty-two, "New York taxable estate" shall not include the

value of, or any deduction allowable under the Internal Revenue Code related to, any intangible personal property otherwise includible in the deceased individual's New York gross estate, and shall not include the amount of any gift unless such gift consists of real or tangible personal property having an actual situs in New York state or intangible personal property employed in a business, trade or profession carried on in this state.

§ 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2014.

PART CC

Section 1. Section 282 of the tax law is amended by adding a new subdivision 27 to read as follows:

27. "Wholesaler of motor fuel" means any person, firm, association or corporation who or which is not a distributor of motor fuel, and makes a sale of motor fuel in this state other than a retail sale not in bulk. For the purposes of this article when used with respect to motor fuel, a "retail sale not in bulk" means the making or offering to make any sale of motor fuel to a consumer of such fuel which is delivered directly into a motor vehicle for use in the operation of such vehicle. A "retail sale in bulk" means the making or offering to make any sale of motor fuel to a consumer which is other than a "retail sale not in bulk".

§ 2. The tax law is amended by adding a new section 283-d to read as follows:

§ 283-d. Registration of wholesalers of motor fuel. (a) Registration required. Each wholesaler of motor fuel must be registered with the department under this section. No wholesaler of motor fuel shall make a

sale of motor fuel in this state other than a retail sale not in bulk unless such wholesaler is so registered. The department, upon the application of a person, shall register such person as a wholesaler of motor fuel except that the commissioner may refuse to register an applicant for any of the grounds specified in subdivision two or five of section two hundred eighty-three of this article or in subdivision (c) of this section. The application shall be in such form and contain such information as the commissioner shall prescribe. All of the provisions of subdivisions two, four, five, six, seven, eight, nine and ten of section two hundred eighty-three of this article relating to registration of distributors shall be applicable to the registration of wholesalers of motor fuel under this section with the same force and effect as if the language of such subdivisions had been incorporated in full in this section and had expressly referred to the registration of wholesalers of motor fuel, with such modification as may be necessary in order to adapt the language of such provisions to the provisions of this section, provided, specifically, that the term "distributor" shall be read as "wholesaler of motor fuel." Provided, however, that if the commissioner is satisfied that the requirements of such provisions for registration are not necessary in order to protect tax revenues, the commissioner may limit or modify such requirements with respect to any person not required to be registered as a distributor of motor fuel.

(b) Bond or other security. The commissioner may require a wholesaler of motor fuel seeking a registration to file with the department a bond issued by a surety company approved by the superintendent of financial services as to solvency and responsibility and authorized to transact business in this state or other security acceptable to the commissioner, in such amount as the commissioner may fix to secure the performance by

such wholesaler of motor fuel of the duties and responsibilities required (i) pursuant to this article and (ii) pursuant to articles twenty-eight and twenty-nine of this chapter with respect to motor fuel. The commissioner may require that such a bond or other security be filed before a wholesaler of motor fuel is registered, and the amount thereof may be increased at any time when in the commissioner's judgment the same is necessary. If securities are deposited as security under this subdivision, such securities shall be kept in the joint custody of the comptroller and the commissioner and may be sold by the commissioner if it becomes necessary so to do in order to recover against such wholesaler of motor fuel but no such sale shall be had until after such wholesaler of motor fuel shall have had opportunity to litigate the validity of the liability if it elects to do so. Upon any such sale the surplus, if any, above the sums due shall be returned to such wholesaler of motor fuel. The department, when authorized by the wholesaler of motor fuel, shall furnish information regarding the registration of the wholesaler of motor fuel and any other information which the wholesaler of motor fuel authorizes it to disclose.

(c) Refusal to register. For the purposes of determining whether to refuse an application for registration under this section, the references in subdivision two of section two hundred eighty-three of this article to employees or shareholders under a duty to file a return under or pursuant to the authority of this article or pay the taxes imposed by or pursuant to the authority of this article on behalf of the applicant or another person shall be deemed to also include an employee under a duty to file a return or pay taxes under or pursuant to the authority of this article on behalf of such applicant or other person. In addition to the grounds specified in section two hundred eighty-three of this arti-

cle, the commissioner may refuse to register an applicant where the commissioner ascertains that the applicant, an officer, director or partner of the applicant, a shareholder directly or indirectly owning more than ten percent of the number of shares of stock of such applicant (where such applicant is a corporation) entitling the holder thereof to vote for the election of directors or trustees, or an employee or shareholder of such applicant who, as such employee or shareholder is under a duty to file a return under or pursuant to the authority of this article or to pay the taxes imposed by or pursuant to the authority of this article on behalf of the applicant; (1) has committed any of the acts or omissions which are, or was convicted as, specified in subdivision (d) of this section within the preceding five years; or (2) was an officer, director or partner of another person, or who directly or indirectly owned more than ten percent of the shares of stock of another person (where such other person is a corporation) entitling the holder thereof to vote for the election of directors or trustees, or who was an employee or shareholder of another person under a duty to file a return under or pursuant to the authority of this article or pay the taxes imposed by or pursuant to the authority of this article on behalf of such other person at the time such other person committed any of the acts or omissions which are, or was convicted as, specified in subdivision (d) of this section within the preceding five years.

(d) Cancellation or suspension of registration. The grounds for a cancellation or suspension of a registration under this section as a wholesaler of motor fuel are the same as those grounds specified in section two hundred eighty-three of this article and, in addition to such grounds, the following grounds relating to this article shall apply:

(1) A registration as a wholesaler of motor fuel may be cancelled or suspended if the commissioner determines that a registrant or an officer, director or partner of the registrant, a shareholder directly or indirectly owning more than ten percent of the number of shares of stock of such registrant (where such registrant is a corporation) entitling the holder thereof to vote for the election of directors or trustees, or an employee or shareholder of such registrant under a duty to file a return under or pursuant to the authority of this article or to pay the taxes imposed by or pursuant to the authority of this article on behalf of the registrant

(A) fails to file or maintain in full force and effect a bond or other security when required pursuant to subdivision (b) of this section or when the amount thereof is increased,

(B) fails to comply with any of the provisions of this article or any rule or regulation adopted pursuant to this article by the commissioner,

(C) knowingly aids and abets another person in violating any of the provisions of this article or any rule or regulation adopted pursuant to this article by the commissioner,

(D) transfers its registration as a wholesaler of motor fuel without the prior written approval of the commissioner,

(E) with respect to a wholesaler of motor fuel which is a corporation, has been dissolved pursuant to section two hundred three-a and subdivision (d) of section three hundred ten of this chapter,

(F) commits fraud or deceit in his, her or its operations as a wholesaler of motor fuel or has committed fraud or deceit in procuring his, her or its registration,

(G) has impersonated any person represented to be a wholesaler of motor fuel under this article but not in fact registered as a wholesaler of motor fuel, or

(H) has knowingly aided and abetted the distribution of motor fuel, by any person which such registrant or such other person knows has not been registered by the commissioner as required under this article.

(2) A registration as a wholesaler of motor fuel may be cancelled or suspended if the commissioner determines that a registrant or an officer, director or partner of the registrant, a shareholder directly or indirectly owning more than ten percent of the number of shares of stock of such registrant (where such registrant is a corporation) entitling the holder thereof to vote for the election of directors or trustees, or an employee or shareholder of such registrant under a duty to file a return under or pursuant to the authority of this article or to pay the taxes imposed by or pursuant to the authority of this article on behalf of the registrant, was an officer, director or partner of another person or was a shareholder directly or indirectly owning more than ten percent of the number of shares of stock of another person (where such other person is a corporation) entitling the holder thereof to vote for the election of directors or trustees, or was an employee or shareholder of another person under a duty to file a return under or pursuant to the authority of this article or to pay the taxes imposed by or pursuant to the authority of this article on behalf of such other person at the time such other person committed any of the acts specified in paragraph one of this subdivision within the preceding five years.

(e) Cancellation or suspension of registration prior to a hearing. The grounds for cancelling or suspending a registration as a wholesaler of motor fuel prior to a hearing shall be the same as those specified in

subdivision five of section two hundred eighty-three of this article and, in addition to such grounds, the following grounds relating to this article shall apply:

(1) the failure to file a return within ten days of the date prescribed for filing a return under this article if the registrant shall have failed to file such return within ten days after the date the demand therefor is sent by registered or certified mail to the address of the wholesaler of motor fuel given in its application, or an address substituted therefor as provided in subdivision five of section two hundred eighty-three of this article,

(2) the failure to continue to maintain in full force and effect at all times the bond or other security required to be filed pursuant to subdivision (b) of this section, provided, however, that if a surety bond is cancelled prior to expiration, the commissioner may after considering all the relevant circumstances make such other arrangements, and may require the filing of such other bond or other security as it deems appropriate,

(3) the transfer of a registration as a wholesaler of motor fuel without the prior written approval of the commissioner, or

(4) with respect to a wholesaler of motor fuel which is a corporation, the dissolution or annulment of such corporation pursuant to section three hundred ten of this chapter.

§ 3. Section 287 of the tax law is amended by adding a new subdivision 3 to read as follows:

3. Every wholesaler of motor fuel shall, on or before the twentieth day of each month, file with the department a return, on forms prescribed by the commissioner stating the number of gallons of motor fuel purchased and sold by such wholesaler in the state during the

preceding calendar month. For each purchase and sale, the date, number of gallons of motor fuel purchased or sold, and the name of the seller or purchaser shall be set forth on the return. Such returns shall contain such further information as the commissioner shall require. The fact that a wholesaler's name is signed to a filed return shall be prima facie evidence for all purposes that the return was actually signed by such wholesaler of motor fuel.

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

(f) Every wholesaler of motor fuel, as such term is defined by subdivision twenty-seven of section two hundred eighty-two of this chapter, shall pay or be entitled to a credit or refund of the tax imposed by this section on gallons of motor fuel under the circumstances set forth in paragraph three of subdivision (e) of section eleven hundred eleven of this article.

§ 5. Subdivision (e) of section 1111 of the tax law is amended by adding a new paragraph 3 to read as follows:

(3) When a wholesaler of motor fuel sells motor fuel in a region, as defined in paragraph one of this subdivision, different from the region in which such motor fuel was purchased:

(i) if the region in which it sells the motor fuel has a higher prepaid rate as set forth in this subdivision than the region in which the wholesaler purchased the motor fuel in, the wholesaler shall pay to the department the difference in the rates for the gallonage sold.

(ii) if the region in which it sells the motor fuel has a lower prepaid rate as set forth in this subdivision than the region in which the wholesaler purchased the motor fuel, the wholesaler shall be enti-

tled to a credit or refund for the difference in the rates for the gallonage sold.

§ 6. The tax law is amended by adding a new section 1812-g to read as follows:

§ 1812-g. Person not registered as a wholesaler of motor fuel. Any person who, while not registered as a wholesaler of motor fuel pursuant to the provisions of article twelve-A of this chapter, makes a sale of motor fuel in this state other than a retail sale not in bulk, shall be guilty of a class E felony.

§ 7. This act shall take effect September 1, 2015.

PART DD

Section 1. Section 2 of part Q of chapter 59 of the laws of 2013, amending the tax law relating to serving an income execution with respect to individual tax debtors without filing a warrant, is amended to read as follows:

§ 2. This act shall take effect immediately [and shall expire and be deemed repealed on and after April 1, 2015].

§ 2. This act shall take effect immediately.

PART EE

Section 1. Subdivision 1 of section 171-v of the tax law, as added by section 1 of part P of chapter 59 of the laws of 2013, is amended to read as follows:

(1) The commissioner shall enter into a written agreement with the commissioner of motor vehicles, which shall set forth the procedures for

the two departments to cooperate in a program to improve tax collection through the suspension of drivers' licenses of taxpayers with past-due tax liabilities equal to or in excess of [ten] five thousand dollars. For the purposes of this section, the term "tax liabilities" shall mean any tax, surcharge, or fee administered by the commissioner, or any penalty or interest due on these amounts owed by an individual with a New York driver's license, the term "driver's license" means any license issued by the department of motor vehicles, except for a commercial driver's license as defined in section five hundred one-a of the vehicle and traffic law, and the term "past-due tax liabilities" means any tax liability or liabilities which have become fixed and final such that the taxpayer no longer has any right to administrative or judicial review.

§ 2. This act shall take effect immediately; provided, however, that the department of taxation and finance and the department of motor vehicles shall have up to two months after this act shall have become a law to execute any amendment to the written agreement and implement the necessary procedures as described in section one of this act.

PART FF

Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 18 of part B of chapter 60 of the laws of 2014, is amended to read as follows:

(a) The superintendent of [insurance] financial services and the commissioner of health or their designee shall, from funds available in the hospital excess liability pool created pursuant to subdivision 5 of

this section, purchase a policy or policies for excess insurance coverage, as authorized by paragraph 1 of subsection (e) of section 5502 of the insurance law; or from an insurer, other than an insurer described in section 5502 of the insurance law, duly authorized to write such coverage and actually writing medical malpractice insurance in this state; or shall purchase equivalent excess coverage in a form previously approved by the superintendent of [insurance] financial services for purposes of providing equivalent excess coverage in accordance with section 19 of chapter 294 of the laws of 1985, for medical or dental malpractice occurrences between July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, [and] between July 1, 2014 and June 30, 2015, and between July 1, 2015 and June 30, 2016 or reimburse the hospital where the hospital purchases equivalent excess coverage as defined in subpara-

graph (i) of paragraph (a) of subdivision 1-a of this section for medical or dental malpractice occurrences between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, [and] between July 1, 2014 and June 30, 2015<u>, and between July 1, 2015 and June 30, 2016</u> for physicians or dentists certified as eligible for each such period or periods pursuant to subdivision 2 of this section by a general hospital licensed pursuant to article 28 of the public health law; provided that no single insurer shall write more than fifty percent of the total excess premium for a given policy year; and provided, however, that such eligible physicians or dentists must have in force an individual policy, from an insurer licensed in this state of primary malpractice insurance coverage in amounts of no less than one million three hundred thousand dollars for each claimant and three million nine hundred thousand dollars for all claimants under that policy during the

period of such excess coverage for such occurrences or be endorsed as additional insureds under a hospital professional liability policy which is offered through a voluntary attending physician ("channeling") program previously permitted by the superintendent of [insurance] financial services during the period of such excess coverage for such occurrences; and provided that such eligible physicians or dentists have received tax clearances from the department of taxation and finance pursuant to section 171-w of the tax law. During such period, such policy for excess coverage or such equivalent excess coverage shall, when combined with the physician's or dentist's primary malpractice insurance coverage or coverage provided through a voluntary attending physician ("channeling") program, total an aggregate level of two million three hundred thousand dollars for each claimant and six million nine hundred thousand dollars for all claimants from all such policies with respect to occurrences in each of such years provided, however, if the cost of primary malpractice insurance coverage in excess of one million dollars, but below the excess medical malpractice insurance coverage provided pursuant to this act, exceeds the rate of nine percent per annum, then the required level of primary malpractice insurance coverage in excess of one million dollars for each claimant shall be in an amount of not less than the dollar amount of such coverage available at nine percent per annum; the required level of such coverage for all claimants under that policy shall be in an amount not less than three times the dollar amount of coverage for each claimant; and excess coverage, when combined with such primary malpractice insurance coverage, shall increase the aggregate level for each claimant by one million dollars and three million dollars for all claimants; and provided further, that, with respect to policies of primary medical malpractice

coverage that include occurrences between April 1, 2002 and June 30, 2002, such requirement that coverage be in amounts no less than one million three hundred thousand dollars for each claimant and three million nine hundred thousand dollars for all claimants for such occurrences shall be effective April 1, 2002.

§ 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 19 of part B of chapter 60 of the laws of 2014, is amended to read as follows:

(3)(a) The superintendent of [insurance] <u>financial services</u> shall determine and certify to each general hospital and to the commissioner of health the cost of excess malpractice insurance for medical or dental malpractice occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June

30, 2013, and between July 1, 2013 and June 30, 2014, [and] between July 1, 2014 and June 30, 2015, and between July 1, 2015 and June 30, 2016 allocable to each general hospital for physicians or dentists certified as eligible for purchase of a policy for excess insurance coverage by such general hospital in accordance with subdivision 2 of this section, and may amend such determination and certification as necessary.

(b) The superintendent of [insurance] financial services shall determine and certify to each general hospital and to the commissioner of health the cost of excess malpractice insurance or equivalent excess coverage for medical or dental malpractice occurrences between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, [and] between July 1, 2014 and June 30, 2015, and between July 1, 2015 and June 30, 2016 allocable to each general hospital for physicians or dentists certified as eligible for purchase of a policy for

excess insurance coverage or equivalent excess coverage by such general hospital in accordance with subdivision 2 of this section, and may amend such determination and certification as necessary. The superintendent of [insurance] financial services shall determine and certify to each general hospital and to the commissioner of health the ratable share of such cost allocable to the period July 1, 1987 to December 31, 1987, to the period January 1, 1988 to June 30, 1988, to the period July 1, 1988 to December 31, 1988, to the period January 1, 1989 to June 30, 1989, to the period July 1, 1989 to December 31, 1989, to the period January 1, 1990 to June 30, 1990, to the period July 1, 1990 to December 31, 1990, to the period January 1, 1991 to June 30, 1991, to the period July 1, 1991 to December 31, 1991, to the period January 1, 1992 to June 30, 1992, to the period July 1, 1992 to December 31, 1992, to the period January 1, 1993 to June 30, 1993, to the period July 1, 1993 to December 31, 1993, to the period January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30, 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1, 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to the period July 1, 2006 and June 30, 2007, to

the period July 1, 2007 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and June 30, 2014, [and] to the period July 1, 2014 and June 30, 2015, and to the period July 1, 2015 and June 30, 2016.

§ 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 20 of part B of chapter 60 of the laws of 2014, are amended to read as follows:

(a) To the extent funds available to the hospital excess liability pool pursuant to subdivision 5 of this section as amended, and pursuant to section 6 of part J of chapter 63 of the laws of 2001, as may from time to time be amended, which amended this subdivision, are insufficient to meet the costs of excess insurance coverage or equivalent excess coverage for coverage periods during the period July 1, 1992 to June 30, 1993, during the period July 1, 1993 to June 30, 1994, during the period July 1, 1994 to June 30, 1995, during the period July 1, 1995 to June 30, 1996, during the period July 1, 1996 to June 30, 1997, during the period July 1, 1997 to June 30, 1998, during the period July 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30, 2000, during the period July 1, 2000 to June 30, 2001, during the period July 1, 2001 to October 29, 2001, during the period April 1, 2002 to June 30, 2002, during the period July 1, 2002 to June 30, 2003, during the period July 1, 2003 to June 30, 2004, during the period July 1, 2004 to June 30, 2005, during the period July 1, 2005 to June 30, 2006, during the period July 1, 2006 to June 30, 2007, during the period July

1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30, 2009, during the period July 1, 2009 to June 30, 2010, during the period July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June 30, 2012, during the period July 1, 2012 to June 30, 2013, during the period July 1, 2013 to June 30, 2014, [and] during the period July 1, 2014 to June 30, 2015, and during the period July 1, 2015 and June 30, 2016 allocated or reallocated in accordance with paragraph (a) of subdivision 4-a of this section to rates of payment applicable to state governmental agencies, each physician or dentist for whom a policy for excess insurance coverage or equivalent excess coverage is purchased for such period shall be responsible for payment to the provider of excess insurance coverage or equivalent excess coverage of an allocable share of such insufficiency, based on the ratio of the total cost of such coverage for such physician to the sum of the total cost of such coverage for all physicians applied to such insufficiency.

(b) Each provider of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to

June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016 shall notify a covered physician or dentist by mail, mailed to the address shown on the last application for excess insurance coverage or equivalent excess coverage, of the amount due to such provider from such physician or dentist for such coverage period determined in accordance with paragraph (a) of this subdivision. Such amount shall be due from such physician or dentist to such provider of excess insurance coverage or equivalent excess coverage in a time and manner determined by the superintendent of [insurance] financial services.

(c) If a physician or dentist liable for payment of a portion of the costs of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1,

2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016 determined in accordance with paragraph (a) of this subdivision fails, refuses or neglects to make payment to the provider of excess insurance coverage or equivalent excess coverage in such time and manner as determined by the superintendent of [insurance] financial services pursuant to paragraph (b) of this subdivision, excess insurance coverage or equivalent excess coverage purchased for such physician or dentist in accordance with this section for such coverage period shall be cancelled and shall be null and void as of the first day on or after the commencement of a policy period where the liability for payment pursuant to this subdivision has not been met.

(d) Each provider of excess insurance coverage or equivalent excess coverage shall notify the superintendent of [insurance] financial services and the commissioner of health or their designee of each physician and dentist eligible for purchase of a policy for excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering

the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016 that has made payment to such provider of excess insurance coverage or equivalent excess coverage in accordance with paragraph (b) of this subdivision and of each physician and dentist who has failed, refused or neglected to make such payment.

(e) A provider of excess insurance coverage or equivalent excess coverage shall refund to the hospital excess liability pool any amount allocable to the period July 1, 1992 to June 30, 1993, and to the period July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001, and to the period April 1, 2002 to June 30, 2002, and to the period July 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,

2004, and to the period July 1, 2004 to June 30, 2005, and to the period July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and to the period July 1, 2014 to June 30, 2015<u>, and to the period July 1, 2015 to June 30, 2016</u> received from the hospital excess liability pool for purchase of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, and covering the period July 1, 1993 to June 30, 1994, and covering the period July 1, 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30, 1996, and covering the period July 1, 1996 to June 30, 1997, and covering the period July 1, 1997 to June 30, 1998, and covering the period July 1, 1998 to June 30, 1999, and covering the period July 1, 1999 to June 30, 2000, and covering the period July 1, 2000 to June 30, 2001, and covering the period July 1, 2001 to October 29, 2001, and covering the period April 1, 2002 to June 30, 2002, and covering the period July 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and covering the period July 1, 2005 to June 30, 2006, and covering the period July 1, 2006 to June 30, 2007, and covering the period July 1, 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30, 2009, and covering the period July 1, 2009 to June 30, 2010, and covering the period July 1, 2010 to June 30, 2011, and covering the period July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to June 30, 2013, and covering the period July 1, 2013 to June 30, 2014,

and covering the period July 1, 2014 to June 30, 2015, and covering the period July 1, 2015 to June 30, 2016 for a physician or dentist where such excess insurance coverage or equivalent excess coverage is cancelled in accordance with paragraph (c) of this subdivision.

§ 4. Section 40 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 21 of part B of chapter 60 of the laws of 2014, is amended to read as follows:

§ 40. The superintendent of [insurance] financial services shall establish rates for policies providing coverage for physicians and surgeons medical malpractice for the periods commencing July 1, 1985 and ending June 30, [2015] 2016; provided, however, that notwithstanding any other provision of law, the superintendent shall not establish or approve any increase in rates for the period commencing July 1, 2009 and ending June 30, 2010. The superintendent shall direct insurers to establish segregated accounts for premiums, payments, reserves and investment income attributable to such premium periods and shall require periodic reports by the insurers regarding claims and expenses attributable to such periods to monitor whether such accounts will be sufficient to meet incurred claims and expenses. On or after July 1, 1989, the superintendent shall impose a surcharge on premiums to satisfy a projected deficiency that is attributable to the premium levels established pursuant to this section for such periods; provided, however, that such annual surcharge shall not exceed eight percent of the established rate until July 1, [2015] 2016, at which time and thereafter such surcharge shall not exceed twenty-five percent of the approved adequate rate, and that such annual surcharges shall continue for such period of time as shall be sufficient to satisfy such deficiency. The superintendent shall not

impose such surcharge during the period commencing July 1, 2009 and ending June 30, 2010. On and after July 1, 1989, the surcharge prescribed by this section shall be retained by insurers to the extent that they insured physicians and surgeons during the July 1, 1985 through June 30, [2015] 2016 policy periods; in the event and to the extent physicians and surgeons were insured by another insurer during such periods, all or a pro rata share of the surcharge, as the case may be, shall be remitted to such other insurer in accordance with rules and regulations to be promulgated by the superintendent. Surcharges collected from physicians and surgeons who were not insured during such policy periods shall be apportioned among all insurers in proportion to the premium written by each insurer during such policy periods; if a physician or surgeon was insured by an insurer subject to rates established by the superintendent during such policy periods, and at any time thereafter a hospital, health maintenance organization, employer or institution is responsible for responding in damages for liability arising out of such physician's or surgeon's practice of medicine, such responsible entity shall also remit to such prior insurer the equivalent amount that would then be collected as a surcharge if the physician or surgeon had continued to remain insured by such prior insurer. In the event any insurer that provided coverage during such policy periods is in liquidation, the property/casualty insurance security fund shall receive the portion of surcharges to which the insurer in liquidation would have been entitled. The surcharges authorized herein shall be deemed to be income earned for the purposes of section 2303 of the insurance law. The superintendent, in establishing adequate rates and in determining any projected deficiency pursuant to the requirements of this section and the insurance law, shall give substantial weight,

determined in his discretion and judgment, to the prospective anticipated effect of any regulations promulgated and laws enacted and the public benefit of stabilizing malpractice rates and minimizing rate level fluctuation during the period of time necessary for the development of more reliable statistical experience as to the efficacy of such laws and regulations affecting medical, dental or podiatric malpractice enacted or promulgated in 1985, 1986, by this act and at any other time. Notwithstanding any provision of the insurance law, rates already established and to be established by the superintendent pursuant to this section are deemed adequate if such rates would be adequate when taken together with the maximum authorized annual surcharges to be imposed for a reasonable period of time whether or not any such annual surcharge has been actually imposed as of the establishment of such rates.

§ 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of chapter 63 of the laws of 2001, amending chapter 20 of the laws of 2001 amending the military law and other laws relating to making appropriations for the support of government, as amended by section 22 of part B of chapter 60 of the laws of 2014, are amended to read as follows:

§ 5. The superintendent of [insurance] <u>financial services</u> and the commissioner of health shall determine, no later than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, [and] June 15, 2015<u>, and June 15, 2016</u> the amount of funds available in the hospital excess liability pool, created pursuant to section 18 of chapter 266 of the laws of 1986, and whether such funds are sufficient for purposes of purchasing excess insurance coverage for eligible participating physicians and dentists during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June

30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30, 2016, as applicable.

(a) This section shall be effective only upon a determination, pursuant to section five of this act, by the superintendent of [insurance] financial services and the commissioner of health, and a certification of such determination to the state director of the budget, the chair of the senate committee on finance and the chair of the assembly committee on ways and means, that the amount of funds in the hospital excess liability pool, created pursuant to section 18 of chapter 266 of the laws of 1986, is insufficient for purposes of purchasing excess insurance coverage for eligible participating physicians and dentists during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30, 2016, as applicable.

(e) The commissioner of health shall transfer for deposit to the hospital excess liability pool created pursuant to section 18 of chapter 266 of the laws of 1986 such amounts as directed by the superintendent of [insurance] financial services for the purchase of excess liability

insurance coverage for eligible participating physicians and dentists for the policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, as applicable, and the cost of administering the hospital excess liability pool for such applicable policy year, pursuant to the program established in chapter 266 of the laws of 1986, as amended, no later than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, [and] June 15, 2015, and June 15, 2016, as applicable.

§ 6. Notwithstanding any law, rule or regulation to the contrary, only physicians or dentists who were eligible, and for whom the superintendent of financial services and the commissioner of health, or their designee, purchased, with funds available in the hospital excess liability pool, a full or partial policy for excess coverage or equivalent excess coverage for the coverage period ending the thirtieth of June, two thousand fifteen, shall be eligible to apply for such coverage for the coverage period beginning the first of July, two thousand fifteen; provided, however, if the total number of physicians or dentists for whom such excess coverage or equivalent excess coverage was purchased for the policy year ending the thirtieth of June, two thousand fifteen exceeds the total number of physicians or dentists certified as eligible for the coverage period beginning the first of July, two thousand fifteen, then the general hospitals may certify additional eligible physicians or dentists in a number equal to such general hospital's proportional share of the total number of physicians or dentists for whom excess coverage or equivalent excess coverage was purchased with

funds available in the hospital excess liability pool as of the thirtieth of June, two thousand fifteen, as applied to the difference between the number of eligible physicians or dentists for whom a policy for excess coverage or equivalent excess coverage was purchased for the coverage period ending the thirtieth of June, two thousand fifteen and the number of such eligible physicians or dentists who have applied for excess coverage or equivalent excess for the coverage period beginning the first of July, two thousand fifteen.

§ 7. The tax law is amended by adding a new section 171-w to read as follows:

§ 171-w. Enforcement of delinquent tax liabilities through tax clearances. (1) For the purposes of this section, the term "tax liabilities" shall mean any tax, surcharge, or fee administered by the commissioner, or any penalty or interest owed by an individual or entity. The term "past-due tax liabilities" means any unpaid tax liabilities that have become fixed and final such that the taxpayer no longer has any right to administrative or judicial review. The term "government entity" means the state of New York, or any of its agencies, political subdivisions, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), or combination thereof.

(2) The commissioner, or his or her designee, shall cooperate with any government entity that is required by law or has elected to require tax clearances to establish procedures by which the department shall receive a tax clearance request and transmit such tax clearance to the government entity, and any other procedures deemed necessary to carry out the provisions of this section. These procedures shall, to the extent practicable, require secure electronic communication between the department

and the requesting government entity for the transmission of tax clearance requests to the department and transmission of tax clearances to the requesting entity. Notwithstanding any other law to the contrary, a government entity shall be authorized to share any applicant data or information with the department that is necessary to ensure the proper matching of the applicant to the tax records maintained by the department.

(3) Upon receipt of a tax clearance request, the department shall examine its records to determine whether the subject of the tax clearance request has past-due tax liabilities equal to or in excess of the dollar threshold applicable for such tax clearance request or, where no threshold has been established by law or otherwise, equal to or in excess of five hundred dollars. When a tax clearance request so requires, the department shall also determine whether (i) the subject of such request has complied with applicable tax return filing requirements for each of the past three years; and/or (ii) whether a subject of such request that is an individual or entity that is a person required to register pursuant to section one thousand one hundred thirty-four of this chapter is registered pursuant to such section. The department shall deny a tax clearance if it determines that the subject of a tax clearance request has past-due tax liabilities equal to or in excess of the applicable threshold or, when the tax clearance request so requires, has not complied with applicable return filing and/or registration requirements.

(4) If a tax clearance is denied, the government entity that requested the clearance shall provide notice to the applicant to contact the department. Such notice shall be made by first class mail with a certificate of mailing and a copy of such notice also shall be provided to the

department. When the applicant contacts the department, the department shall inform the applicant of the basis for the denial of the tax clearance and shall also inform the applicant: (i) that a tax clearance denied due to past-due tax liabilities may be issued once the taxpayer fully satisfies past-due tax liabilities or makes payment arrangements satisfactory to the commissioner; (ii) that a tax clearance denied due to failure to file tax returns may be issued once the applicant has satisfied the applicable return filing requirements; (iii) that a tax clearance denied for failure to register pursuant to section one thousand one hundred thirty-four of this chapter may be issued once the applicant has registered pursuant to such section; and (iv) the grounds for challenging the denial of a tax clearance listed in subdivision five of this section.

(5) (a) Notwithstanding any other provision of law, and except as specifically provided herein, an applicant denied a tax clearance shall have no right to commence a court action or proceeding or seek any other legal recourse against the department or the government entity related to the denial of a tax clearance by the department.

(b) An applicant seeking to challenge the denial of a tax clearance must protest to the department or the division of tax appeals no later than sixty days from the date of the notification to the applicant that the tax clearance was denied. An applicant may challenge a department finding of past-due tax liabilities only on the grounds that: (i) the individual or entity denied the tax clearance is not the individual or entity with the past-due tax liabilities at issue; (ii) the past-due tax liabilities were satisfied; (iii) the applicant's wages are being garnished for the payment of child support or combined child and spousal support pursuant to an income execution issued pursuant to section five

thousand two hundred forty-one or five thousand two hundred forty-two of the civil practice law and rules or another state's income withholding order as authorized under part five of article five-B of the family court act, or garnished by the department for the payment of the past-due tax liabilities at issue; or (iv) the applicant is making child support payments or combined child and spousal support payments pursuant to a satisfactory payment arrangement under section one hundred eleven-b of the social services law with a support collection unit or otherwise making periodic payments in accordance with section four hundred forty of the family court act. An applicant may challenge a department finding of failure to comply with tax return filing requirements only on the grounds that all required tax returns have been filed for each of the past three years.

(c) Nothing in this subdivision is intended to limit any applicant from seeking relief from joint and several liability pursuant to section six hundred fifty-four of this chapter, to the extent that he or she is eligible pursuant to that section, or establishing to the department that the enforcement of the underlying tax liabilities has been stayed by the filing of a petition pursuant to the Bankruptcy Code of 1978 (Title Eleven of the United States Code).

(6) Notwithstanding any other provision of law, the department may exchange with a government entity any data or information that, in the discretion of the commissioner, is necessary for the implementation of a tax clearance requirement. However, no government entity may re-disclose this information to any other entity or person, other than for the purpose of informing the applicant that a required tax clearance has been denied, unless otherwise permitted by law.

(7) Except as otherwise provided in this section, the activities to collect past-due tax liabilities undertaken by the department pursuant to this section shall not in any way limit, restrict or impair the department from exercising any other authority to collect or enforce tax liabilities under any other applicable provision of law.

(8) Except as otherwise provided in this section, the provisions of this section are not applicable to the tax clearance required by section one hundred seventy-one-v of this article.

§ 8. This act shall take effect immediately.

PART GG

Section 1. The public authorities law is amended by adding a new section 2858 to read as follows:

§ 2858. Clearance of past-due tax liabilities for state or local authority grant applicants. 1. As used in this section:

a. "Applicant" means any applicant, agent or affiliated person of either of them that makes an application for a grant.

b. "Grant" means any state monies awarded by a state or local authority to an applicant for any state or local public purpose.

c. "Local authority" means (i) a public authority or public benefit corporation created by or existing under this chapter or any other law of the state of New York that has the power to make grants or loan funds of state monies and whose members do not hold a civil office of the state, and whose members either are not appointed by the governor or are appointed by the governor specifically upon the recommendation of the local government or governments; (ii) a not-for-profit corporation affiliated with, sponsored by, or created by a county, city, town or

village government; (iii) a land bank corporation created pursuant to article sixteen of the not-for-profit corporation law, including subsidiaries and affiliates of such local authority; or (iv) housing authorities created pursuant to the public housing law.

d. "Past-due tax liabilities" means a past-due legally enforceable debt within the meaning of subdivision one of section one hundred seventy-one-w of the tax law in an amount that is equal to five hundred dollars or more.

e. "State authority" means a public authority or public benefit corporation created by or existing under this chapter or any other law of the state of New York that has the power to make grants or loan funds of state monies and has one or more of its members appointed by the governor or who serve as member by virtue of holding a civil office of the state, other than an interstate or international authority or public benefit corporation, including subsidiaries and affiliates of such public authority or public benefit corporation.

2. Notwithstanding any other provision of law, any state authority or local authority that processes an application for a grant shall require, as a condition to receive such grant, the receipt of a tax clearance that such applicant has no past-due tax liabilities pursuant to section one hundred seventy-one-w of the tax law.

3. The applicant shall be required to provide any information deemed necessary by the state authority or the local authority and the department of taxation and finance to efficiently and accurately provide a clearance of no past-due tax liabilities, and the failure by the applicant to provide such information shall render the application incomplete.

4. If the state authority or the local authority receives notification that past-due tax liabilities are owed by the applicant, the state authority or the local authority, as the case may be, shall deny the grant application and shall notify the applicant to contact the department of taxation and finance to resolve the past-due tax liabilities and that no grant may be issued until the tax liabilities are resolved. Any period of time that is determined according to the provisions of this section or the tax law shall commence to run from the date of notification to the applicant that the tax clearance was denied.

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

§ 171-w. Enforcement of delinquent tax liabilities through tax clearances. (1) For the purposes of this section, the term "tax liabilities" shall mean any tax, surcharge, or fee administered by the commissioner, or any penalty or interest owed by an individual or entity. The term "past-due tax liabilities" means any unpaid tax liabilities that have become fixed and final such that the taxpayer no longer has any right to administrative or judicial review. The term "government entity" means the state of New York, or any of its agencies, political subdivisions, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), or combination thereof.

(2) The commissioner, or his or her designee, shall cooperate with any government entity that is required by law or has elected to require tax clearances to establish procedures by which the department shall receive a tax clearance request and transmit such tax clearance to the government entity, and any other procedures deemed necessary to carry out the provisions of this section. These procedures shall, to the extent prac-

ticable, require secure electronic communication between the department and the requesting government entity for the transmission of tax clearance requests to the department and transmission of tax clearances to the requesting entity. Notwithstanding any other law to the contrary, a government entity shall be authorized to share any applicant data or information with the department that is necessary to ensure the proper matching of the applicant to the tax records maintained by the department.

(3) Upon receipt of a tax clearance request, the department shall examine its records to determine whether the subject of the tax clearance request has past-due tax liabilities equal to or in excess of the dollar threshold applicable for such tax clearance request or, where no threshold has been established by law or otherwise, equal to or in excess of five hundred dollars. When a tax clearance request so requires, the department shall also determine whether (i) the subject of such request has complied with applicable tax return filing requirements for each of the past three years; and/or (ii) whether a subject of such request that is an individual or entity that is a person required to register pursuant to section one thousand one hundred thirty-four of this chapter is registered pursuant to such section. The department shall deny a tax clearance if it determines that the subject of a tax clearance request has past-due tax liabilities equal to or in excess of the applicable threshold or, when the tax clearance request so requires, has not complied with applicable return filing and/or registration requirements.

(4) If a tax clearance is denied, the government entity that requested the clearance shall provide notice to the applicant to contact the department. Such notice shall be made by first class mail with a Certif-

icate of Mailing and a copy of such notice also shall be provided to the department. When the applicant contacts the department, the department shall inform the applicant of the basis for the denial of the tax clearance and shall also inform the applicant (i) that a tax clearance denied due to past-due tax liabilities may be issued once the taxpayer fully satisfies past-due tax liabilities or makes payment arrangements satisfactory to the commissioner; (ii) that a tax clearance denied due to failure to file tax returns may be issued once the applicant has satisfied the applicable return filing requirements; (iii) that a tax clearance denied for failure to register pursuant to section one thousand one hundred thirty-four of this chapter may be issued once the applicant has registered pursuant to such section; and (iv) the grounds for challenging the denial of a tax clearance listed in subdivision five of this section.

(5) (a) Notwithstanding any other provision of law, and except as specifically provided herein, an applicant denied a tax clearance shall have no right to commence a court action or proceeding or seek any other legal recourse against the department or the government entity related to the denial of a tax clearance by the department.

(b) An applicant seeking to challenge the denial of a tax clearance must protest to the department or the division of tax appeals no later than sixty days from the date of the notification to the applicant that the tax clearance was denied. An applicant may challenge a department finding of past-due tax liabilities only on the grounds that (i) the individual or entity denied the tax clearance is not the individual or entity with the past-due tax liabilities at issue; (ii) the past-due tax liabilities were satisfied; (iii) the applicant's wages are being garnished for the payment of child support or combined child and spousal

support pursuant to an income execution issued pursuant to section five thousand two hundred forty-one or five thousand two hundred forty-two of the civil practice law and rules or another state's income withholding order as authorized under part five of article five-B of the family court act, or garnished by the department for the payment of the past-due tax liabilities at issue; or (iv) the applicant is making child support payments or combined child and spousal support payments pursuant to a satisfactory payment arrangement under section one hundred eleven-b of the social services law with a support collection unit or otherwise making periodic payments in accordance with section four hundred forty of the family court act. An applicant may challenge a department finding of failure to comply with tax return filing requirements only on the grounds that all required tax returns have been filed for each of the past three years.

(c) Nothing in this subdivision is intended to limit any applicant from seeking relief from joint and several liability pursuant to section six hundred fifty-four of this chapter, to the extent that he or she is eligible pursuant to that section, or establishing to the department that the enforcement of the underlying tax liabilities has been stayed by the filing of a petition pursuant to the Bankruptcy Code of 1978 (Title Eleven of the United States Code).

(6) Notwithstanding any other provision of law, the department may exchange with a government entity any data or information that, in the discretion of the commissioner, is necessary for the implementation of a tax clearance requirement. However, no government entity may re-disclose this information to any other entity or person, other than for the purpose of informing the applicant that a required tax clearance has been denied, unless otherwise permitted by law.

(7) Except as otherwise provided in this section, the activities to collect past-due tax liabilities undertaken by the department pursuant to this section shall not in any way limit, restrict or impair the department from exercising any other authority to collect or enforce tax liabilities under any other applicable provision of law.

(8) Except as otherwise provided in this section, the provisions of this section are not applicable to the tax clearance required by section 171-v of this article.

§ 3. This act shall take effect immediately; provided, however, that the department of taxation and finance and any state or local public authority may work to execute the necessary procedures and technical changes to support the tax clearance process as described in sections one and two of this act before the effective date of this act.

PART HH

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

§ 171-z. Reciprocal tax collection agreements with other claimant states. (1) The commissioner shall have the authority to enter into agreements with claimant states to collect and pay over to claimant states, taxes owed to claimant states by New York taxpayers and to certify and request that claimant states collect and pay over taxes owed to New York by taxpayers residing in claimant states. For purposes of this section, the term "claimant state" shall mean any other state in the United States or the District of Columbia that allows the commissioner, in cases where a taxpayer in another state owes taxes to New York state, to certify and request that the other state collect and pay

such collected taxes to New York state; the term "taxes" shall mean any amount of tax imposed under the laws of New York or a claimant state, due and payable to New York or a claimant state, including additions to tax for penalties and interest, that has become fixed and final such that the taxpayer no longer has any right to administrative or judicial review; the term "taxpayer" shall mean any individual, corporation, partnership, limited liability partnership or company, partner, member, manager, estate, trust, fiduciary or entity, who or which has been identified by New York or a claimant state under this section as owing taxes to New York or a claimant state.

(2) The reciprocal tax collection agreements may include the following provisions:

(a) Upon the request and certification of a claimant state to the commissioner that a taxpayer owes taxes to such claimant state, the commissioner may, pursuant to the authority under this section, collect such taxes in the same manner that the commissioner can collect taxes due and payable to New York state, and shall pay over such collected amount to the claimant state in accordance with the provisions of this section. The commissioner shall not collect such taxes unless the laws of the claimant state (i) allow the commissioner, in cases where a taxpayer owes taxes to New York state, to certify and request the claimant state collect such taxes owed to New York state, and (ii) provide for the payment of such collected amount to New York state.

(b) Such certification shall include (i) the full name and address of the taxpayer; (ii) the taxpayer's social security number or federal employer identification number; (iii) the amount of the tax for the taxable period sought to be collected, including a detailed statement for each taxable period showing tax, interest and penalty; (iv) a state-

ment whether the taxpayer filed a tax return with the claimant state for such tax, and, if so, whether such tax return was filed under protest; and (v) a statement that any administrative or judicial remedies, or both, have been exhausted or have lapsed and the amount of tax is legally enforceable under the laws of the claimant state against the taxpayer.

(c) Upon receipt by the commissioner of the required certification, the commissioner shall notify the taxpayer by first-class mail with certificate of mailing to the taxpayer's last known address that the commissioner has received a request from the claimant state to collect taxes from the taxpayer, that the taxpayer has the right to protest the collection of such taxes, that failure to file a protest in accordance with paragraph (d) of this subdivision shall constitute a waiver of any claim against New York state regarding the collection of such taxes and that the amount, upon collection, will be paid over to the claimant state. Sixty days after the date on which it is mailed, a notice under this subdivision shall be final except only for such amounts as to which the taxpayer has filed, as provided in paragraph (d) of this subdivision, a written protest with the commissioner.

(d) Any taxpayer notified in accordance with paragraph (c) of this subdivision may, on or before the sixtieth day after the mailing of such notice by the commissioner, protest the collection of all or a portion of such taxes by filing with the claimant state and providing a copy to the commissioner a written protest in which the taxpayer shall set forth the grounds on which the protest is based. If a timely protest is filed, the commissioner shall refrain from collecting such taxes and shall send a copy of the protest to the claimant state for a determination of the protest on its merits in accordance with the laws of the claimant state.

(e) The commissioner may enter into agreements with claimant states that (i) relate to procedures and methods to be employed by a claimant state with respect to the operation of this section; (ii) safeguard against the disclosure or inappropriate use of any information that identifies, directly or indirectly, a particular taxpayer obtained or maintained pursuant to this section; (iii) establish a minimum threshold for the amount of taxes owed by a taxpayer to a claimant state that would trigger the operation of this section; (iv) provide that each claimant state shall bear the costs that are incurred by it under such reciprocal agreements; (v) set the commencement and termination date of such reciprocal agreements; and (vi) provide that each claimant state shall agree that, upon payment to a claimant state of an amount collected under this section, the commissioner and the state of New York shall be discharged of any obligation or liability to a taxpayer and a claimant state with respect to the amounts collected from the taxpayer and paid to the claimant state pursuant to this section. Any action for refund of those amounts shall lie solely against the claimant state.

(3) For purposes of making payment of any taxes that are collected by the commissioner on behalf of any claimant state under reciprocal agreements, the office of the state comptroller, upon request by the commissioner, is authorized to pay the amount collected from the reciprocal tax collection revenue fund established pursuant to section ninety-nine-w of the state finance law to which such taxes are credited.

(4) Notwithstanding other provisions of this chapter, the commissioner is authorized to release to the claimant state any specific taxpayer information necessary for purposes of implementing and administering an agreement entered into between the claimant state and New York state under this section.

§ 2. The state finance law is amended by adding a new section 99-w to read as follows:

§ 99-w. Reciprocal tax collection revenue fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special revenue fund known as the "reciprocal tax collection revenue fund".

2. All monies received by the reciprocal tax collection revenue fund pursuant to reciprocal tax collection agreements with other states entered into pursuant to section one hundred seventy-one-z of the tax law shall be deposited to the exclusive credit of such fund. Said monies shall be kept separate and shall not be commingled with any other monies in the custody of the comptroller or the commissioner of taxation and finance.

3. The monies in said revenue fund shall be retained until the commissioner of taxation and finance requests the state comptroller make a payment of taxes collected by the commissioner of taxation and finance on behalf of a claimant state under a reciprocal tax collection agreement entered into pursuant to section one hundred seventy-one-z of the tax law. The state comptroller shall be authorized to pay a claimant state the amount collected from the reciprocal tax collection revenue fund.

§ 3. This act shall take effect immediately.

PART II

Section 1. The tax law is amended by adding a new section 178 to read as follows:

§ 178. Multi-agency information-sharing database. 1. The purpose of this section is to provide a mechanism for information sharing between the state agencies responsible for regulating various enforcement initiatives and to promote improved communication and cooperation between agencies with respect to the enforcement of statutes, rules and regulations. Under this section, these agencies shall share investigation and enforcement data and create and maintain a cooperative information-sharing database to ensure effective oversight and regulation of individuals and entities subject to regulatory jurisdiction, maximize agency effectiveness and avoid unnecessary duplication of effort in general. Use of the cooperative information-sharing database shall ensure efficient use of the state's enforcement resources and effective strategic planning of regulatory and enforcement efforts among member agencies. The interagency group shall enter into a memorandum of agreement to implement this section and shall include, among other things, provisions on the assembly and dissemination of the agency data and the protection of the confidentiality of the agency data shared.

2. Definitions. (a) "Agency data" means information originally received, created, or held by a member agency regarding agency investigation and audits, and agency enforcement actions, but does not include any information received from federal agencies that is protected from further disclosure by statute.

(b) "Cooperative information sharing database" means a shared system developed, or data standards developed by the member agencies to make data from each member agency accessible to all member agencies.

(c) "Interagency group" means the department of state, the workers' compensation board, the department of labor and the department of taxation and finance.

(d) "Member agency" or "member agencies" means any executive agency of the state, including the department of state, the workers' compensation board, the department of labor and the department of taxation and finance.

(e) "Shared data" means agency data submitted and held within the confidential cooperative information-sharing database. A member agency shall be allowed to submit agency data to the cooperative information sharing database even though another law of this state may otherwise specifically prohibit the sharing or disclosure of such agency data. However, the department of taxation and finance shall be allowed to share only taxpayer identification data and information concerning a named group of not less than ten taxpayers that relate to income ranges, size and type of business, and filing characteristics for the group of taxpayers, provided that the information is arranged in such a manner that the particulars for a specific taxpayer cannot be determined.

3. The member agencies shall cooperate with one another to share relevant agency data for the purpose of conducting audits, examinations, investigations, administrative enforcement proceedings, and/or civil agency enforcement actions. A member agency, except as otherwise provided in this chapter, shall preserve any privilege or confidentiality regarding agency data or shared data it receives from another member agency pursuant to this chapter.

4. The interagency group shall develop and use the information-sharing database and shall make the agency data from each member agency accessible to all member agencies. Use of the cooperative information-sharing database shall ensure efficient use of the state's enforcement resources and effective strategic planning of regulatory and enforcement efforts among member agencies. The interagency group shall enter into a memoran-

dum of agreement to implement this section and such agreement shall include, among other things, provisions on the assembly and dissemination of the agency data and the protection of the confidentiality of the agency data and the shared data.

5. Notwithstanding any provision of article six of the public officers law, agency data, shared data and the information-sharing database and its contents shall be confidential and shall not be publicly disclosed.

§ 2. This act shall take effect immediately.

PART JJ

Section 1. The general obligations law is amended by adding a new section 3-505 to read as follows:

§ 3-505. Enforcement of delinquent tax liabilities through electronic tax clearances for occupational, professional and business licenses.

1. As used in this section:

a. "Government entity" means the state of New York, or any of its agencies, political subdivisions, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), or combination thereof, responsible for determining whether a license shall be issued or renewed.

b. "Electronic license application" means any electronic data form that must be completed by an applicant to obtain or renew a license, or an electronic data process which is used by a government entity to process information received from an applicant seeking to receive or renew a license.

c. "Electronic tax clearance" means an electronic communication from the department of taxation and finance indicating that an applicant

submitting an electronic license application had no past-due tax liabilities, as that term is defined in subdivision one of section one hundred seventy-one-w of the tax law, or that no conclusive match could be made.

d. "License" means any certificate, license, permit or grant of permission required by law or agency regulation as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession, including any registration required by law or agency regulation as a condition for such lawful practice. This shall include, but is not limited to, any license or renewal granted to an individual or entity by (i) the state education department as prescribed under Title VII of the New York state education law, (ii) the department of state, or (iii) the office of court administration. Provided, however, that "license" shall not, for the purposes of this section, include any license or permit to own, possess, carry, or fire any explosive, pistol, handgun, rifle, shotgun, other firearm or ammunition.

2. Notwithstanding any other provision of law, and when not already required by another provision of law or regulation, any government entity shall elect to condition the issuance or renewal of a license on the absence of past-due tax liabilities and to make such determination through the receipt of an electronic tax clearance from the department of taxation and finance as provided for in section one hundred seventy-one-w of the tax law. Such a clearance shall be deemed a necessary and lawful requirement for the receipt of the license or its renewal and shall be read into any such licensing statute as an additional prerequisite along with other statutory or regulatory conditions for receiving or renewing such a license.

3. Any applicant for a license subject to electronic tax clearance shall be required to provide any information deemed necessary by the

government entity and the department of taxation and finance to efficiently and accurately provide an electronic tax clearance, including but not limited to, the applicant's social security number or employee identification number or, if an entity, a list of responsible officers and their social security numbers, and the failure by the applicant to provide such information shall render the application incomplete. Notwithstanding any law or regulation to the contrary, the exchange of information between the department and the governmental entity, or their agents, necessary for this tax clearance to be conducted shall constitute an authorized exchange of information and shall not constitute an unauthorized disclosure or a violation of any secrecy, confidentiality or similar provision in law or regulation.

4. The electronic license application, or the instructions for such application, shall clearly inform the applicant that an electronic tax clearance will be performed and that, if the tax clearance is denied, the applicant must contact the department of taxation and finance to resolve any past-due tax liabilities before the application for a license or renewal may be resubmitted.

5. If an electronic tax clearance is denied by the department of taxation and finance, the government entity shall deny issuance or renewal of the requested license and shall notify the applicant to contact the department of taxation and finance within sixty days of the issuance of this notice to resolve the past-due tax liabilities and that no license may be issued or renewed until the tax liabilities are resolved. Notice shall be provided by first class mail with Certificate of Mailing to the applicant's address provided with the application. Government entity records of such a mailing shall constitute appropriate and sufficient

proof of delivery thereof and be admissible in any action or proceeding; including but not limited, to the timeliness of an applicant's protest.

6. Any tax clearance or related communications shall be by secure electronic communication between the department of taxation and finance and the requesting government entity such that processing of the electronic application is not delayed if the electronic tax clearance is received.

7. No fee shall be charged to the applicant for the purposes of receiving an electronic tax clearance.

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

§ 171-w. Enforcement of delinquent tax liabilities through tax clearances. (1) For the purposes of this section, the term "tax liabilities" shall mean any tax, surcharge, or fee administered by the commissioner, or any penalty or interest owed by an individual or entity. The term "past-due tax liabilities" means any unpaid tax liabilities that have become fixed and final such that the taxpayer no longer has any right to administrative or judicial review. The term "government entity" means the state of New York, or any of its agencies, political subdivisions, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), or combination thereof.

(2) The commissioner, or his or her designee, shall cooperate with any government entity that is required by law or has elected to require tax clearances to establish procedures by which the department shall receive a tax clearance request and transmit such tax clearance to the government entity, and any other procedures deemed necessary to carry out the provisions of this section. These procedures shall, to the extent prac-

ticable, require secure electronic communication between the department and the requesting government entity for the transmission of tax clearance requests to the department and transmission of tax clearances to the requesting entity. Notwithstanding any other law to the contrary, a government entity shall be authorized to share any applicant data or information with the department that is necessary to ensure the proper matching of the applicant to the tax records maintained by the department.

(3) Upon receipt of a tax clearance request, the department shall examine its records to determine whether the subject of the tax clearance request has past-due tax liabilities equal to or in excess of the dollar threshold applicable for such tax clearance request or, where no threshold has been established by law or otherwise, equal to or in excess of five hundred dollars. When a tax clearance request so requires, the department shall also determine whether (i) the subject of such request has complied with applicable tax return filing requirements for each of the past three years; and/or (ii) whether a subject of such request that is an individual or entity that is a person required to register pursuant to section one thousand one hundred thirty-four of this chapter is registered pursuant to such section. The department shall deny a tax clearance if it determines that the subject of a tax clearance request has past-due tax liabilities equal to or in excess of the applicable threshold or, when the tax clearance request so requires, has not complied with applicable return filing and/or registration requirements.

(4) If a tax clearance is denied, the government entity that requested the clearance shall provide notice to the applicant to contact the department. Such notice shall be made by first class mail with a Certif-

icate of Mailing and a copy of such notice also shall be provided to the department. When the applicant contacts the department, the department shall inform the applicant of the basis for the denial of the tax clearance and shall also inform the applicant: (i) that a tax clearance denied due to past-due tax liabilities may be issued once the taxpayer fully satisfies past-due tax liabilities or makes payment arrangements satisfactory to the commissioner; (ii) that a tax clearance denied due to failure to file tax returns may be issued once the applicant has satisfied the applicable return filing requirements; (iii) that a tax clearance denied for failure to register pursuant to section one thousand one hundred thirty-four of this chapter may be issued once the applicant has registered pursuant to such section; and (iv) the grounds for challenging the denial of a tax clearance listed in subdivision five of this section.

(5) (a) Notwithstanding any other provision of law, and except as specifically provided herein, an applicant denied a tax clearance shall have no right to commence a court action or proceeding or seek any other legal recourse against the department or the government entity related to the denial of a tax clearance by the department.

(b) An applicant seeking to challenge the denial of a tax clearance must protest to the department or the division of tax appeals no later than sixty days from the date of the notification to the applicant that the tax clearance was denied. An applicant may challenge a department finding of past-due tax liabilities only on the grounds that: (i) the individual or entity denied the tax clearance is not the individual or entity with the past-due tax liabilities at issue; (ii) the past-due tax liabilities were satisfied; (iii) the applicant's wages are being garnished for the payment of child support or combined child and spousal

support pursuant to an income execution issued pursuant to section five thousand two hundred forty-one or five thousand two hundred forty-two of the civil practice law and rules or another state's income withholding order as authorized under part five of article five-B of the family court act, or garnished by the department for the payment of the past-due tax liabilities at issue; or (iv) the applicant is making child support payments or combined child and spousal support payments pursuant to a satisfactory payment arrangement under section one hundred eleven-b of the social services law with a support collection unit or otherwise making periodic payments in accordance with section four hundred forty of the family court act. An applicant may challenge a department finding of failure to comply with tax return filing requirements only on the grounds that all required tax returns have been filed for each of the past three years.

(c) Nothing in this subdivision is intended to limit any applicant from seeking relief from joint and several liability pursuant to section six hundred fifty-four of this chapter, to the extent that he or she is eligible pursuant to that section, or establishing to the department that the enforcement of the underlying tax liabilities has been stayed by the filing of a petition pursuant to the Bankruptcy Code of 1978 (Title Eleven of the United States Code).

(6) Notwithstanding any other provision of law, the department may exchange with a government entity any data or information that, in the discretion of the commissioner, is necessary for the implementation of a tax clearance requirement. However, no government entity may re-disclose this information to any other entity or person, other than for the purpose of informing the applicant that a required tax clearance has been denied, unless otherwise permitted by law.

(7) Except as otherwise provided in this section, the activities to collect past-due tax liabilities undertaken by the department pursuant to this section shall not in any way limit, restrict or impair the department from exercising any other authority to collect or enforce tax liabilities under any other applicable provision of law.

(8) Except as otherwise provided in this section, the provisions of this section are not applicable to the tax clearance required by section one hundred seventy-one-v of this article.

§ 3. This act shall take effect June 1, 2015; provided, however, that the department of taxation and finance and any government entity electing to receive an electronic tax clearance from the department of taxation and finance may work to execute the necessary procedures and technical changes to support the electronic tax clearance process as described in sections one and two of this act before such date; provided, further, that this effective date will not impact the administration of any electronic tax clearance program authorized by another provision of law.

PART KK

Section 1. Subdivision 4 of section 50 of the civil service law is amended by adding a new closing paragraph to read as follows:

The department shall require a tax clearance from the department of taxation and finance, as provided for in section one hundred seventy-one-w of the tax law, for each applicant and shall refuse to examine an applicant, or after examination to certify an eligible for whom a tax clearance is denied by the department of taxation and finance. A municipal commission, subject to the approval of the governing board or body

of the city or county as the case may be, or a regional commission or personnel officer, pursuant to governmental agreement, may elect to require tax clearances for applicants and to refuse to examine an applicant, or after examination to certify an eligible for whom a tax clearance is denied by the department of taxation and finance. Provided, however, that the department and municipal commissions shall not require a tax clearance for (1) any current employee; or (2) a person who is considered an applicant by reason of (a) a transfer pursuant to section seventy of this chapter; or (b) a person who is on a preferred list subject to section eighty-one of this chapter; or (c) a person whose name is on an eligible list as defined in section fifty-six of this article and who has successfully completed a promotion exam subject to section fifty-two of this article. Where a tax clearance is required, the application for examination, or the instructions for such application, shall clearly inform the applicant that a tax clearance will be performed and that, if the tax clearance is denied, the applicant must contact the department of taxation and finance to resolve any past-due tax liabilities or return filing compliance before the application for examination may be resubmitted. Any applicant subject to tax clearance shall be required to provide any information deemed necessary by the department and the department of taxation and finance to efficiently and accurately provide a tax clearance, and the failure by the applicant to provide such information shall disqualify the applicant.

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

§ 171-w. Enforcement of delinquent tax liabilities through tax clearances.

(1) For the purposes of this section, the term "tax liabilities" shall mean any tax, surcharge, or fee administered by the commissioner, or any penalty or interest owed by an individual or entity. The term "past-due tax liabilities" means any unpaid tax liabilities that have become fixed and final such that the taxpayer no longer has any right to administrative or judicial review. The term "government entity" means the state of New York, or any of its agencies, political subdivisions, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), or combination thereof.

(2) The commissioner, or his or her designee, shall cooperate with any government entity that is required by law or has elected to require tax clearances to establish procedures by which the department shall receive a tax clearance request and transmit such tax clearance to the government entity, and any other procedures deemed necessary to carry out the provisions of this section. These procedures shall, to the extent practicable, require secure electronic communication between the department and the requesting government entity for the transmission of tax clearance requests to the department and transmission of tax clearances to the requesting entity. Notwithstanding any other law to the contrary, a government entity shall be authorized to share any applicant data or information with the department that is necessary to ensure the proper matching of the applicant to the tax records maintained by the department.

(3) Upon receipt of a tax clearance request, the department shall examine its records to determine whether the subject of the tax clearance request has past-due tax liabilities equal to or in excess of the dollar threshold applicable for such tax clearance request or, where no

threshold has been established by law or otherwise, equal to or in excess of five hundred dollars. When a tax clearance request so requires, the department shall also determine whether (i) the subject of such request has complied with applicable tax return filing requirements for each of the past three years; and/or (ii) whether a subject of such request that is an individual or entity that is a person required to register pursuant to section one thousand one hundred thirty-four of this chapter is registered pursuant to such section. The department shall deny a tax clearance if it determines that the subject of a tax clearance request has past-due tax liabilities equal to or in excess of the applicable threshold or, when the tax clearance request so requires, has not complied with applicable return filing and/or registration requirements.

(4) If a tax clearance is denied, the government entity that requested the clearance shall provide notice to the applicant to contact the department. Such notice shall be made by first class mail with a certificate of mailing and a copy of such notice also shall be provided to the department. When the applicant contacts the department, the department shall inform the applicant of the basis for the denial of the tax clearance and shall also inform the applicant (i) that a tax clearance denied due to past-due tax liabilities may be issued once the taxpayer fully satisfies past-due tax liabilities or makes payment arrangements satisfactory to the commissioner; (ii) that a tax clearance denied due to failure to file tax returns may be issued once the applicant has satisfied the applicable return filing requirements; (iii) that a tax clearance denied for failure to register pursuant to section one thousand one hundred thirty-four of this chapter may be issued once the applicant has registered pursuant to such section; and (iv) the grounds for challeng-

ing the denial of a tax clearance listed in subdivision five of this section.

(5) (a) Notwithstanding any other provision of law, and except as specifically provided herein, an applicant denied a tax clearance shall have no right to commence a court action or proceeding or seek any other legal recourse against the department or the government entity related to the denial of a tax clearance by the department.

(b) An applicant seeking to challenge the denial of a tax clearance must protest to the department or the division of tax appeals no later than sixty days from the date of the notification to the applicant that the tax clearance was denied. An applicant may challenge a department finding of past-due tax liabilities only on the grounds that (i) the individual or entity denied the tax clearance is not the individual or entity with the past-due tax liabilities at issue; (ii) the past-due tax liabilities were satisfied; (iii) the applicant's wages are being garnished for the payment of child support or combined child and spousal support pursuant to an income execution issued pursuant to section five thousand two hundred forty-one or five thousand two hundred forty-two of the civil practice law and rules or another state's income withholding order as authorized under part five of article five-B of the family court act, or garnished by the department for the payment of the past-due tax liabilities at issue; or (iv) the applicant is making child support payments or combined child and spousal support payments pursuant to a satisfactory payment arrangement under section one hundred eleven-b of the social services law with a support collection unit or otherwise making periodic payments in accordance with section four hundred forty of the family court act. An applicant may challenge a department finding of failure to comply with tax return filing requirements only on the

grounds that all required tax returns have been filed for each of the past three years.

(c) Nothing in this subdivision is intended to limit any applicant from seeking relief from joint and several liability pursuant to section six hundred fifty-four of this chapter, to the extent that he or she is eligible pursuant to that section, or establishing to the department that the enforcement of the underlying tax liabilities has been stayed by the filing of a petition pursuant to the Bankruptcy Code of 1978 (Title Eleven of the United States Code).

(6) Notwithstanding any other provision of law, the department may exchange with a government entity any data or information that, in the discretion of the commissioner, is necessary for the implementation of a tax clearance requirement. However, no government entity may re-disclose this information to any other entity or person, other than for the purpose of informing the applicant that a required tax clearance has been denied, unless otherwise permitted by law.

(7) Except as otherwise provided in this section, the activities to collect past-due tax liabilities undertaken by the department pursuant to this section shall not in any way limit, restrict or impair the department from exercising any other authority to collect or enforce tax liabilities under any other applicable provision of law.

(8) Except as otherwise provided in this section, the provisions of this section are not applicable to the tax clearance required by section one hundred seventy-one-v of this article.

§ 3. This act shall take effect June 1, 2015; provided, however, that the department of taxation and finance, the department of civil service, any municipal commission, and any other government entity electing to receive a tax clearance from the department of taxation and finance may

work to execute the necessary procedures and technical changes to support the tax clearance process as described in sections one and two of this act before that date; provided, further, that this effective date will not impact the administration of any tax clearance program authorized by another provision of law.

PART LL

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

2. All communications and information relating to a person receiving public assistance or care obtained by any social services official, service officer, or employee in the course of his or her work shall be considered confidential and, except as otherwise provided in this section, shall be disclosed only to the commissioner, or his or her authorized representative, the commissioner of labor, or his or her authorized representative, the commissioner of health, or his or her authorized representative, <u>the commissioner of taxation and finance, or his or her authorized representative,</u> the welfare inspector general, or his or her authorized representative, the county board of supervisors, city council, town board or other board or body authorized and required to appropriate funds for public assistance and care in and for such county, city or town or its authorized representative or, by authority of the county, city or town social services official, to a person or agency considered entitled to such information. Nothing herein shall preclude a social services official from reporting to an appropriate agency or official, including law enforcement agencies or officials,

known or suspected instances of physical or mental injury, sexual abuse or exploitation, sexual contact with a minor or negligent treatment or maltreatment of a child of which the official becomes aware in the administration of public assistance and care nor shall it preclude communication with the federal immigration and naturalization service regarding the immigration status of any individual.

§ 2. This act shall take effect immediately.

PART MM

Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as amended by section 1 of part BB of chapter 59 of the laws of 2014, is amended to read as follows:

(H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of this subparagraph, the track operator of a vendor track shall be eligible for a vendor's capital award of up to four percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, which shall be used exclusively for capital project investments to improve the facilities of the vendor track which promote or encourage increased attendance at the video lottery gaming facility including, but not limited to hotels, other lodging facilities, entertainment facilities, retail facilities, dining facilities, events arenas, parking garages and other improvements that enhance facility amenities; provided that such capital investments shall be approved by the division, in consultation with the state racing and wagering board, and that such vendor track demonstrates that such capital expenditures will increase patronage at such vendor track's facilities and increase the amount of revenue generated to support state education programs. The

annual amount of such vendor's capital awards that a vendor track shall be eligible to receive shall be limited to two million five hundred thousand dollars, except for Aqueduct racetrack, for which there shall be no vendor's capital awards. Except for tracks having less than one thousand one hundred video gaming machines, and except for a vendor track located west of State Route 14 from Sodus Point to the Pennsylvania border within New York, each track operator shall be required to co-invest an amount of capital expenditure equal to its cumulative vendor's capital award. For all tracks, except for Aqueduct racetrack, the amount of any vendor's capital award that is not used during any one year period may be carried over into subsequent years ending before April first, two thousand [fifteen] sixteen. Any amount attributable to a capital expenditure approved prior to April first, two thousand [fifteen] sixteen and completed before April first, two thousand [seventeen] eighteen; or approved prior to April first, two thousand [nineteen] twenty and completed before April first, two thousand [twenty-one] twenty-two for a vendor track located west of State Route 14 from Sodus Point to the Pennsylvania border within New York, shall be eligible to receive the vendor's capital award. In the event that a vendor track's capital expenditures, approved by the division prior to April first, two thousand [fifteen] sixteen and completed prior to April first, two thousand [seventeen] eighteen, exceed the vendor track's cumulative capital award during the five year period ending April first, two thousand [fifteen] sixteen, the vendor shall continue to receive the capital award after April first, two thousand [fifteen] sixteen until such approved capital expenditures are paid to the vendor track subject to any required co-investment. In no event shall any vendor track that receives a vendor fee pursuant to clause (F) or (G) of this subparagraph

be eligible for a vendor's capital award under this section. Any operator of a vendor track which has received a vendor's capital award, choosing to divest the capital improvement toward which the award was applied, prior to the full depreciation of the capital improvement in accordance with generally accepted accounting principles, shall reimburse the state in amounts equal to the total of any such awards. Any capital award not approved for a capital expenditure at a video lottery gaming facility by April first, two thousand [fifteen] sixteen shall be deposited into the state lottery fund for education aid; and

§ 2. This act shall take effect immediately.

PART NN

Section 1. Paragraph (a) of subdivision 1 of section 1003 of the racing, pari-mutuel wagering and breeding law, as amended by section 1 of part AA of chapter 59 of the laws of 2014, is amended to read as follows:

(a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the commission for a license so to do. Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. No license shall be issued by the commission authorizing the simulcast transmission of thoroughbred races from a track located in Suffolk county. The fee for such licenses shall be five hundred dollars per simulcast facility

and for account wagering licensees that do not operate either a simulcast facility that is open to the public within the state of New York or a licensed racetrack within the state, twenty thousand dollars per year payable by the licensee to the commission for deposit into the general fund. Except as provided in this section, the commission shall not approve any application to conduct simulcasting into individual or group residences, homes or other areas for the purposes of or in connection with pari-mutuel wagering. The commission may approve simulcasting into residences, homes or other areas to be conducted jointly by one or more regional off-track betting corporations and one or more of the following: a franchised corporation, thoroughbred racing corporation or a harness racing corporation or association; provided (i) the simulcasting consists only of those races on which pari-mutuel betting is authorized by this chapter at one or more simulcast facilities for each of the contracting off-track betting corporations which shall include wagers made in accordance with section one thousand fifteen, one thousand sixteen and one thousand seventeen of this article; provided further that the contract provisions or other simulcast arrangements for such simulcast facility shall be no less favorable than those in effect on January first, two thousand five; (ii) that each off-track betting corporation having within its geographic boundaries such residences, homes or other areas technically capable of receiving the simulcast signal shall be a contracting party; (iii) the distribution of revenues shall be subject to contractual agreement of the parties except that statutory payments to non-contracting parties, if any, may not be reduced; provided, however, that nothing herein to the contrary shall prevent a track from televising its races on an irregular basis primarily for promotional or marketing purposes as found by the commission. For

purposes of this paragraph, the provisions of section one thousand thirteen of this article shall not apply. Any agreement authorizing an in-home simulcasting experiment commencing prior to May fifteenth, nineteen hundred ninety-five, may, and all its terms, be extended until June thirtieth, two thousand [fifteen] sixteen; provided, however, that any party to such agreement may elect to terminate such agreement upon conveying written notice to all other parties of such agreement at least forty-five days prior to the effective date of the termination, via registered mail. Any party to an agreement receiving such notice of an intent to terminate, may request the commission to mediate between the parties new terms and conditions in a replacement agreement between the parties as will permit continuation of an in-home experiment until June thirtieth, two thousand [fifteen] sixteen; and (iv) no in-home simulcasting in the thoroughbred special betting district shall occur without the approval of the regional thoroughbred track.

§ 2. Subparagraph (iii) of paragraph d of subdivision 3 of section 1007 of the racing, pari-mutuel wagering and breeding law, as amended by section 2 of part AA of chapter 59 of the laws of 2014, is amended to read as follows:

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

ty-first, nineteen hundred ninety-five to the total commissions that would have been available to such track prior to July twenty-first, nineteen hundred ninety-five.

§ 3. The opening paragraph of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as amended by section 3 of part AA of chapter 59 of the laws of 2014, is amended to read as follows:

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

§ 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering and breeding law, as amended by section 4 of part AA of chapter 59 of the laws of 2014, is amended to read as follows:

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

§ 5. The opening paragraph of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by section 5 of part AA of chapter 59 of the laws of 2014, is amended to read as follows:

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

§ 6. The opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law, as amended by section 6 of part AA of chapter 59 of the laws of 2014, is amended to read as follows:

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

§ 7. Section 32 of chapter 281 of the laws of 1994, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting, as amended by section 7 of part AA of chapter 59 of the laws of 2014, is amended to read as follows:

§ 32. This act shall take effect immediately and the pari-mutuel tax reductions in section six of this act shall expire and be deemed repealed on July 1, [2015] 2016; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration, or repeal of any provision of law amended by any section of this act, and such provisions shall be applied or qualified

or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law; provided further, however, that sections twenty-three and twenty-five of this act shall remain in full force and effect only until May 1, 1997 and at such time shall be deemed to be repealed.

§ 8. Section 54 of chapter 346 of the laws of 1990, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, as amended by section 8 of part AA of chapter 59 of the laws of 2014, is amended to read as follows:

§ 54. This act shall take effect immediately; provided, however, sections three through twelve of this act shall take effect on January 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breeding law, as added by section thirty-eight of this act, shall expire and be deemed repealed on July 1, [2015] 2016; and section eighteen of this act shall take effect on July 1, 2008 and sections fifty-one and fifty-two of this act shall take effect as of the same date as chapter 772 of the laws of 1989 took effect.

§ 9. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as amended by section 9 of part AA of chapter 59 of the laws of 2014, is amended to read as follows:

(a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets be presented for payment before April first of the year following the year of their purchase, less an amount which shall be established and retained by such franchised corporation of between twelve to seventeen per centum of the

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

seven and one-half per centum plus fifty per centum of the breaks. For the period June first, nineteen hundred ninety-five through September ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be three per centum and such tax on multiple wagers shall be two and one-half per centum, plus twenty per centum of the breaks. For the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such tax on all wagers shall be two and six-tenths per centum and for the period April first, two thousand one through December thirty-first, two thousand [fifteen] sixteen, such tax on all wagers shall be one and six-tenths per centum, plus, in each such period, twenty per centum of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one per centum of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three per centum of super exotic bets provided, however, that for the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such payment shall be six-tenths of one per centum of regular, multiple and exotic pools and for the period April first, two thousand one through December thirty-first, two thousand [fifteen] sixteen, such payment shall be seven-tenths of one per centum of such pools.

§ 10. This act shall take effect immediately.

PART OO

Section 1. Section 1602 of the tax law is amended by adding a new subdivision 6 to read as follows:

6. "Video lottery gaming" means any lottery game played on a video lottery terminal that issues electronic tickets, allows multiple players to participate in the same game and determines winners to a material degree upon the element of chance, notwithstanding that the skill of a player may influence such player's chance of winning a game. Video lottery gaming may include elements of player interaction after a player receives an initial chance.

§ 2. Subdivision 28 of section 225.00 of the penal law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

28. "Video lottery gaming" [means any lottery game played on a video lottery terminal, which consists of multiple players competing for a chance to win a random drawn prize pursuant to section sixteen hundred seventeen-a and paragraph five of subdivision a of section sixteen hundred twelve of the tax law, as amended and implemented] has the meaning set forth in subdivision six of section sixteen hundred two of the tax law.

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

PART PP

Section 1. Paragraph d of subdivision 1 of section 207 of the racing, pari-mutuel wagering and breeding law, as added by chapter 457 of the laws of 2012, is amended to read as follows:

d. The board, which shall become effective upon appointment of a majority of public members, shall terminate [three] four years from its date of creation. The board shall propose, no less than one hundred eighty days prior to its termination, recommendations to the governor

and the state legislature representing a statutory plan for the prospective not-for-profit governing structure of The New York Racing Association, Inc.

§ 2. This act shall take effect June 18, 2015.

PART QQ

Section 1. Chapter 6 of title 11 of the administrative code of the city of New York is amended by adding a new subchapter 3-A to read as follows:

SUBCHAPTER 3-A

CORPORATE TAX OF 2015

§ 11-651 Applicability. 1. Notwithstanding anything to the contrary in this chapter, this subchapter shall apply to corporations for tax years commencing on or after January first, two thousand fifteen, except

that it shall not apply to any corporation that (a) has an election in effect under subsection (a) of section thirteen hundred sixty-two of the internal revenue code of 1986, as amended, or (b) is a qualified subchapter S subsidiary within the meaning of paragraph three of subsection (b) of section thirteen hundred sixty-one of the internal revenue code of 1986, as amended, in any tax year after such date. Subchapters two and three of this chapter shall not apply to corporations to which this subchapter applies for tax years commencing on or after January first, two thousand fifteen, except to the extent provided in this subchapter and to the extent that the effect of the application of subchapters two and three to tax years commencing prior to January first, two thousand fifteen carries over to tax years commencing on or after January first, two thousand fifteen.

2. Each reference in this code to subchapters two or three of this chapter, or any of the provisions thereof, shall be deemed a reference also to this subchapter, and any of the applicable provisions thereof, where appropriate and with all necessary modifications.

§ 11-652 Definitions. 1. (a) The term "corporation" includes (1) an association within the meaning of paragraph three of subsection (a) of section seventy-seven hundred one of the internal revenue code (including, when applicable, a limited liability company), (2) a joint-stock company or association, (3) a publicly traded partnership treated as a corporation for purposes of the internal revenue code pursuant to section seventy-seven hundred four thereof and (4) any business conducted by a trustee or trustees wherein interest or ownership is evidenced by certificate or other written instrument;

(b) (1) Notwithstanding paragraph (a) of this subdivision, an unincorporated organization that (i) is described in subparagraph one or three

of such paragraph (a) of this subdivision, (ii) was subject to the provisions of chapter five of this title for its taxable year beginning in nineteen hundred ninety-five, and (iii) made a one-time election not to be treated as a corporation and, instead, to continue to be subject to the provisions of chapter five of this title for its taxable years beginning in nineteen hundred ninety-six and thereafter, shall continue to be subject to the provisions of chapter five of this title for its taxable years beginning in nineteen hundred ninety-six.

(2) An election under this paragraph shall continue to be in effect until revoked by the unincorporated organization. An election under this paragraph shall be revoked by the filing of a return under this subchapter for the first taxable year with respect to which such revocation is to be effective. Such return shall be filed on or before the due date (determined with regard to extensions) for filing such return. In no event shall such election or revocation be for a part of a taxable year.

(c) Notwithstanding paragraph (a) of this subdivision, a corporation shall not include an entity classified as a partnership for federal income tax purposes.

2. The term "subsidiary" means a corporation of which over fifty per centum of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned by the taxpayer.

2-a. The term "taxpayer" means any corporation subject to tax under this subchapter.

3. Intentionally omitted.

3-a. The term "stock" means an interest in a corporation that is treated as equity for federal income tax purposes.

4. (a) The term "investment capital" means investments in stocks that are held by the taxpayer for more than six consecutive months but are

not and have never been used by the taxpayer in the regular course of business, or, if the taxpayer makes the election provided for in subparagraph one of paragraph (a) of subdivision five of section 11-654.2 of this subchapter, are not qualified financial instruments as described in subdivision five of section 11-654.2 of this subchapter. Stock in a corporation that is conducting a unitary business with the taxpayer, stock in a corporation that is included in a combined report with the taxpayer pursuant to the commonly owned group election in subdivision three of section 11-654.3 of this subchapter, and stock issued by the taxpayer shall not constitute investment capital. For purposes of this subdivision, if the taxpayer owns or controls, directly or indirectly, less than twenty percent of the voting power of the stock of a corporation, that corporation will be presumed to be conducting a business that is not unitary with the business of the taxpayer.

(b) There shall be deducted from investment capital any liabilities which are directly or indirectly attributable to investment capital. If the amount of those liabilities exceeds the amount of investment capital, the amount of investment capital will be zero.

(c) Investment capital shall not include any such investments the income from which is excluded from entire net income pursuant to the provisions of paragraph (c-1) of subdivision eight of this section, and that investment capital shall be computed without regard to liabilities directly or indirectly attributable to such investments, but only if air carriers organized in the United States and operating in the foreign country or countries in which the taxpayer has its major base of operations and in which it is organized, resident or headquartered (if not in the same country as its major base of operations) are not subject to any tax based on or measured by capital imposed by such foreign country

or countries or any political subdivision thereof, or if taxed, are provided an exemption, equivalent to that provided for herein, from any tax based on or measured by capital imposed by such foreign country or countries and from any such tax imposed by any political subdivision thereof.

(d) If a taxpayer acquires stock during the second half of its taxable year and owns that stock on the last day of the taxable year, it will be presumed, solely for the purposes of determining whether that stock should be classified as investment capital after it is acquired, that the taxpayer held that stock for more than six consecutive months during the taxable year. This presumption shall apply only if the taxpayer in fact owns the stock at the time it files its original report for the taxable year in which it acquires the stock. However, if the taxpayer does not in fact hold that stock as investment capital for more than six consecutive months, the taxpayer must increase its business capital in the immediately succeeding taxable year by the amount included in investment capital for that stock, net of any liabilities attributable to that stock computed as provided in paragraph (b) of this subdivision and must increase its business income in the immediately succeeding taxable year by the amount of income and net gains (but not less than zero) from that stock included in investment income, less any interest deductions directly or indirectly attributable to that stock, as provided in subdivision five of this section.

(e) When income or gain from a debt obligation or other security cannot be allocated to the city using the business allocation percentage as a result of the United States constitutional principles, the debt obligation or other security will be included in investment capital.

5. (a) The term "investment income" means income, including capital gains in excess of capital losses, from investment capital, to the extent included in computing entire net income, less, in the discretion of the commissioner of finance, any interest deductions allowable in computing entire net income which are directly or indirectly attributable to investment capital or investment income, provided, however, that in no case shall investment income exceed entire net income. If the amount of interest deductions subtracted under the preceding sentence exceeds investment income, the excess of such amount over investment income must be added back to entire net income.

(b) In lieu of subtracting from investment income the amount of those interest deductions, the taxpayer may elect to reduce its total investment income by forty percent. If the taxpayer makes this election, the taxpayer must also make the elections provided for in paragraphs (b) and (c) of subdivision five-a of this section. A taxpayer which does not make this election because it has no investment capital will not be precluded from making those other elections.

(c) Investment income shall not include any amount treated as dividends pursuant to section seventy-eight of the internal revenue code.

5-a. (a) The term "other exempt income" means the sum of exempt CFC income and exempt unitary corporation dividends.

(b) "Exempt CFC income" means the income required to be included in the taxpayer's federal gross income pursuant to subsection (a) of section nine hundred fifty-one of the internal revenue code, received from a corporation that is conducting a unitary business with the taxpayer but is not included in a combined report with the taxpayer, less, in the discretion of the commissioner of finance, any interest deductions directly or indirectly attributable to that income. In lieu

of subtracting from its exempt CFC income the amount of those interest deductions, the taxpayer may elect to reduce its total exempt CFC income by forty percent. If the taxpayer makes this election, the taxpayer must also make the elections provided for in paragraph (b) of subdivision five of this section and paragraph (c) of this subdivision. A taxpayer which does not make this election because it has no exempt CFC income will not be precluded from making those other elections.

(c) "Exempt unitary corporate dividends" means those dividends from a corporation that is conducting a unitary business with the taxpayer but is not included in a combined report with the taxpayer, less, in the discretion of the commissioner of finance, any interest deductions directly or indirectly attributable to such income. Other than dividend income received from corporations that are taxable under chapter eleven of this title (except for vendors of utility services that are also taxable under this subchapter) or would be taxable under chapter eleven of this title (except for vendors of utility services that are also taxable under this subchapter) if subject to tax, in lieu of subtracting from this dividend income those interest deductions, the taxpayer may elect to reduce the total amount of this dividend income by forty percent. If the taxpayer makes this election, the taxpayer must also make the elections provided for in paragraph (b) of subdivision five of this section and paragraph (b) of this subdivision. A taxpayer that does not make this election because it has not received any exempt unitary corporation dividends or is precluded from making this election for dividends received from corporations that are taxable under chapter eleven of this title (except for vendors of utility services that are also taxable under this subchapter) or would be taxable under chapter eleven of this title if subject to tax (except for vendors of utility

services that are also taxable under this subchapter) will not be precluded from making those other elections.

(d) If the taxpayer attributes interest deductions to other exempt income and the amount deducted exceeds other exempt income, the excess of the interest deductions over other exempt income must be added back to entire net income. In no case shall other exempt income exceed entire net income.

(e) Other exempt income shall not include any amount treated as dividends pursuant to section seventy-eight of the internal revenue code.

6. (a) The term "business capital" means all assets, other than investment capital and stock issued by the taxpayer, less liabilities not deducted from investment capital; provided, however, business capital shall include only those assets the income, loss or expense of which are properly reflected (or would have been properly reflected if not fully depreciated or expensed or depreciated or expensed to a nominal amount) in the computation of entire net income for the taxable year.

(b) Provided, further, "business capital" shall not include assets to the extent employed for the purpose of generating income which is excluded from entire net income pursuant to the provisions of paragraph (c-1) of subdivision eight of this section and shall be computed without regard to liabilities directly or indirectly attributable to such assets, but only if air carriers organized in the United States and operating in the foreign country or countries in which the taxpayer has its major base of operations and in which it is organized, resident or headquartered (if not in the same country as its major base of operations) are not subject to any tax based on or measured by capital imposed by such foreign country or countries or any political subdivision thereof, or if taxed, are provided an exemption, equivalent to that

provided for herein, from any tax based on or measured by capital imposed by such foreign country or countries and from any such tax imposed by any political subdivision thereof.

7. The term "business income" means entire net income minus investment income and other exempt income. In no event shall the sum of investment income and other exempt income exceed entire net income. If the taxpayer makes the election provided for in subparagraph one of paragraph (a) of subdivision five of section 11-654.2 of this subchapter, then all income from qualified financial instruments shall constitute business income.

8. The term "entire net income" means total net income from all sources, which shall be presumably the same as the entire taxable income (but not alternative minimum taxable income), which except as hereafter provided in this subdivision.

1. the taxpayer is required to report to the United States treasury department, or

2. the taxpayer, in the case of a corporation that is exempt from federal income tax (other than the tax on unrelated business taxable income imposed under section five hundred eleven of the internal revenue code) but which is subject to tax under this subchapter, would have been required to report to the United States treasury department but for such exemption, or

3. in the case of an alien corporation that under any provision of the internal revenue code is not treated as a "domestic corporation" as defined in section seven thousand seven hundred one of such code, is effectively connected with the conduct of a trade or business within the United States as determined under section eight hundred eighty-two of the internal revenue code.

(a) Entire net income shall not include:

(1) Intentionally omitted;

(2) Intentionally omitted;

(2-a) any amounts treated as dividends pursuant to section seventy-eight of the internal revenue code and not otherwise deductible under subparagraphs one and two of this paragraph;

(3) bona fide gifts;

(4) income and deductions with respect to amounts received from school districts and from corporations and associations, organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, for the operation of school buses;

(5) any refund or credit of a tax imposed under this chapter, or imposed by article nine, nine-A, twenty-three, or former article thirty-two of the tax law, for which tax no exclusion or deduction was allowed in determining the taxpayer's entire net income under this subchapter, subchapter two, or subchapter three of this chapter for any prior year;

(6) Intentionally omitted;

(7) that portion of wages and salaries paid or incurred for the taxable year for which a deduction is not allowed pursuant to the provisions of section two hundred eighty-C of the internal revenue code;

(8) except with respect to property which is a qualified mass commuting vehicle described in subparagraph (D) of paragraph eight of subsection (f) of section one hundred sixty-eight of the internal revenue code (relating to qualified mass commuting vehicles) and property of a taxpayer principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more of such businesses, which is placed in service before taxable years beginning in nineteen hundred

eighty-nine, any amount which is included in the taxpayer's federal taxable income solely as a result of an election made pursuant to the provisions of such paragraph eight as it was in effect for agreements entered into prior to January first, nineteen hundred eighty-four;

(9) except with respect to property which is a qualified mass commuting vehicle described in subparagraph (D) of paragraph eight of subsection (f) of section one hundred sixty-eight of the internal revenue code (relating to qualified mass commuting vehicles) and property of a taxpayer principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more of such businesses, which is placed in service before taxable years beginning in nineteen hundred eighty-nine, any amount which the taxpayer could have excluded from federal taxable income had it not made the election provided for in such paragraph eight as it was in effect for agreements entered into prior to January first, nineteen hundred eighty-four;

(10) the amount deductible pursuant to paragraph (j) of this subdivision;

(11) upon the disposition of property to which paragraph (j) of this subdivision applies, the amount, if any, by which the aggregate of the amounts described in subparagraph eleven of paragraph (b) of this subdivision attributable to such property exceeds the aggregate of the amounts described in paragraph (j) of this subdivision attributable to such property;

(12) the amount deductible pursuant to paragraph (k) of this subdivision;

(13) the amount deductible pursuant to paragraph (o) of this subdivision; and

(14) the amount computed pursuant to paragraph (q), (r) or (s) of this subdivision, but only the amount determined pursuant to one of such paragraphs.

(a-1) Notwithstanding any other provision of this subchapter, in the case of a taxpayer that is a partner in a partnership subject to the tax imposed by chapter eleven of this title as a utility, as defined in subdivision six of section 11-1101 of such chapter, entire net income shall not include the taxpayer's distributive or pro rata share for federal income tax purposes of any item of income, gain, loss or deduction of such partnership, or any item of income, gain, loss or deduction of such partnership that the taxpayer is required to take into account separately for federal income tax purposes.

(b) Entire net income shall be determined without the exclusion, deduction or credit of:

(1) in the case of an alien corporation that under any provision of the internal revenue code is not treated as a "domestic corporation" as defined in section seven thousand seven hundred one of such code, (i) any part of any income from dividends or interest on any kind of stock, securities or indebtedness, but only if such income is treated as effectively connected with the conduct of a trade or business in the United States pursuant to section eight hundred sixty-four of the internal revenue code, (ii) any income exempt from federal taxable income under any treaty obligation of the United States, but only if such income would be treated as effectively connected in the absence of such exemption provided that such treaty obligation does not preclude the taxation of such income by a state, or (iii) any income which would be treated as effectively connected if such income were not excluded from

gross income pursuant to subsection (a) of section one hundred three or the internal revenue code;

(2) any part of any income from dividends or interest on any kind of stock, securities, or indebtedness;

(3) taxes on or measured by profits or income paid or accrued to the United States, any of its possessions, territories or commonwealths, including taxes in lieu of any of the foregoing taxes otherwise generally imposed by any possession, territory or commonwealth of the United States, or taxes paid or accrued to the state under article nine, nine-A, thirteen-A or thirty-two of the tax law as in effect on December thirty-first, two thousand fourteen;

(3-a) taxes on or measured by profits or income, or which include profits or income as a measure, paid or accrued to any other state of the United States, or any political subdivision thereof, or to the District of Columbia, including taxes expressly in lieu of any of the foregoing taxes otherwise generally imposed by any other state of the United States, or any political subdivision thereof, or the District of Columbia;

(4) taxes imposed under this chapter;

(4-a) Intentionally omitted;

(4-b) the amount allowed as an exclusion or a deduction imposed by the tax law in determining the entire taxable income for a relocation described in subdivision thirteen of section 11-654 of this subchapter which the taxpayer is required to report to the United States treasury department but only such portion of such exclusion or deduction which is not in excess of the amount of the credit allowed pursuant to subdivision thirteen of section 11-654 of this subchapter;

(4-c) the amount allowed as an exclusion or a deduction imposed by the tax law for a relocation described in subdivision fourteen of section 11-654 of this subchapter in determining the entire taxable income which the taxpayer is required to report to the United States treasury department but only such portion of such exclusion or deduction which is not in excess of the amount of the credit allowed pursuant to subdivision fourteen of section 11-654 of this subchapter;

(4-d) Intentionally omitted;

(4-e) Intentionally omitted;

(5) Intentionally omitted;

(6) any amount allowed as a deduction for the taxable year under section one hundred seventy-two of the internal revenue code, including carryovers of deductions from prior taxable years;

(7) any amount by reason of the granting, issuing or assuming of a restricted stock option, as defined in the internal revenue code of nineteen hundred fifty-four, or by reason of the transfer of the share of stock upon the exercise of the option, unless such share is disposed of by the grantee of the option within two years from the date of the granting of the option or within six months after the transfer of such share to the grantee;

(8) Intentionally omitted;

(9) except with respect to property which is a qualified mass commuting vehicle described in subparagraph (D) of paragraph eight of subsection (f) of section one hundred sixty-eight of the internal revenue code (relating to qualified mass commuting vehicles) and property of a taxpayer principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more of such businesses, which is placed in service before taxable years beginning in nineteen hundred

eighty-nine, any amount which the taxpayer claimed as a deduction in computing its federal taxable income solely as a result of an election made pursuant to the provisions of such paragraph eight as it was in effect for agreements entered into prior to January first, nineteen hundred eighty-four;

(10) except with respect to property which is a qualified mass commuting vehicle described in subparagraph (D) of paragraph eight of subsection (f) of section one hundred sixty-eight of the internal revenue code (relating to qualified mass commuting vehicles) and property of a taxpayer principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more of such businesses, which is placed in service before taxable years beginning in nineteen hundred eighty-nine, any amount which the taxpayer would have been required to include in the computation of its federal taxable income had it not made the election permitted pursuant to such paragraph eight as it was in effect for agreements entered into prior to January first, nineteen hundred eighty-four;

(11) in the case of property placed in service in taxable years beginning before nineteen hundred ninety-four, for taxable years beginning after December thirty-first, nineteen hundred eighty-one, except with respect to property subject to the provisions of section two hundred eighty-F of the internal revenue code, property subject to the provisions of section one hundred sixty-eight of the internal revenue code which is placed in service in this state in taxable years beginning after December thirty-first, nineteen hundred eighty-four and property of a taxpayer principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more of such businesses, which is placed in service before taxable years beginning in nineteen

hundred eighty-nine, the amount allowable as a deduction determined under section one hundred sixty-eight of the internal revenue code;

(12) upon the disposition of property to which paragraph (j) of this subdivision applies, the amount, if any, by which the aggregate of the amounts described in such paragraph (j) attributable to such property exceeds the aggregate of the amounts described in subparagraph eleven of this paragraph attributable to such property;

(13) Intentionally omitted;

(14) Intentionally omitted;

(15) Intentionally omitted;

(16) in the case of qualified property described in paragraph two of subsection (k) of section one hundred sixty-eight of the internal revenue code, other than qualified resurgence zone property described in paragraph (m) of this subdivision, and other than qualified New York Liberty Zone property described in paragraph two of subsection (b) of section fourteen hundred-L of the internal revenue code (without regard to clause (i) of subparagraph (C) of such paragraph), the amount allowable as a deduction under section one hundred sixty-seven of the internal revenue code;

(17) in the case of a taxpayer that is not an eligible farmer as defined in subsection (n) of section six hundred six of the tax law, the amount allowable as a deduction under sections one hundred seventy-nine, one hundred sixty-seven and one hundred sixty-eight of the internal revenue code with respect to a sport utility vehicle that is not a passenger automobile as defined in paragraph five of subsection (d) of section two hundred eighty-F of the internal revenue code;

(18) the amount of any deduction allowed pursuant to section one hundred ninety-nine of the internal revenue code;

(19) the amount of any federal deduction for taxes imposed under article twenty-three of the tax law;

(c) Intentionally omitted;

(c-1)(1) Notwithstanding any other provision of this subchapter, in the case of a taxpayer which is a foreign air carrier holding a foreign air carrier permit issued by the United States department of transportation pursuant to section four hundred two of the federal aviation act of nineteen hundred fifty-eight, as amended, and which is qualified under subparagraph two of this paragraph, entire net income shall not include, and shall be computed without the deduction of, amounts directly or indirectly attributable to, (i) any income derived from the international operation of aircraft as described in and subject to the provisions of section eight hundred eighty-three of the internal revenue code, (ii) income without the United States which is derived from the operation of aircraft, and (iii) income without the United States which is of a type described in subdivision (a) of section eight hundred eighty-one of the internal revenue code except that it is derived from sources without the United States. Entire net income shall include income described in clauses (i), (ii) and (iii) of this subparagraph in the case of taxpayers not described in the previous sentence;

(2) A taxpayer is qualified under this subparagraph if air carriers organized in the United States and operating in the foreign country or countries in which the taxpayer has its major base of operations and in which it is organized, resident or headquartered (if not in the same country as its major base of operations) are not subject to any income tax or other tax based on or measured by income or receipts imposed by such foreign country or countries or any political subdivision thereof,

or if so subject to such tax, are provided an exemption from such tax equivalent to that provided for herein;

(d) The commissioner of finance may, whenever necessary in order properly to reflect the entire net income of any taxpayer, determine the year or period in which any item of income or deduction shall be included, without regard to the method of accounting employed by the taxpayer;

(e) The entire net income of any bridge commission created by act of congress to construct a bridge across an international boundary means its gross income less the expense of maintaining and operating its properties, the annual interest upon its bonds and other obligations, and the annual charge for the retirement of such bonds or obligations at maturity;

(f) Intentionally omitted;

(g) At the election of the taxpayer, a deduction shall be allowed for expenditures paid or incurred during the taxable year for the construction, reconstruction, erection or improvement of industrial waste treatment facilities and air pollution control facilities.

(1)(i) The term "industrial waste treatment facilities" shall mean facilities for the treatment, neutralization or stabilization of industrial waste (as the term "industrial waste" is defined in section 17-0105 of the environmental conservation law) from a point immediately preceding the point of such treatment, neutralization or stabilization to the point of disposal, including the necessary pumping and transmitting facilities, but excluding such facilities installed for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable.

(ii) The term "air pollution control facilities" shall mean facilities which remove, reduce, or render less noxious air contaminants emitted from an air contamination source (as the terms "air contaminant" and "air contamination source" are defined in section 19-0107 of the environmental conservation law) from a point immediately preceding the point of such removal, reduction or rendering to the point of discharge of air, meeting emission standards as established by the air pollution control board, but excluding such facilities installed for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable and excluding those facilities which rely for their efficacy on dilution, dispersion or assimilation of air contaminants in the ambient air after emission.

(2) However, such deduction shall be allowed only (i) with respect to tangible property which is depreciable, pursuant to section one hundred sixty-seven of the internal revenue code, having a situs in the city and used in the taxpayer's trade or business, the construction, reconstruction, erection or improvement of which, in the case of industrial waste treatment facilities, is initiated on or after January first, nineteen hundred sixty-six, and only for expenditures paid or incurred prior to January first, nineteen hundred seventy-two, or which, in the case of air pollution control facilities, is initiated on or after January first, nineteen hundred sixty-six, and

(ii) on condition that such facilities have been certified by the state commissioner of environmental conservation or the state commissioner's designated representative, in the same manner as provided for in section 17-0707 or 19-0309 of the environmental conservation law, as applicable, as complying with applicable provisions of the environmental

conservation law, the state sanitary code and regulations, permits or orders issued pursuant thereto, and

(iii) on condition that entire net income for the taxable year and all succeeding taxable years be computed without any deductions for such expenditures or for depreciation of the same property other than the deductions allowed by this paragraph except to the extent that the basis of the property may be attributable to factors other than such expenditures, or in case a deduction is allowable pursuant to this paragraph for only a part of such expenditures, on condition that any deduction allowed for federal income tax purposes for such expenditures or for depreciation of the same property be proportionately reduced in computing entire net income for the taxable year and all succeeding taxable years, and

(iv) where the election provided for in paragraph (d) of subdivision three of section 11-604 of this chapter or the election provided for in subdivision (k) of section 11-641 of this chapter has not been exercised in respect to the same property.

(3)(i) If expenditures in respect to an industrial waste treatment facility or an air pollution control facility have been deducted as provided herein and if within ten years from the end of the taxable year in which such deduction was allowed such property or any part thereof is used for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable, the taxpayer shall report such change of use in its report for the first taxable year during which it occurs, and the commissioner of finance may recompute the tax for the year or years for which such deduction was allowed and any carryback or carryover year, and may assess any additional tax resulting from such

recomputation within the time fixed by paragraph (h) of subdivision three of section 11-674 of this chapter.

(ii) If a deduction is allowed as herein provided for expenditures paid or incurred during any taxable year on the basis of a temporary certificate of compliance issued pursuant to the environmental conservation law and if the taxpayer fails to obtain a permanent certificate of compliance upon completion of the facilities with respect to which such temporary certificate was issued, the taxpayer shall report such failure in its report for the taxable year during which such facilities are completed, and the commissioner of finance may recompute the tax for the year or years for which such deduction was allowed and any carryback or carryover year, and may assess any additional tax resulting from such recomputation within the time fixed by paragraph (h) of subdivision three of section 11-674 of this chapter.

(4) In any taxable year when property is sold or otherwise disposed of, with respect to which a deduction has been allowed pursuant to this paragraph, such deduction shall be disregarded in computing gain or loss, and the gain or loss on the sale or other disposition of such property shall be the gain or loss entering into the computation of entire taxable income which the taxpayer is required to report to the United States treasury for such taxable year;

(h) With respect to gain derived from the sale or other disposition of any property acquired prior to January first, nineteen hundred sixty-six; which had a federal adjusted basis on such date (or on the date of its sale or other disposition prior to January first, nineteen hundred sixty-six) lower than its fair market value on January first, nineteen hundred sixty-six or the date of its sale or other disposition prior thereto, except property described in subsections one and four of

section twelve hundred twenty-one of the internal revenue code, there shall be deducted from entire net income, the difference between (1) the amount of the taxpayer's federal taxable income, and (2) the amount of the taxpayer's federal taxable income (if smaller than the amount described in subparagraph one of this paragraph) computed as if the federal adjusted basis of each such property (on the sale or other disposition of which gain was derived) on the date of the sale or other disposition had been equal to either (i) its fair market value on January first, nineteen hundred sixty-six or the date of its sale or other disposition prior to January first, nineteen hundred sixty-six, plus or minus all adjustments to basis made with respect to such property for federal income tax purposes for periods on and after January first, nineteen hundred sixty-six or (ii) the amount realized from its sale or disposition, whichever is lower; provided, however, that the total modification provided by this paragraph shall not exceed the amount of the taxpayer's net gain from the sale or other disposition of all such property.

(i) If the period covered by a report under this subchapter is other than the period covered by the report of the United States treasury department, entire net income shall be determined by multiplying the federal taxable income (as adjusted pursuant to the provisions of this subchapter) by the number of calendar months or major parts thereof covered by the report under this subchapter and dividing by the number of calendar months or major parts thereof covered by the report to such department. If it shall appear that such method of determining entire net income does not properly reflect the taxpayer's income during the period covered by the report under this subchapter, the commissioner of finance shall be authorized in his or her discretion to determine such

entire net income solely on the basis of the taxpayer's income during the period covered by its report under this subchapter.

(j) In the case of property placed in service in taxable years beginning before nineteen hundred ninety-four, for taxable years beginning after December thirty-first, nineteen hundred eighty-one, except with respect to property subject to the provisions of section two hundred eighty-F of the internal revenue code and property subject to the provisions of section one hundred sixty-eight of the internal revenue code which is placed in service in this state in taxable years beginning after December thirty-first, nineteen hundred eighty-four, and provided a deduction has not been excluded from entire net income pursuant to subparagraph nine of paragraph (b) of this subdivision, a taxpayer shall be allowed with respect to property which is subject to the provisions of section one hundred sixty-eight of the internal revenue code the depreciation deduction allowable under section one hundred sixty-seven of the internal revenue code as such section would have applied to property placed in service on December thirty-first, nineteen hundred eighty. This paragraph shall not apply to property of a taxpayer principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more of such businesses, which is placed in service before taxable years beginning in nineteen hundred eighty-nine.

(k) In the case of qualified property described in paragraph two of subsection (k) of section one hundred sixty-eight of the internal revenue code, other than qualified resurgence zone property described in paragraph (m) of this subdivision, and other than qualified New York Liberty Zone property described in paragraph two of subsection (b) of section fourteen hundred L of the internal revenue code (without regard to clause (i) of subparagraph (C) of such paragraph), the depreciation

deduction allowable under section one hundred sixty-seven as such section would have applied to such property had it been acquired by the taxpayer on September tenth, two thousand one, provided, however, that for taxable years beginning on or after January first, two thousand four, in the case of a passenger motor vehicle or a sport utility vehicle subject to the provisions of paragraph (o) of this subdivision, the limitation under clause (i) of subparagraph (A) of paragraph one of subdivision (a) of section two hundred eighty-F of the internal revenue code applicable to the amount allowed as a deduction under this paragraph shall be determined as of the date such vehicle was placed in service and not as of September tenth, two thousand one.

(l) Upon the disposition of property to which paragraph (k) of this subdivision applies, the amount of any gain or loss includible in entire net income shall be adjusted to reflect the inclusions and exclusions from entire net income pursuant to subparagraph twelve of paragraph (a) and subparagraph sixteen of paragraph (b) of this subdivision attributable to such property.

(m) For purposes of this paragraph and paragraph (l) of this subdivision, qualified resurgence zone property shall mean qualified property described in paragraph two of subsection (k) of section one hundred sixty-eight of the internal revenue code substantially all of the use of which is in the resurgence zone, as defined below, and is in the active conduct of a trade or business by the taxpayer in such zone, and the original use of which in the resurgence zone commences with the taxpayer after September tenth, two thousand one. The resurgence zone shall mean the area of New York county bounded on the south by a line running from the intersection of the Hudson River with the Holland Tunnel, and running thence east to Canal Street, then running along the centerline

of Canal Street to the intersection of the Bowery and Canal Street, running thence in a southeasterly direction diagonally across Manhattan Bridge Plaza, to the Manhattan Bridge, and thence along the centerline of the Manhattan Bridge to the point where the centerline of the Manhattan Bridge would intersect with the easterly bank of the East River, and bounded on the north by a line running from the intersection of the Hudson River with the Holland Tunnel and running thence north along West Avenue to the intersection of Clarkson Street then running east along the centerline of Clarkson Street to the intersection of Washington Avenue, then running south along the centerline of Washington Avenue to the intersection of West Houston Street, then east along the centerline of West Houston Street, then at the intersection of the Avenue of the Americas continuing east along the centerline of East Houston Street to the easterly bank of the East River.

(n) Related members expense add back. (1) For purposes of this paragraph: (i) "Related member" means a related person as defined in subparagraph (c) of paragraph three of subsection (b) of section four hundred sixty-five of the internal revenue code, except that "fifty percent" shall be substituted for "ten percent".

(ii) "Effective rate of tax" means, as to any city, the maximum statutory rate of tax imposed by the city on or measured by a related member's net income multiplied by the apportionment percentage, if any, applicable to the related member under the laws of said jurisdiction. For purposes of this definition, the effective rate of tax as to any city is zero where the related member's net income tax liability in said city is reported on a combined or consolidated return including both the taxpayer and the related member where the reported transactions between the taxpayer and the related member are eliminated or offset. Also, for

purposes of this definition, when computing the effective rate of tax for a city in which a related member's net income is eliminated or offset by a credit or similar adjustment that is dependent upon the related member either maintaining or managing intangible property or collecting interest income in that city, the maximum statutory rate of tax imposed by said city shall be decreased to reflect the statutory rate of tax that applies to the related member as effectively reduced by such credit or similar adjustment.

(iii) Royalty payments are payments directly connected to the acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of licenses, trademarks, copyrights, trade names, trade dress, service marks, mask works, trade secrets, patents and any other similar types of intangible assets as determined by the commissioner of finance, and include amounts allowable as interest deductions under section one hundred sixty-three of the internal revenue code to the extent such amounts are directly or indirectly for, related to or in connection with the acquisition, use, maintenance or management, ownership, sale, exchange or disposition of such intangible assets.

(iv) A valid business purpose is one or more business purposes, other than the avoidance or reduction of taxation, which alone or in combination constitute the primary motivation for some business activity or transaction, which activity or transaction changes in a meaningful way, apart from tax effects, the economic position of the taxpayer. The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

(2) Royalty expense add backs. (i) Except where a taxpayer is included in a combined report pursuant to section 11-654.3 of this subchapter

with the applicable related member, for the purpose of computing entire net income or other applicable taxable basis, a taxpayer must add back royalty payments directly or indirectly paid, accrued, or incurred in connection with one or more direct or indirect transactions with one or more related members during the taxable year to the extent deductible in calculating federal taxable income.

(ii) Exceptions. (A) The adjustment required in this paragraph shall not apply to the portion of the royalty payment that the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner of finance, meets all of the following requirements: (I) the related member was subject to tax in this city or another city within the United States or a foreign nation or some combination thereof on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (II) the related member during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person that is not a related member; and (III) the transaction giving rise to the royalty payment between the taxpayer and the related member was undertaken for a valid business purpose.

(B) The adjustment required in this paragraph shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner of finance, that: (I) the related member was subject to tax on or measured by its net income in this city or another city within the United States, or some combination thereof; (II) the tax base for said tax included the royalty payment paid, accrued or incurred by the taxpayer; and (III) the aggregate effective rate of tax applied to the related member in those jurisdictions is no less than eighty percent of the statutory rate of tax that

applied to the taxpayer under section 11-604 of this chapter for the taxable year.

(C) The adjustment required in this paragraph shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner of finance, that: (I) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (II) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (III) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (IV) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this city; and (V) the royalty payment was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.

(D) The adjustment required in this paragraph shall not apply if the taxpayer and the commissioner of finance agree in writing to the application or use of alternative adjustments or computations. The commissioner of finance may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.

(o) In the case of a taxpayer that is not an eligible farmer as defined in subsection (n) of section six hundred six of the tax law, the deductions allowable under sections one hundred seventy-nine, one hundred sixty-seven and one hundred sixty-eight of the internal revenue code with respect to a sport utility vehicle that is not a passenger

automobile as defined in paragraph five of subsection (d) of section two hundred eighty-F of the internal revenue code, determined as if such sport utility vehicle were a passenger automobile as defined in such paragraph five. For purposes of subparagraph sixteen of paragraph (b) and paragraph (k) of this subdivision, the terms qualified resurgence zone property and qualified New York Liberty Zone property described in paragraph two of subsection b of section fourteen hundred-L of the internal revenue code shall not include any sport utility vehicle that is not a passenger automobile as defined in paragraph five of subsection (d) of section two hundred eighty-F of the internal revenue code.

(p) Upon the disposition of property to which paragraph (o) of this subdivision applies, the amount of any gain or loss includible in entire net income shall be adjusted to reflect the inclusions and exclusions from entire net income pursuant to subparagraph thirteen of paragraph (a) and subparagraph seventeen of paragraph (b) of this subdivision attributable to such property.

(q) Subtraction modification for community banks and small thrifts. (1) A taxpayer that is a qualified community bank as defined in subparagraph two of this paragraph or a small thrift institution as defined in subparagraph two-a of this paragraph shall be allowed a deduction in computing entire net income equal to the amount computed under subparagraph three of this paragraph.

(2) To be a qualified community bank, a taxpayer must satisfy the following conditions:

(i) It is a bank or trust company organized under or subject to the provisions of article three of the banking law or a comparable provision of the laws of another state, or a national banking association.

(ii) The average value during the taxable year of the assets of the taxpayer, or, if the taxpayer is included in a combined report, the assets of the combined reporting group of the taxpayer under section 11-654.3 of this subchapter, must not exceed eight billion dollars.

(2-a) To be a small thrift institution, a taxpayer must satisfy the following conditions:

(i) It is a savings bank, a savings and loan association, or other savings institution chartered and supervised as such under federal or state law.

(ii) The average value during the taxable year of the assets of the taxpayer, or, if the taxpayer is included in a combined report, the assets of the combined reporting group of the taxpayer under section 11-654.3 of this subchapter, must not exceed eight billion dollars.

(3)(i) The subtraction modification shall be computed as follows:

(A) Multiply the taxpayer's net interest income from loans during the taxable year by a fraction, the numerator of which is the gross interest income during the taxable year from qualifying loans and the denominator of which is the gross interest income during the taxable year from all loans.

(B) Multiply the amount determined in subclause (A) of this clause by fifty percent. This product is the amount of the deduction allowed under this paragraph.

(ii)(A) Net interest income from loans shall mean gross interest income from loans less gross interest expense from loans. Gross interest expense from loans is determined by multiplying gross interest expense by a fraction, the numerator of which is the average total value of loans owned by the thrift institution or community bank during the taxa-

ble year and the denominator of which is the average total assets of the thrift institution or community bank during the taxable year.

(B) Measurement of assets. For purposes of this clause: (I) Total assets are those assets that are properly reflected on a balance sheet, computed in the same manner as is required by the banking regulator of the taxpayers included in the combined return.

(II) Assets will only be included if the income or expenses of which are properly reflected (or would have been properly reflected if not fully depreciated or expensed, or depreciated or expensed to a nominal amount) in the computation of the taxpayer's entire net income for the taxable year. Assets will not include deferred tax assets and intangible assets identified as "goodwill".

(III) Tangible real and personal property, such as buildings, land, machinery, and equipment, shall be valued at cost. Leased assets will be valued at the annual lease payment multiplied by eight. Intangible property, such as loans and investments, shall be valued at book value exclusive of reserves.

(IV) Average assets are computed using the assets measured on the first day of the taxable year, and on the last day of each subsequent quarter of the taxable year or month or day during the taxable year.

(iii) A qualifying loan is a loan that meets the conditions specified in subclause (A) of this clause and subclause (B) of this clause.

(A) The loan is originated by the qualified community bank or small thrift institution or purchased by the qualified community bank or small thrift institution immediately after its origination in connection with a commitment to purchase made by the bank or thrift institution prior to the loan's origination.

(B) The loan is a small business loan or a residential mortgage loan, the principal amount of which loan is five million dollars or less, and either the borrower is located in this city as determined under section 11-654.2 of this subchapter and the loan is not secured by real property, or the loan is secured by real property located in the city.

(C) A loan that meets the definition of a qualifying loan in a prior taxable year (including years prior to the effective date of this paragraph) remains a qualifying loan in taxable years during and after which such loan is acquired by another corporation in the taxpayer's combined reporting group under section 11-654.3 of this subchapter.

(r) A small thrift institution or a qualified community bank, as defined in paragraph (q) of this subdivision, that maintained a captive REIT on April first, two thousand fourteen shall utilize a REIT subtraction equal to one hundred sixty percent of the dividends paid deductions allowed to that captive REIT for the taxable year for federal income tax purposes and shall not be allowed to utilize the subtraction modification for community banks and small thrifts under paragraph (q) of this subdivision or the subtraction modification for qualified residential loan portfolios under paragraph (s) of this subdivision in any tax year in which such thrift institution or community bank maintains that captive REIT.

(s) Subtraction modification for qualified residential loan portfolios. (1)(i) A taxpayer that is either a thrift institution as defined in subparagraph three of this paragraph or a qualified community bank as defined in subparagraph two of paragraph (q) of this subdivision and maintains a qualified residential loan portfolio as defined in subparagraph two of this paragraph shall be allowed as a deduction in computing entire net income the amount, if any, by which (A) thirty-two percent of

its entire net income determined without regard to this paragraph exceeds (B) the amounts deducted by the taxpayer pursuant to sections 166 and 585 of the internal revenue code less any amounts included in federal taxable income as a result of a recovery of a loan.

(ii)(A) If the taxpayer is in a combined report under section 11-654.3 of this subchapter, this deduction will be computed on a combined basis. In that instance, the entire net income of the combined reporting group for purposes of this paragraph shall be multiplied by a fraction, the numerator of which is the average total assets of all the thrift institutions and qualified community banks included in the combined report and the denominator of which is the average total assets of all the corporations included in the combined report.

(B) Measurement of assets. (I) Total assets are those assets that are properly reflected on a balance sheet, computed in the same manner as is required by the banking regulator of the taxpayers included in the combined return.

(II) Assets will only be included if the income or expenses of which are properly reflected (or would have been properly reflected if not fully depreciated or expensed, or depreciated or expensed to a nominal amount) in the computation of the combined group's entire net income for the taxable year. Assets will not include deferred tax assets and intangible assets identified as "goodwill".

(III) Tangible real and personal property, such as buildings, land, machinery, and equipment shall be valued at cost. Leased assets will be valued at the annual lease payment multiplied by eight. Intangible property, such as loans and investments, shall be valued at book value exclusive of reserves.

(IV) Intercorporate stockholdings and bills, notes and accounts receivable, and other intercorporate indebtedness between the corporations included in the combined report shall be eliminated.

(V) Average assets are computed using the assets measured on the first day of the taxable year, and on the last day of each subsequent quarter of the taxable year or month or day during the taxable year.

(2) Qualified residential loan portfolio. (i) A taxpayer maintains a qualified residential loan portfolio if at least sixty percent of the amount of the total assets at the close of the taxable year of the thrift institution or qualified community bank consists of the assets described in subclauses (A) through (L) of this clause, with the application of the rule in the last undesignated subclause of this clause. If the taxpayer is a member of a combined group, the determination of whether there is a qualified residential loan portfolio will be made by aggregating the assets of the thrift institutions and qualified community banks that are members of the combined group. Assets: (A) cash, which includes cash and cash equivalents including cash items in the process of collection, deposits with other financial institutions, including corporate credit unions, balances with federal reserve banks and federal home loan banks, federal funds sold, and cash and cash equivalents on hand. Cash shall not include any balances serving as collateral for securities lending transactions; (B) obligations of the United States or of a state or political subdivision thereof, and stock or obligations of a corporation which is an instrumentality or a government sponsored enterprise of the United States or of a state or political subdivision thereof; (C) loans secured by a deposit or share of a member; (D) loans secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property or

real property used primarily for church purposes, loans made for the improvement of residential real property or real property used primarily for church purposes, provided that for purposes of this subclause, residential real property shall include single or multi-family dwellings, facilities in residential developments dedicated to public use or property used on a nonprofit basis for residents, and mobile homes not used on a transient basis; (E) property acquired through the liquidation of defaulted loans described in subclause (D) of this clause; (F) any regular or residual interest in a REMIC, as such term is defined in section 860D of the internal revenue code, but only in the proportion which the assets of such REMIC consist of property described in any of the preceding subclauses of this clause, except that if ninety-five percent or more of the assets of such REMIC are assets described in subclauses (A) through (E) of this clause, the entire interest in the REMIC shall qualify; (G) any mortgage-backed security which represents ownership of a fractional undivided interest in a trust, the assets of which consist primarily of mortgage loans, provided that the real property which serves as security for the loans is (or from the proceeds of the loan, will become) the type of property described in subclause (D) of this clause and any collateralized mortgage obligation, the security for which consists primarily of mortgage loans that maintain as security the type of property described in subclause (D) of this clause; (H) certificates of deposit in, or obligations of, a corporation organized under a state law which specifically authorizes such corporation to insure the deposits or share accounts of member associations; (I) loans secured by an interest in educational, health, or welfare institutions or facilities, including structures designed or used primarily for residential purposes for students, residents, and persons undercare, employees, or

members of the staff of such institutions or facilities; (J) loans made for the payment of expenses of college or university education or vocational training; (K) property used by the taxpayer in support of business which consists principally of acquiring the savings of the public and investing in loans; and (L) loans for which the taxpayer is the creditor and which are wholly secured by loans described in subclause (D) of this clause.

The value of accrued interest receivable and any loss-sharing commitment or other loan guaranty by a governmental agency will be considered part of the basis in the loans to which the accrued interest or loss protection applies.

(ii) At the election of the taxpayer, the percentage specified in clause (i) of this subparagraph shall be applied on the basis of the average assets outstanding during the taxable year, in lieu of the close of the taxable year. The taxpayer can elect to compute an average using the assets measured on the first day of the taxable year and on the last day of each subsequent quarter, or month or day during the taxable year. This election may be made annually.

(iii) For purposes of subclause (D) of clause (i) of this subparagraph, if a multifamily structure securing a loan is used in part for nonresidential use purposes, the entire loan is deemed a residential real property loan if the planned residential use exceeds eighty percent of the property's planned use (measured, at the taxpayer's election, by using square footage or gross rental revenue, and determined as of the time the loan is made).

(iv) For purposes of subclause (D) of clause (i) of this subparagraph, loans made to finance the acquisition or development of land shall be deemed to be loans secured by an interest in residential real property

if there is a reasonable assurance that the property will become residential real property within a period of three years from the date of acquisition of such land; but this sentence shall not apply for any taxable year unless, within such three year period, such land becomes residential real property. For purposes of determining whether any interest in a REMIC qualifies under subclause (F) of clause (i) of this subparagraph, any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding subclause under principles similar to the principle of such subclause (F), except that if such REMICs are part of a tiered structure, they shall be treated as one REMIC for purposes of such subclause (F).

(3) For purposes of this paragraph, a "thrift institution" is a savings bank, a savings and loan association, or other savings institution chartered and supervised as such under federal or state law.

9. (a) The term "calendar year" means a period of twelve calendar months (or any shorter period beginning on the date the taxpayer becomes subject to the tax imposed by this subchapter) ending on the thirty-first day of December, provided the taxpayer keeps its books on the basis of such period or on the basis of any period ending on any day other than the last day of a calendar month, or provided the taxpayer does not keep books, and includes, in case the taxpayer changes the period on the basis of which it keeps its books from a fiscal year to a calendar year, the period from the close of its last old fiscal year up to and including the following December thirty-first.

(b) The term "fiscal year" means a period of twelve calendar months (or any shorter period beginning on the date the taxpayer becomes subject to the tax imposed by this subchapter) ending on the last day of any month other than December, provided the taxpayer keeps its books on

the basis of such period, and includes, in case the taxpayer changes the period on the basis of which it keeps its books from a calendar year to a fiscal year or from one fiscal year to another fiscal year, the period from the close of its last old calendar or fiscal year up to the date designated as the close of its new fiscal year.

10. The term "tangible personal property" means corporeal personal property, such as machinery, tools, implements, goods, wares and merchandise, and does not mean money, deposits in banks, shares of stock, bonds, notes, credits or evidences of an interest property and evidences of debt.

11. The term "internal revenue code" means, unless otherwise specifically stated in this subchapter, the internal revenue code of 1986, as amended.

12. The term "combinable captive insurance company" means an entity that is treated as an association taxable as a corporation under the internal revenue code: (a) more than fifty percent of the voting stock of which is owned or controlled, directly or indirectly, by a single entity that is treated as an association taxable as a corporation under the internal revenue code and not exempt from federal income tax;

(b) that is licensed as a captive insurance company under the laws of this state or another jurisdiction;

(c) whose business includes providing, directly and indirectly, insurance or reinsurance covering the risks of its parent and/or members of its affiliated group; and

(d) fifty percent or less of whose gross receipts for the taxable year consist of premiums from arrangements that constitute insurance for federal income tax purposes.

For purposes of this subdivision, "affiliated group" has the same meaning as that term is given in section fifteen hundred four of the internal revenue code, except that the term "common parent corporation" in that section is deemed to mean any person, as defined in section seven thousand seven hundred one of the internal revenue code and references to "at least eighty percent" in section fifteen hundred four of the internal revenue code are to be read as "fifty percent or more;" section fifteen hundred four of the internal revenue code is to be read without regard to the exclusions provided for in subsection (b) of that section; "premiums" has the same meaning as that term is given in paragraph one of subdivision (c) of section fifteen hundred ten of the tax law, except that it includes consideration for annuity contracts and excludes any part of the consideration for insurance, reinsurance or annuity contracts that do not provide bona fide insurance, reinsurance or annuity benefits; and "gross receipts" includes the amounts included in gross receipts for purposes of paragraph fifteen of subsection (c) of section five hundred one of the internal revenue code, except that those amounts also include all premiums as defined in this subdivision.

13. The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not a corporation as defined by subdivision one of this section, or a trust or estate that is separate from its owner under part one of subchapter J of chapter one of subtitle A of the internal revenue code; and the term "partner" includes a member in such syndicate, group, pool, joint venture, or organization.

§ 11-653 Imposition of tax; exemptions. 1. (a) For the privilege of doing business, or of employing capital, or of owning or leasing proper-

ty in the city in a corporate or organized capacity, or of maintaining an office in the city, or of deriving receipts from activity in the city, for all or any part of each of its fiscal or calendar years, every domestic or foreign corporation, except corporations specified in subdivision four of this section, shall annually pay a tax, upon the basis of its business income, or upon such other basis as may be applicable as hereinafter provided, for such fiscal or calendar year or part thereof, on a report which shall be filed, except as hereinafter provided, on or before the fifteenth day of March next succeeding the close of each such year, or, in the case of a taxpayer which reports on the basis of a fiscal year, within two and one-half months after the close of such fiscal year, and shall be paid as hereinafter provided.

(b) A corporation is deriving receipts from activity in the city if it has receipts within the city of one million dollars or more in the taxable year. For purposes of this section, the term "receipts" means the receipts that are subject to the apportionment rules set forth in section 11-654.2 of this subchapter, and the term "receipts within the city" means the receipts included in the numerator of the receipts percentage determined under section 11-654.2 of this subchapter. For purposes of this paragraph, receipts from processing credit card transactions for merchants include merchant discount fees received by the corporation.

(c) A corporation is doing business in the city if (1) it has issued credit cards to one thousand or more customers who have a mailing address within the city as of the last day of its taxable year, (2) it has merchant customer contracts with merchants and the total number of locations covered by those contracts equals one thousand or more locations in the city to whom the corporation remitted payments for

credit card transactions during the taxable year, or (3) the sum of the number of customers described in subparagraph one of this paragraph plus the number of locations covered by its contracts described in subparagraph two of this paragraph equals one thousand or more. As used in this subdivision, the term "credit card" includes bank, credit, travel and entertainment cards.

(d)(1) A corporation with less than one million dollars but at least ten thousand dollars of receipts within the city in a taxable year that is part of a unitary group under section 11-654.3 of this subchapter is deriving receipts from activity in the city if the receipts within the city of the members of the unitary group that have at least ten thousand dollars of receipts within the city in the aggregate meet the threshold set forth in paragraph (b) of this subdivision.

(2) A corporation that does not meet any of the thresholds set forth in paragraph (c) of this subdivision but has at least ten customers, or locations, or customers and locations, as described in paragraph (c) of this subdivision, and is part of a unitary group that meets the ownership test under section 11-654.3 of this subchapter is doing business in the city if the number of customers, locations, or customers and locations, within the city of the members of the unitary group that have at least ten customers, locations, or customers and locations, within the city in the aggregate meets any of the thresholds set forth in paragraph (c) of this subdivision.

(e) At the end of each year, the commissioner of finance shall review the cumulative percentage change in the consumer price index. The commissioner of finance shall adjust the receipt thresholds set forth in this subdivision if the consumer price index has changed by ten percent or more since January first, two thousand fifteen, or since the date

that the thresholds were last adjusted under this subdivision. The thresholds shall be adjusted to reflect that cumulative percentage change in the consumer price index. The adjusted thresholds shall be rounded to the nearest one thousand dollars. As used in this paragraph, "consumer price index" means the consumer price index for all urban consumers (CPI-U) available from the bureau of labor statistics of the United States department of labor. Any adjustment shall apply to tax periods that begin after the adjustment is made.

(f) If a partnership is doing business, employing capital, owning or leasing property in the city, maintaining an office in the city, or deriving receipts from activity in the city, any corporation that is a partner in such partnership shall be subject to tax under this subchapter as described in the regulations of the commissioner of finance.

2. A corporation shall not be deemed to be doing business, employing capital, owning or leasing property, or maintaining an office in the city, or deriving receipts from activity in the city, for the purposes of this subchapter, by reason of

(a) the maintenance of cash balances with banks or trust companies in the city, or

(b) the ownership of shares of stock or securities kept in the city, if kept in a safe deposit box, safe, vault or other receptacle rented for the purpose, or if pledged as collateral security, or if deposited with one or more banks or trust companies, or brokers who are members of a recognized security exchange, in safekeeping or custody accounts, or

(c) the taking of any action by any such bank or trust company or broker, which is incidental to the rendering of safekeeping or custodian service to such corporation, or

(d) the maintenance of an office in the city by one or more officers or directors of the corporation who are not employees of the corporation if the corporation otherwise is not doing business in the city, and does not employ capital or own or lease property in the city, or

(e) the keeping of books or records of a corporation in the city if such books or records are not kept by employees of such corporation and such corporation does not otherwise do business, employ capital, own or lease property or maintain an office in the city, or

(f) any combination of the foregoing activities.

2-a. An alien corporation shall not be deemed to be doing business, employing capital, owning or leasing property, or maintaining an office in the city, for the purposes of this subchapter, if its activities in the city are limited solely to

(a) investing or trading in stocks and securities for its own account within the meaning of clause (ii) of subparagraph (A) of paragraph (2) of subsection (b) of section eight hundred sixty-four of the internal revenue code, or

(b) investing or trading in commodities for its own account within the meaning of clause (ii) of subparagraph (B) of paragraph (2) of subsection (b) of section eight hundred sixty-four of the internal revenue code, or

(c) any combination of activities described in paragraphs (a) and (b) of this subdivision.

An alien corporation that under any provision of the internal revenue code is not treated as a "domestic corporation" as defined in section seven thousand seven hundred one of such code and has no effectively connected income for the taxable year pursuant to clause three of the opening paragraph of subdivision eight of section 11-652 of this

subchapter shall not be subject to tax under this subchapter for that taxable year. For purposes of this subchapter, an alien corporation is a corporation organized under the laws of a country, or any political subdivision thereof, other than the United States, or organized under the laws of a possession, territory or commonwealth of the United States.

3. Any receiver, referee, trustee, assignee or other fiduciary, or any officer or agent appointed by any court, who conducts the business of any corporation, shall be subject to the tax imposed by this subchapter in the same manner and to the same extent as if the business were conducted by the agents or officers of such corporation. A dissolved corporation which continues to conduct business shall also be subject to the tax imposed by this subchapter.

4. (a) Corporations subject to tax under chapter eleven of this title, any trust company organized under a law of this state all of the stock of which is owned by not less than twenty savings banks organized under a law of this state, housing companies organized and operating pursuant to the provisions of article two of the private housing finance law, housing development fund companies organized pursuant to the provisions of article eleven of the private housing finance law, corporations described in section three of the tax law, a corporation principally engaged in the operation of marine vessels whose activities in the city are limited exclusively to the use of property in interstate or foreign commerce, provided, however, such a corporation will not be subject to tax under this subchapter solely because it maintains an office in the city, or employs capital in the city, in connection with such use of property, a corporation principally engaged in the conduct of a ferry business and operating between any of the boroughs of the city under a

lease granted by the city and a corporation principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more of such businesses, all of the capital stock of which is owned by a municipal corporation of this state, shall not be subject to tax under this subchapter; provided, however, that any corporation, other than (1) a utility corporation subject to the supervision of the state department of public service, and (2) for taxable years beginning on or after August first, two thousand two, a utility as defined in subdivision six of section 11-1101 of this title, which is subject to tax under chapter eleven of this title as a vendor of utility services shall be subject to tax under this subchapter, but in computing the tax imposed by this section pursuant to the provisions of clause (i) of subparagraph one of paragraph (e) of subdivision one of section 11-654 of this subchapter, business income allocated to the city pursuant to paragraph (a) of subdivision three of such section shall be reduced by the percentage which such corporation's gross operating income subject to tax under chapter eleven of this title is of its gross operating income.

(b) The term "gross operating income", when used in paragraph (a) of this subdivision, means receipts received in or by reason of any transaction had and consummated in the city, including cash, credits and property of any kind or nature (whether or not such transaction is made for profit), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or other services, delivery costs or any other costs whatsoever, interest or discount paid or any other expenses whatsoever.

(c) If it shall appear to the commissioner of finance that the application of the proviso of paragraph (a) of this subdivision, does not fairly and equitably reflect the portion of the taxpayer's business

income allocable to the city which is attributable to its city activities which are not taxable under subchapter two of chapter eleven of this title, the commissioner of finance may prescribe other means or methods of determining such portion, including the use of the books and records of the taxpayer, if the commissioner of finance finds that such means or methods used in keeping them fairly and equitably reflect such portion.

5. Intentionally omitted.

6. Intentionally omitted.

7. For any taxable year of a real estate investment trust, as defined in section eight hundred fifty-six of the internal revenue code, in which such trust is subject to federal income taxation under section eight hundred fifty-seven of such code, such trust shall be subject to a tax computed under either clause (i) of subparagraph one of paragraph (e) subdivision one of section 11-654 of this subchapter, or clause (iv), whichever is greater. In the case of such a real estate investment trust, including a captive REIT as defined in section 11-601 of this chapter, the term "entire net income" means "real estate investment trust taxable income" as defined in paragraph two of subdivision (b) of section eight hundred fifty-seven (as modified by section eight hundred fifty-eight) of the internal revenue code plus the amount taxable under paragraph three of subdivision (b) of section eight hundred fifty-seven of such code, subject to the modifications required by subdivision eight of section 11-652 of this subchapter including the modifications required by paragraphs (d) and (e) of subdivision three of section 11-654 of this subchapter.

8. For any taxable year of a regulated investment company, as defined in section eight hundred fifty-one of the internal revenue code, in

which such company is subject to federal income taxation under section eight hundred fifty-two of such code, such company shall be subject to a tax computed under either clause one or four of subparagraph (a) of paragraph E of subdivision one of section 11-654 of this subchapter, whichever is greater. In the case of such a regulated investment company, including a captive RIC as defined in section 11-601 of this chapter, the term "entire net income" used in subdivision one of this section means "investment company taxable income" as defined in paragraph two of subdivision (b) of section eight hundred fifty-two, as modified by section eight hundred fifty-five, of the internal revenue code plus the amount taxable under paragraph three of subdivision (b) of section eight hundred fifty-two of such code subject to the modifications required by subdivision eight of section 11-652 of this subchapter, including the modification required by paragraphs (d) and (e) of subdivision three of section 11-654 of this subchapter.

9. An organization described in paragraph two or twenty-five of subdivision (c) of section five hundred one of the internal revenue code shall be exempt from all taxes imposed by this subchapter.

§ 11-654 Computation of tax. 1. (a) Intentionally omitted.

(b) Intentionally omitted.

(c) Intentionally omitted.

(d) Intentionally omitted.

(e) The tax imposed by subdivision one of section 11-653 of this subchapter shall be, in the case of each taxpayer:

(1) whichever of the following amounts is the greatest:

(i) an amount computed at the rate of eight and eighty-five one-hundredths per centum, of its business income or the portion of such business income allocated within the city as hereinafter provided, subject

to the application of paragraphs (j) and (k) of this subdivision and any modification required by paragraphs (d) and (e) of subdivision three of this section,

(ii) an amount computed by multiplying its total business capital, or the portion thereof allocated within the city, as hereinafter provided, by fifteen one-hundredths per centum and subtracting ten thousand dollars from the total, except that in the case of a cooperative housing corporation as defined in the internal revenue code, such amount shall be computed by multiplying its total business capital, or the portion thereof allocated within the city, as hereinafter provided, by four one-hundredths per centum and subtracting ten thousand dollars from the total, provided that if such amount is less than zero it shall be deemed to be zero, and provided further that in no event shall the amount of tax computed on the taxpayer's business capital, or the portion of thereof allocated within the city, exceed ten million dollars, or

(iii) Intentionally omitted

(iv) If New York city receipts are:

	Fixed dollar minimum tax is:
Not more than $100,000	$25
More than $100,000 but not over $250,000	$75
More than $250,000 but not over $500,000	$175
More than $500,000 but not over $1,000,000	$500
More than $1,000,000 but not over $5,000,000	$1,500
More than $5,000,000 but not over $25,000,000	$3,500
More than $25,000,000 but not over $50,000,000	$5,000
More than $50,000,000 but not over $100,000,000	$10,000
More than $100,000,000 but not over $250,000,000	$20,000
More than $250,000,000 but not over $500,000,000	$50,000

More than $500,000,000 but not over $1,000,000,000 $100,000

Over $1,000,000,000 $200,000

For purposes of this clause, New York city receipts are the receipts computed in accordance with section 11-654.2 of this subchapter for the taxable year. If the taxable year is less than twelve months, the amount prescribed by this clause shall be reduced by twenty-five percent if the period for which the taxpayer is subject to tax is more than six months but not more than nine months and by fifty percent if the period for which the taxpayer is subject to tax is not more than six months. If the taxable year is less than twelve months, the amount of New York city receipts for purposes of this clause is determined by dividing the amount of the receipts for the taxable year by the number of months in the taxable year and multiplying the result by twelve.

(f) Intentionally omitted.

(g) Intentionally omitted.

(h) Intentionally omitted.

(i) Intentionally omitted.

(j) (1) If the amount of business income computed without taking into account the prior net operation loss conversion subtraction provided for in subdivision two of section 11-654.1 of this subchapter allocated within the city as hereinafter provided is less than one million dollars, the amount computed in clause (i) of subparagraph one of paragraph (e) of this subdivision shall be at the rate of six and five-tenths per centum of the amount of business income allocated within the city as hereinafter provided, subject to any modification required by paragraphs (d) and (e) of subdivision three of this section;

(2) Subject to subparagraph three of this paragraph, if the amount of business income computed without taking into account the prior net oper-

ating loss conversion subtraction provided for in subdivision two of section 11-654.1 of this subchapter allocated within the city as hereinafter provided is one million dollars or greater but less than one million dollars but less than one million five hundred thousand dollars, the amount computed in clause (i) of subparagraph one of paragraph (e) of this subdivision shall be at the rate of (i) six and five-tenths per centum, plus (ii) two and thirty-five one-hundredths per centum multiplied by a fraction the numerator of which is allocated business income computed without taking into account the prior net operating loss conversion subtraction provided for in subdivision two of section 11-654.1 of this subchapter less one million dollars and the denominator of which is five hundred thousand dollars, of the amount of business income allocated within the city as hereinafter provided, subject to any modification required by paragraphs (d) and (e) of subdivision three of this section;

(3) Provided, however, notwithstanding anything to the contrary, if the amount of unallocated business income computed without taking into account the prior net operating loss conversion subtraction provided for in subdivision two of section 11-654.1 of this subchapter is two million dollars or greater but less than three million dollars, the rate of tax provided for in this paragraph shall not be less than (i) six and five-tenths per centum, plus (ii) two and thirty-five one-hundredths per centum multiplied by a fraction the numerator of which is unallocated business income computed without taking into account the prior net operating loss conversion subtraction provided for in subdivision two of section 11-654.1 of this subchapter less two million dollars and the denominator of which is one million dollars, and provided, however, notwithstanding anything to the contrary, if the amount of unallocated

business income computed without taking into account the prior net operating loss conversion subtraction provided for in subdivision two of section 11-654.1 of this subchapter is three million dollars or greater, the rate of tax shall be eight and eighty-five one hundredths percentum.

(k)(1) For qualified New York city manufacturing corporations as defined in subparagraph four of this paragraph, if the amount of business income computed without taking into account the prior net operating loss conversion subtraction provided for in subdivision two of section 11-654.1 of this subchapter allocated within the city as hereinafter provided is less than ten million dollars, the amount computed in clause (i) of subparagraph one of paragraph (e) of this subdivision shall be at the rate of four and four hundred twenty-five one thousandths per centum, of its business income allocated within the city as hereinafter provided, subject to any modification required by paragraphs (d) and (e) of subdivision three of this section;

(2) Subject to subparagraph three of this paragraph for qualified New York city manufacturing corporations as defined in subparagraph four of this paragraph, if the amount of business income computed without taking into account the prior net operating loss conversion subtraction provided for in subdivision two of section 11-654.1 of this subchapter allocated within the city as hereinafter provided is ten million dollars or greater but less than twenty million dollars, the amount computed in clause (i) of subparagraph one of paragraph (e) of this subdivision shall be at the rate of (i) four and four hundred twenty-five one-thousandths per centum, plus (ii) four and four hundred twenty-five one-thousandths per centum multiplied by a fraction the numerator of which is allocated business income computed without taking into account the prior net operating loss conversion subtraction provided for in subdivi-

sion two of section 11-654.1 of this subchapter less ten million dollars and the denominator of which is ten million dollars, of its business income or the portion of such business income allocated within the city as hereinafter provided, subject to any modification required by paragraphs (d) and (e) of subdivision three of this section;

(3) Notwithstanding anything to the contrary, if the amount of unallocated business income computed without taking into account the prior net operating loss conversion subtraction provided for in subdivision two of section 11-654.1 of this subchapter is twenty million dollars or greater but less than forty million dollars, the rate of tax provided for in this paragraph shall not be less than (i) four and four hundred twenty-five one thousandths percentum, plus (ii) four and four hundred twenty-five one thousandths percentum multiplied by a fraction the numerator of which is unallocated business income computed without taking into account the prior net operating loss conversion subtraction provided for in subdivision two of section 11-654.1 of this subchapter less twenty million dollars and the denominator of which is twenty million dollars, and provided, however, notwithstanding anything to the contrary, if the amount of unallocated business income computed without taking into account the prior net operating loss conversion subtraction provided for in subdivision two of section 11-654.1 of this subchapter is forty million dollars or greater, the rate of tax shall be eight and eighty-five one-hundredths per centum.

(4)(i) As used in this subparagraph, the term "manufacturing corporation" means a corporation principally engaged in the manufacturing and sale thereof of tangible personal property; and the term "manufacturing" includes the process (including the assembly process) (A) of working raw materials into wares suitable for use or (B) which gives new shapes, new

qualities or new combinations to matter which already has gone through some artificial process, by the use of machinery, tools, appliances and other similar equipment. Moreover, in the case of a combined report, a combined group shall be considered a "manufacturing corporation" for purposes of this subparagraph only if the combined group during the taxable year is principally engaged in the activities set forth in this paragraph, or any combination thereof. A taxpayer or, in the case of a combined report, a combined group, shall be "principally engaged" in activities described above if, during the taxable year, more than fifty percent of the gross receipts of the taxpayer or combined group, respectively, are derived from receipts from the sale of goods produced by such activities. In computing a combined group's gross receipts, intercorporate receipts shall be eliminated.

(ii) A "qualified New York city manufacturing corporation" is a manufacturing corporation that has property in the city which is described in subparagraph five of this paragraph and either (A) the adjusted basis of such property for federal income tax purposes at the close of the taxable year is at least one million dollars or (B) more than fifty percentum of its real and personal property is located in the city.

(5) For purposes of subclause (A) of clause (ii) of subparagraph four of this paragraph, property includes tangible personal property and other tangible property, including buildings and structural components of buildings, which are: depreciable pursuant to section one hundred sixty-seven of the internal revenue code, have a useful life of four years or more, are acquired by purchase as defined in subsection (d) of section one hundred seventy-nine of the internal revenue code, have a situs in this city and are principally used by the taxpayer in the production of goods by manufacturing. Property used in the production of

goods shall include machinery, equipment or other tangible property which is principally used in the repair and service of other machinery, equipment or other tangible property used principally in the production of goods and shall include all facilities used in the production operation, including storage of material to be used in production and of the products that are produced.

2. The amount of business capital shall be determined by taking the average value of the gross assets included therein (less liabilities deductible therefrom pursuant to the provisions of subdivisions four and six of section 11-652 of this subchapter), and, if the period covered by the report is other than a period of twelve calendar months, by multiplying such value by the number of calendar months or major parts thereof included in such period, and dividing the product thus obtained by twelve. For purposes of this subdivision, real property and marketable securities shall be valued at fair market value and the value of personal property other than marketable securities shall be the value thereof shown on the books and records of the taxpayer in accordance with generally accepted accounting principles.

3. The portion of the business income of a taxpayer to be allocated to the city shall be determined as follows:

(a) multiply its business income by a business allocation percentage to be determined by:

(1) ascertaining the percentage which the average value of the taxpayer's real and tangible personal property, whether owned or rented to it, within the city during the period covered by its report bears to the average value of all the taxpayer's real and tangible personal property, whether owned or rented to it, wherever situated during such period. For the purpose of this subparagraph, the term "value of the taxpayer's real

and tangible personal property" shall mean the adjusted bases of such properties for federal income tax purposes (except that in the case of rented property such value shall mean the product of (i) eight and (ii) the gross rents payable for the rental of such property during the taxable year); provided, however, that the taxpayer may make a one-time, revocable election, pursuant to regulations promulgated by the commissioner of finance to use fair market value as the value of all of its real and tangible personal property, provided that such election is made on or before the due date for filing a report under section 11-655 of this subchapter for the taxpayer's first taxable year commencing on or after January first, two thousand fifteen and provided that such election shall not apply to any taxable year with respect to which the taxpayer is included on a combined report unless each of the taxpayers included on such report has made such an election which remains in effect for such year or to any taxpayer that was subject to tax under subchapter two of this chapter and did not have an election in effect under subparagraph one of paragraph (a) of subdivision three of section 11-604 of this chapter on December thirty-first, two thousand fourteen;

(2) ascertaining the percentage determined under section 11-654.2 of this subchapter;

(3) ascertaining the percentage of the total wages, salaries and other personal service compensation, similarly computed, during such period of employees within the city, except general executive officers, to the total wages, salaries and other personal service compensation, similarly computed, during such period of all the taxpayer's employees within and without the city, except general executive officers; and

(4) adding together the percentages so determined and dividing the result by the number of percentages.

(5) Intentionally omitted.

(6) Intentionally omitted.

(7) Intentionally omitted.

(8) Intentionally omitted.

(9) Intentionally omitted.

(10) Notwithstanding subparagraphs one through four of this paragraph, the business allocation percentage, to the extent that it is computed by reference to the percentages determined under subparagraphs one, two and three of this paragraph, shall be computed in the manner set forth in this subparagraph.

(i) Intentionally omitted.

(ii) Intentionally omitted.

(iii) Intentionally omitted.

(iv) Intentionally omitted.

(v) Intentionally omitted.

(vi) Intentionally omitted.

(vii) For taxable years beginning in two thousand fifteen, the business allocation percentage shall be determined by adding together the following percentages:

(A) the product of ten percent and the percentage determined under subparagraph one of this paragraph;

(B) the product of eighty percent and the percentage determined under subparagraph two of this paragraph; and

(C) the product of ten percent and the percentage determined under subparagraph three of this paragraph.

(viii) For taxable years beginning in two thousand sixteen, the business allocation percentage shall be determined by adding together the following percentages:

(A) the product of six and one-half percent and the percentage determined under subparagraph one of this paragraph;

(B) the product of eighty-seven percent and the percentage determined under subparagraph two of this paragraph; and

(C) the product of six and one-half percent and the percentage determined under subparagraph three of this paragraph.

(ix) For taxable years beginning in two thousand seventeen, the business allocation percentage shall be determined by adding together the following percentages:

(A) the product of three and one-half percent and the percentage determined under subparagraph one of this paragraph;

(B) the product of ninety-three percent and the percentage determined under subparagraph two of this paragraph; and

(C) the product of three and one-half percent and the percentage determined under subparagraph three of this paragraph.

(x) For taxable years beginning after two thousand seventeen, the business allocation percentage shall be the percentage determined under subparagraph two of this paragraph.

(xi) The commissioner of finance shall promulgate rules necessary to implement the provisions of this subparagraph under such circumstances where any of the percentages to be determined under subparagraph one, two or three of this paragraph cannot be determined because the taxpayer has no property, receipts or wages within or without the city.

(b) Intentionally omitted.

(c) Intentionally omitted.

(d) In any taxable year when property is sold or otherwise disposed of, with respect to which a deduction has been allowed pursuant to subparagraph one or two of paragraph (d) of subdivision three of section

11-604 of this chapter or subdivision (k) of section 11-641 of this chapter in any period in which the taxpayer was subject to tax under subchapter two of this chapter, the gain or loss thereon entering into the computation of federal taxable income shall be disregarded in computing entire net income, and there shall be added to or subtracted from the portion of entire net income allocated within the city the gain or loss upon such sale or other disposition. In computing such gain or loss the basis of the property sold or disposed of shall be adjusted to reflect the deduction allowed with respect to such property pursuant to subparagraph one or two of paragraph (d) of subdivision three of section 11-604 of this chapter. Provided, however, that no loss shall be recognized for the purposes of this subparagraph with respect to a sale or other disposition of property to a person whose acquisition thereof is not a purchase as defined in subsection (d) of section one hundred seventy-nine of the internal revenue code.

(e) In any taxable year when property is sold or otherwise disposed of, with respect to which a deduction has been allowed pursuant to subparagraph one or two of paragraph (e) of subdivision three of section 11-604 of this chapter in any period the taxpayer was subject to tax under subchapter two of this chapter, the gain or loss thereon entering into the computation of federal taxable income shall be disregarded in computing entire net income, and there shall be added to or subtracted from the portion of entire net income allocated within the city the gain or loss upon such sale or other disposition. In computing such gain or loss the basis of the property sold or disposed of shall be adjusted to reflect the deduction allowed with respect to such property pursuant to subparagraph one or two of paragraph (e) of subdivision three of section 11-604 of this chapter. Provided, however, that no loss shall be recog-

nized for the purposes of this subparagraph with respect to a sale or other disposition of property to a person whose acquisition thereof is not a purchase as defined in subsection (d) of section one hundred seventy-nine of the internal revenue code.

4. The portion of the business capital of a taxpayer to be allocated within the city shall be determined by multiplying the amount thereof by the business allocation percentage determined as hereinabove provided.

4-a. A corporation that is a partner in a partnership shall compute tax under this subchapter using any method required or permitted in regulations of the commissioner of finance.

5. Intentionally omitted.

6. Intentionally omitted.

7. Intentionally omitted.

8. Intentionally omitted.

9. If it shall appear to the commissioner of finance that any business allocation percentage determined as hereinabove provided does not properly reflect the activity, business, income or capital of a taxpayer within the city, the commissioner of finance shall be authorized in his or her discretion to adjust it, or the taxpayer may request that the commissioner of finance adjust it, by (a) excluding one or more of the factors therein, (b) including one or more other factors, such as expenses, purchases, contract values (minus subcontract values), (c) excluding one or more assets in computing such allocation percentage, provided the income therefrom, is also excluded in determining entire net income, or (d) any other similar or different method calculated to effect a fair and proper allocation of the income and capital reasonably attributable to the city. The commissioner of finance from time to time

shall publish all rulings of general public interest with respect to any application of the provisions of this subdivision.

10. Intentionally omitted.

11. Intentionally omitted.

12. Intentionally omitted.

13. (a) In addition to any other credit allowed by this section, a taxpayer shall be allowed a credit against the tax imposed by this subchapter to be credited or refunded without interest, in the manner hereinafter provided in this section.

(1)(i) Where a taxpayer shall have relocated to the city from a location outside the state, and by such relocation shall have created a minimum of one hundred industrial or commercial employment opportunities; and where such taxpayer shall have entered into a written lease for the relocation premises, the terms of which lease provide for increased additional payments to the landlord which are based solely and directly upon any increase or addition in real estate taxes imposed on the leased premises, the taxpayer upon approval and certification by the industrial and commercial incentive board as hereinafter provided shall be entitled to a credit against the tax imposed by this subchapter. The amount of such credit shall be an amount equal to the annual increased payments actually made by the taxpayer to the landlord which are solely and directly attributable to an increase or addition to the real estate tax imposed upon the leased premises. Such credit shall be allowed only to the extent that the taxpayer has not otherwise claimed said amount as a deduction against the tax imposed by this subchapter.

(ii) The industrial and commercial incentive board in approving and certifying to the qualifications of the taxpayer to receive the tax credit provided for herein shall first determine that the applicant has

met the requirements of this section, and further, that the granting of the tax credit to the applicant is in the "public interest". In determining that the granting of the tax credit is in the public interest, the board shall make affirmative findings that: the granting of the tax credit to the applicant will not effect an undue hardship on similar taxpayers already located within the city; the existence of this tax incentive has been instrumental in bringing about the relocation of the applicant to the city; and the granting of the tax credit will foster the economic recovery and economic development of the city.

(iii) The tax credit, if approved and certified by the industrial and commercial incentive board, must be utilized annually by the taxpayer for the length of the term of the lease or for a period not to exceed ten years from the date of relocation whichever period is shorter.

(2) When used in this subdivision:

(i) "Employment opportunity" means the creation of a full time position of gainful employment for an industrial or commercial employee and the actual hiring of such employee for the said position.

(ii) "Industrial employee" means one engaged in the manufacture or assembling of tangible goods or the processing of raw materials.

(iii) "Commercial employee" means one engaged in the buying, selling or otherwise providing of goods or services other than on a retail basis.

(iv) "Retail" means the selling or otherwise disposing or furnishing of tangible goods or services directly to the ultimate user or consumer.

(v) "Full time position" means the hiring of an industrial or commercial employee in a position of gainful employment where the number of hours worked by such employees is not less than thirty hours during any given work week.

(vi) "Industrial and commercial incentive board" means the board created pursuant to part three of subchapter two of chapter two of this title.

(b) The credit allowed under this subdivision for any taxable year shall be deemed to be an overpayment of tax by the taxpayer to be credited or refunded, without interest, in accordance with the provisions of section 11-677 of this chapter.

14. (a) In addition to any other credit allowed by this section, a taxpayer shall be allowed a credit against the tax imposed by this subchapter to be credited or refunded without interest, in the manner hereinafter provided in this section. The amount of such credit shall be:

(1) A maximum of three hundred dollars for each commercial employment opportunity and a maximum of five hundred dollars for each industrial employment opportunity relocated to the city from an area outside the state. Such credit shall be allowed to a taxpayer who relocates a minimum of ten employment opportunities. The credit shall be allowed against employment opportunity relocation costs incurred by the taxpayer. Such credit shall be allowed only to the extent that the taxpayer has not claimed a deduction for allowable employment opportunity relocation costs. The credit allowed hereunder may be taken by the taxpayer in whole or in part in the year in which the employment opportunity is relocated by such taxpayer or either of the two years succeeding such event, provided, however, no credit shall be allowed under this subdivision to a taxpayer for industrial employment opportunities relocated to premises (i) that are within an industrial business zone established pursuant to section 22-626 of this code and (ii) for which a binding

contract to purchase or lease was first entered into by the taxpayer on or after July first, two thousand five.

The commissioner of finance is empowered to promulgate rules and regulations and to prescribe the form of application to be used by a taxpayer seeking the credit provided hereunder.

(2) When used in this subdivision:

(i) "Employment opportunity" means the creation of a full time position of gainful employment for an industrial or commercial employee and the actual hiring of such employee for the said position.

(ii) "Industrial employee" means one engaged in the manufacture or assembling of tangible goods or the processing of raw materials.

(iii) "Commercial employee" means one engaged in the buying, selling or otherwise providing of goods or services other than on a retail basis.

(iv) "Retail" means the selling or otherwise disposing of tangible goods directly to the ultimate user or consumer.

(v) "Full time position" means the hiring of an industrial or commercial employee in a position of gainful employment where the number of hours worked by such employee is not less than thirty hours during any given work week.

(vi) "Employment opportunity relocation costs" means the costs incurred by the taxpayer in moving furniture, files, papers and office equipment into the city from a location outside the state; the costs incurred by the taxpayer in the moving and installation of machinery and equipment into the city from a location outside the state; the costs of installation of telephones and other communications equipment required as a result of the relocation to the city from a location outside the state; the cost incurred in the purchase of office furniture and

fixtures required as a result of the relocation to the city from a location outside the state; and the cost of renovation of the premises to be occupied as a result of the relocation; provided, however, that such renovation costs shall be allowable only to the extent that they do not exceed seventy-five cents per square foot of the total area utilized by the taxpayer in the occupied premises.

(b) The credit allowed under this section for any taxable year shall be deemed to be an overpayment of tax by the taxpayer to be credited or refunded without interest in accordance with the provisions of section 11-677 of this chapter.

(c) Notwithstanding any other provision of this subdivision to the contrary, in the case of a taxpayer that has received, in a taxable year beginning before January first, two thousand fifteen, the credit set forth in subdivision fourteen of section 11-604 of this chapter for an eligible employment relocation, a credit shall be allowed to the taxpayer under this subdivision for any tax year beginning on or after January first, two thousand fifteen, in the same amount and to the same extent that a credit, or the unused portion thereof, would have been allowed under subdivision fourteen of section 11-604 of this chapter, as in effect on December thirty-first, two thousand fourteen, if such subdivision continued to apply to the taxpayer for such taxable year.

15. Intentionally omitted.

16. Intentionally omitted.

17. (a) In addition to any other credit allowed by this section, a taxpayer that has obtained the certifications required by chapter six-B of title twenty-two of this code shall be allowed a credit against the tax imposed by this subchapter. The amount of the credit shall be the amount determined by multiplying five hundred dollars or, in the case of

a taxpayer that has obtained pursuant to chapter six-B of such title twenty-two a certification of eligibility dated on or after July first, nineteen hundred ninety-five, one thousand dollars or, in the case of an eligible business that has obtained pursuant to chapter six-B of such title twenty-two a certification of eligibility dated on or after July first, two thousand, for a relocation to eligible premises located within a revitalization area defined in subdivision (n) of section 22-621 of this code, three thousand dollars, by the number of eligible aggregate employment shares maintained by the taxpayer during the taxable year with respect to particular premises to which the taxpayer has relocated; provided, however, with respect to a relocation for which no application for a certificate of eligibility is submitted prior to July first, two thousand three, to eligible premises that are not within a revitalization area, if the date of such relocation as determined pursuant to subdivision (j) of section 22-621 of this code is before July first, nineteen hundred ninety-five, the amount to be multiplied by the number of eligible aggregate employment shares shall be five hundred dollars, and with respect to a relocation for which no application for a certificate of eligibility is submitted prior to July first, two thousand three, to eligible premises that are within a revitalization area, if the date of such relocation as determined pursuant to subdivision (j) of such section is before July first, nineteen hundred ninety-five, the amount to be multiplied by the number of eligible aggregate employment shares shall be five hundred dollars, and if the date of such relocation as determined pursuant to subdivision (j) of such section is on or after July first, nineteen hundred ninety-five, and before July first, two thousand, one thousand dollars; provided, however, that no credit shall be allowed for the relocation of any retail activity or hotel services;

provided, further, that no credit shall be allowed under this subdivision to any taxpayer that has elected pursuant to subdivision (d) of section 22-622 of this code to take such credit against a gross receipts tax imposed by chapter eleven of this title; and provided that in the case of an eligible business that has obtained pursuant to chapter six-B of such title twenty-two certifications of eligibility for more than one relocation, the portion of the total amount of eligible aggregate employment shares to be multiplied by the dollar amount specified in this subdivision for each such certification of a relocation shall be the number of total attributed eligible aggregate employment shares determined with respect to such relocation pursuant to subdivision (o) of section 22-621 of this code. For purposes of this subdivision, the terms "eligible aggregate employment shares," "relocate," "retail activity" and "hotel services" shall have the meanings ascribed by section 22-621 of this code.

(b) The credit allowed under this subdivision with respect to eligible aggregate employment shares maintained with respect to particular premises to which the taxpayer has relocated shall be allowed for the first taxable year during which such eligible aggregate employment shares are maintained with respect to such premises and for any of the twelve succeeding taxable years during which eligible aggregate employment shares are maintained with respect to such premises; provided that the credit allowed for the twelfth succeeding taxable year shall be calculated by multiplying the number of eligible aggregate employment shares maintained with respect to such premises in the twelfth succeeding taxable year by the lesser of one and a fraction the numerator of which is such number of days in the taxable year of relocation less the number of days the eligible business maintained employment shares in the eligible

premises in the taxable year of relocation and the denominator of which is the number of days in such twelfth succeeding taxable year during which such eligible aggregate employment shares are maintained with respect to such premises. Except as provided in paragraph (d) of this subdivision, if the amount of the credit allowable under this subdivision for any taxable year exceeds the tax imposed for such year, the excess may be carried over, in order, to the five immediately succeeding taxable years and, to the extent not previously deductible, may be deducted from the taxpayer's tax for such years.

(c) The credit allowable under this subdivision shall be deducted after the credit allowed by subdivision eighteen of this section, but prior to the deduction of any other credit allowed by this section.

(d) In the case of a taxpayer that has obtained a certification of eligibility pursuant to chapter six-B of title twenty-two of this code dated on or after July first, two thousand for a relocation to eligible premises located within the revitalization area defined in subdivision (n) of section 22-621 of this code, the credits allowed under this subdivision, or in the case of a taxpayer that has relocated more than once, the portion of such credits attributed to such certification of eligibility pursuant to paragraph (a) of this subdivision, against the tax imposed by this chapter for the taxable year of such relocation and for the four taxable years immediately succeeding the taxable year of such relocation, shall be deemed to be overpayments of tax by the taxpayer to be credited or refunded, without interest, in accordance with the provisions of section 11-677 of this chapter. For such taxable years, such credits or portions thereof may not be carried over to any succeeding taxable year; provided, however, that this paragraph shall not apply to any relocation for which an application for a certification

of eligibility was not submitted prior to July first, two thousand three, unless the date of such relocation is on or after July first, two thousand.

(e) Notwithstanding any other provision of this subdivision to the contrary, in the case of a taxpayer that has obtained, pursuant to chapter six-B of title twenty-two of this code, a certification of eligibility and has received, in a taxable year beginning before January first, two thousand fifteen, the credit set forth in subdivision seventeen of section 11-604 of this chapter or section 11-643.7 of this chapter for the relocation of an eligible business, a credit shall be allowed under this subdivision to the taxpayer for any taxable year beginning on or after January first, two thousand fifteen in the same amount and to the same extent that a credit would have been allowed under subdivision seventeen of section 11-604 of this chapter or section 11-643.7 of this chapter, as in effect on December thirty-first, two thousand fourteen, if such subdivision continued to apply to the taxpayer for such taxable year.

17-a. Intentionally omitted.

17-b. (a) In addition to any other credit allowed by this section, an eligible business that first enters into a binding contract on or after July first, two thousand five to purchase or lease eligible premises to which it relocates shall be allowed a one-time credit against the tax imposed by this subchapter to be credited or refunded in the manner hereinafter provided in this subdivision. The amount of such credit shall be one thousand dollars per full-time employee; provided, however, that the amount of such credit shall not exceed the lesser of actual relocation costs or one hundred thousand dollars.

(b) When used in this subdivision, the following terms shall have the following meanings:

(1) "Eligible business" means any business subject to tax under this subchapter that (i) has been conducting substantial business operations and engaging primarily in industrial and manufacturing activities at one or more locations within the city of New York or outside the state of New York continuously during the twenty-four consecutive full months immediately preceding relocation, (ii) has leased the premises from which it relocates continuously during the twenty-four consecutive full months immediately preceding relocation, (iii) first enters into a binding contract on or after July first, two thousand five to purchase or lease eligible premises to which such business will relocate, and (iv) will be engaged primarily in industrial and manufacturing activities at such eligible premises.

(2) "Eligible premises" means premises located entirely within an industrial business zone. For any eligible business, an industrial business zone tax credit shall not be granted with respect to more than one eligible premises.

(3) "Full-time employee" means (i) one person gainfully employed in an eligible premises by an eligible business where the number of hours required to be worked by such person is not less than thirty-five hours per week; or (ii) two persons gainfully employed in an eligible premises by an eligible business where the number of hours required to be worked by each such person is more than fifteen hours per week but less than thirty-five hours per week.

(4) "Industrial business zone" means an area within the city of New York established pursuant to section 22-626 of this code.

(5) "Industrial business zone tax credit" means a credit, as provided for in this subdivision, against a tax imposed under this subchapter.

(6) "Industrial and manufacturing activities" means activities involving the assembly of goods to create a different article, or the processing, fabrication, or packaging of goods. Industrial and manufacturing activities shall not include waste management or utility services.

(7) "Relocation" means the physical relocation of furniture, fixtures, equipment, machinery and supplies directly to an eligible premises, from one or more locations of an eligible business, including at least one location at which such business conducts substantial business operations and engages primarily in industrial and manufacturing activities. For purposes of this subdivision, the date of relocation shall be (i) the date of the completion of the relocation to the eligible premises or (ii) ninety days from the commencement of the relocation to the eligible premises, whichever is earlier.

(8) "Relocation costs" means costs incurred in the relocation of such furniture, fixtures, equipment, machinery and supplies, including, but not limited to, the cost of dismantling and reassembling equipment and the cost of floor preparation necessary for the reassembly of the equipment. Relocation costs shall include only such costs that are incurred during the ninety-day period immediately following the commencement of the relocation to an eligible premises. Relocation costs shall not include costs for structural or capital improvements or items purchased in connection with the relocation.

(c) The credit allowed under this subdivision for any taxable year shall be deemed to be an overpayment of tax by the taxpayer to be credited or refunded without interest, in accordance with the provisions of section 11-677 of this chapter.

(d) The number of full-time employees for the purposes of calculating an industrial business tax credit shall be the average number of full-time employees, calculated on a weekly basis, employed in the eligible premises by the eligible business in the fifty-two week period immediately following the earlier of (1) the date of the completion of the relocation to eligible premises or (2) ninety days from the commencement of the relocation to the eligible premises.

(e) The credit allowed under this subdivision must be taken by the taxpayer in the taxable year in which such twelve month period selected by the taxpayer ends.

(f) For the purposes of calculating entire net income in the taxable year that an industrial business tax credit is allowed, a taxpayer must add back the amount of the credit allowed under this subdivision, to the extent of any relocation costs deducted in the current taxable year or a prior taxable year in calculating federal taxable income.

(g) The credit allowed under this subdivision shall not be granted for an eligible business for more than one relocation. Notwithstanding the foregoing, an industrial business tax credit shall not be granted if the eligible business receives benefits pursuant to chapter six-B or six-C of title twenty-two of this code, through a grant program administered by the business relocation assistance corporation, or through the New York city printers relocation fund grant.

(h) The commissioner of finance is authorized to promulgate rules and regulations and to prescribe forms necessary to effectuate the purposes of this subdivision.

18. (a) If a corporation is a partner in an unincorporated business taxable under chapter five of this title, and is required to include in entire net income its distributive share of income, gain, loss and

deductions of, or guaranteed payments from, such unincorporated business, such corporation shall be allowed a credit against the tax imposed by this subchapter equal to the lesser of the amounts determined in subparagraphs one and two of this paragraph:

(1) The amount determined in this subparagraph is the product of (i) the sum of (A) the tax imposed by chapter five of this title on the unincorporated business for its taxable year ending within or with the taxable year of the corporation and paid by the unincorporated business and (B) the amount of any credit or credits taken by the unincorporated business under section 11-503 of this title (except the credit allowed by subdivision (b) of section 11-503 of this title) for its taxable year ending within or with the taxable year of the corporation, to the extent that such credits do not reduce such unincorporated business's tax below zero, and (ii) a fraction, the numerator of which is the net total of the corporation's distributive share of income, gain, loss and deductions of, and guaranteed payments from, the unincorporated business for such taxable year, and the denominator of which is the sum, for such taxable year, of the net total distributive shares of income, gain, loss and deductions of, and guaranteed payments to, all partners in the unincorporated business for whom or which such net total (as separately determined for each partner) is greater than zero.

(2) The amount determined in this subparagraph is the product of (i) the excess of (A) the tax computed under clause (i) of subparagraph one of paragraph (e) of subdivision one of this section, without allowance of any credits allowed by this section, over (B) the tax so computed, determined as if the corporation had no such distributive share or guaranteed payments with respect to the unincorporated business, and (ii) a fraction, the numerator of which is four and the denominator of which is

eight and eighty-five one hundredths, provided however, in the case of a taxpayer that is subject to paragraph (j) or (k) of subdivision one of this section, such denominator shall be the rate of tax as determined by such paragraph (j) or (k) for the taxable year and, provided, however, that the amounts computed in subclauses (A) and (B) of clause (i) of this subparagraph shall be computed with the following modifications:

(A) such amounts shall be computed without taking into account any carryforward or carryback by the partner of a net operating loss or a prior net operation loss conversion subtraction;

(B) if, prior to taking into account any distributive share or guaranteed payments from any unincorporated business or any net operating loss carryforward or carryback, the entire net income of the partner is less than zero, such entire net income shall be treated as zero; and

(C) if such partner's net total distributive share of income, gain, loss and deductions of, and guaranteed payments from, any unincorporated business is less than zero, such net total shall be treated as zero. The amount determined in this subparagraph shall not be less than zero.

(b)(1) Notwithstanding anything to the contrary in paragraph (a) of this subdivision, in the case of a corporation that, before the application of this subdivision or any other credit allowed by this section, is liable for the tax on business income under clause (i) of subparagraph one of paragraph (e) of subdivision one of this section, the credit or the sum of the credits that may be taken by such corporation for a taxable year under this subdivision with respect to an unincorporated business or unincorporated businesses in which it is a partner shall not exceed the tax so computed, without allowance of any credits allowed by this section, multiplied by a fraction the numerator of which is four and the denominator of which is eight and eighty-five one-hundredths

provided however, in the case of a taxpayer that is subject to paragraph (j) or (k) of subdivision one of this section, such denominator shall be the rate of tax as determined by such paragraph (j) or (k) for the taxable year. If the credit allowed under this subdivision or the sum of such credits exceeds the product of such tax and such fraction, the amount of the excess may be carried forward, in order, to each of the seven immediately succeeding taxable years and, to the extent not previously taken, shall be allowed as a credit in each of such years. In applying the provisions of the preceding sentence, the credit determined for the taxable year under paragraph (a) of this subdivision shall be taken before taking any credit carryforward pursuant to this paragraph and the credit carryforward attributable to the earliest taxable year shall be taken before taking a credit carryforward attributable to a subsequent taxable year.

(2) Intentionally omitted.

(2-a) Notwithstanding any other provision of this subdivision to the contrary, in the case of a taxpayer that has received, in a taxable year beginning before January first, two thousand fifteen, the credit set forth in subdivision eighteen of section 11-604 of this chapter or section 11-643.8 of this chapter for a tax paid under chapter five of this title in a taxable year beginning before January first, two thousand fifteen, the taxpayer may carry forward the unused portion of such credit under this subdivision to any taxable year beginning on or after January first, two thousand fifteen in the same amount and to the same extent, including the same limitations, that the credit, or the unused portion thereof, would have been allowed to be carried forward under subparagraph one of paragraph (b) of subdivision eighteen of section 11-604 of this chapter or paragraph one of subdivision (b) of section

11-643.8 of this chapter, as in effect on December thirty-first, two thousand fourteen, if such subdivision continued to apply to the taxpayer for such taxable year.

(3) No credit allowed under this subdivision may be taken in a taxable year by a taxpayer that, in the absence of such credit, would be liable for the tax computed on the basis of business capital under clause (ii) of subparagraph one of paragraph (e) of subdivision one of this section or the fixed-dollar minimum tax under clause (iv) of subparagraph one of paragraph (e) of subdivision one of this section.

(c) For corporations that file a report on a combined basis pursuant to section 11-654.3 of this subchapter, the credit allowed by this subdivision shall be computed as if the combined group were the partner in each unincorporated business from which any of the members of such group had a distributive share or guaranteed payments, provided, however, if more than one member of the combined group is a partner in the same unincorporated business, for purposes of the calculation required in subparagraph one of paragraph (a) of this subdivision, the numerator of the fraction described in clause (ii) of such subparagraph one shall be the sum of the net total distributive shares of income, gain, loss and deductions of, and guaranteed payments from, the unincorporated business of all of the partners of the unincorporated business within the combined group for which such net total (as separately determined for each partner) is greater than zero, and the denominator of such fraction shall be the sum of the net total distributive shares of income, gain, loss and deductions of, and guaranteed payments from, the unincorporated business of all partners in the unincorporated business for whom or which such net total (as separately determined for each partner) is greater than zero.

(d) Notwithstanding any other provision of this subchapter, the credit allowable under this subdivision shall be taken prior to the taking of any other credit allowed by this section. Notwithstanding any other provision of this subchapter, the application of this subdivision shall not change the basis on which the taxpayer's tax is computed under paragraph (e) of subdivision one of this section.

19. Lower Manhattan relocation and employment assistance credit. (a) In addition to any other credit allowed by this section, a taxpayer that has obtained the certifications required by chapter six-C of title twenty-two of this code shall be allowed a credit against the tax imposed by this subchapter. The amount of the credit shall be the amount determined by multiplying three thousand dollars by the number of eligible aggregate employment shares maintained by the taxpayer during the taxable year with respect to eligible premises to which the taxpayer has relocated; provided, however, that no credit shall be allowed for the relocation of any retail activity or hotel services; provided, further, that no credit shall be allowed under this subdivision to any taxpayer that has elected pursuant to subdivision (d) of section 22-624 of this code to take such credit against a gross receipts tax imposed under chapter eleven of this title. For purposes of this subdivision, the terms "eligible aggregate employment shares," "eligible premises," "relocate," "retail activity" and "hotel services" shall have the meanings ascribed by section 22-623 of this code.

(b) The credit allowed under this subdivision with respect to eligible aggregate employment shares maintained with respect to eligible premises to which the taxpayer has relocated shall be allowed for the taxable year of the relocation and for any of the twelve succeeding taxable years during which eligible aggregate employment shares are maintained

with respect to eligible premises; provided that the credit allowed for the twelfth succeeding taxable year shall be calculated by multiplying the number of eligible aggregate employment shares maintained with respect to eligible premises in the twelfth succeeding taxable year by the lesser of one and a fraction the numerator of which is such number of days in the taxable year of relocation less the number of days the taxpayer maintained employment shares in eligible premises in the taxable year of relocation and the denominator of which is the number of days in such twelfth taxable year during which such eligible aggregate employment shares are maintained with respect to such premises.

(c) Except as provided in paragraph (d) of this subdivision, if the amount of the credit allowable under this subdivision for any taxable year exceeds the tax imposed for such year, the excess may be carried over, in order, to the five immediately succeeding taxable years and, to the extent not previously deductible, may be deducted from the taxpayer's tax for such years.

(d) The credits allowed under this subdivision, against the tax imposed by this chapter for the taxable year of the relocation and for the four taxable years immediately succeeding the taxable year of such relocation, shall be deemed to be overpayments of tax by the taxpayer to be credited or refunded, without interest, in accordance with the provisions of section 11-677 of this chapter. For such taxable years, such credits or portions thereof may not be carried over to any succeeding taxable year.

(e) The credit allowable under this subdivision shall be deducted after the credits allowed by subdivisions seventeen and eighteen of this section, but prior to the deduction of any other credit allowed by this section.

(f) Notwithstanding any other provision of this subdivision to the contrary, in the case of a taxpayer that has obtained, pursuant to chapter six-C of title twenty-two of this code, a certification of eligibility and has received, in a taxable year beginning before January first, two thousand fifteen, the credit set forth in subdivision nineteen of section 11-604 of this chapter or section 11-643.9 of this chapter for the relocation of an eligible business, a credit shall be allowed under this subdivision to the taxpayer for any taxable year beginning on or after January first, two thousand fifteen in the same amount and to the same extent that a credit would have been allowed under subdivision nineteen of section 11-604 of this chapter or section 11-643.9 of this chapter, as in effect on December thirty-first, two thousand fourteen, if such subdivision continued to apply to the taxpayer for such taxable year.

20. Intentionally omitted.

21. Biotechnology credit. (a) (1) A taxpayer that is a qualified emerging technology company, engages in biotechnologies, and meets the eligibility requirements of this subdivision, shall be allowed a credit against the tax imposed by this subchapter. The amount of credit shall be equal to the sum of the amounts specified in subparagraphs three, four and five of this paragraph, subject to the limitations in subparagraph seven of this paragraph and paragraph (b) of this subdivision. For the purposes of this subdivision, "qualified emerging technology company" shall mean a company located in the city: (i) whose primary products or services are classified as emerging technologies and whose total annual product sales are ten million dollars or less; or (ii) a company that has research and development activities in the city and whose ratio of research and development funds to net sales equals or exceeds the

average ratio for all surveyed companies classified as determined by the National Science Foundation in the most recent published results from its Survey of Industry Research and Development, or any comparable successor survey as determined by the department of finance, and whose total annual product sales are ten million dollars or less. For the purposes of this subdivision, the definition of research and development funds shall be the same as that used by the National Science Foundation in the aforementioned survey. For the purposes of this subdivision, "biotechnologies" shall mean the technologies involving the scientific manipulation of living organisms, especially at the molecular and/or the sub-molecular genetic level, to produce products conducive to improving the lives and health of plants, animals, and humans; and the associated scientific research, pharmacological, mechanical, and computational applications and services connected with these improvements. Activities included with such applications and services shall include, but not be limited to, alternative mRNA splicing, DNA sequence amplification, anti-genetic switching bioaugmentation, bioenrichment, bioremediation, chro-mosome walking, cytogenetic engineering, DNA diagnosis, fingerprinting, and sequencing, electroporation, gene translocation, genetic mapping, site-directed mutagenesis, bio-transduction, bio-mechanical and bio-e-lectrical engineering, and bio-informatics.

(2) An eligible taxpayer shall (i) have no more than one hundred full-time employees, of which at least seventy-five percent are employed in the city, (ii) have a ratio of research and development funds to net sales, as referred to in section thirty-one hundred two-e of the public authorities law, which equals or exceeds six percent during the calendar year ending with or within the taxable year for which the credit is claimed, and (iii) have gross revenues, along with the gross revenues of

its "affiliates" and "related members" not exceeding twenty million dollars for the calendar year immediately preceding the calendar year ending with or within the taxable year for which the credit is claimed. For the purposes of this subdivision, "affiliates" shall mean those corporations that are members of the same affiliated group (as defined in section fifteen hundred four of the internal revenue code) as the taxpayer. For the purposes of this subdivision, the term "related members" shall mean a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation or entity is a taxpayer or not, where one such person, corporation or entity, or set of related persons, corporations or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under chapters five, eleven and seventeen of this title, and subchapters two and three of this chapter. A controlling interest shall mean, in the case of a corporation, either thirty percent or more of the total combined voting power of all classes of stock of such corporation, or thirty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation; and in the case of a partnership, association, trust or other entity, thirty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.

(3) An eligible taxpayer shall be allowed a credit for eighteen per centum of the cost or other basis for federal income tax purposes of research and development property that is acquired by the taxpayer by purchase as defined in subsection (d) of section one hundred seventy-nine of the internal revenue code and placed in service during the calendar year that ends with or within the taxable year for which the

credit is claimed. Provided, however, for the purposes of this paragraph only, an eligible taxpayer shall be allowed a credit for such percentage of the (i) cost or other basis for federal income tax purposes for property used in the testing or inspection of materials and products, (ii) the costs or expenses associated with quality control of the research and development, (iii) fees for use of sophisticated technology facilities and processes, and (iv) fees for the production or eventual commercial distribution of materials and products resulting from the activities of an eligible taxpayer as long as such activities fall under activities relating to biotechnologies. The costs, expenses and other amounts for which a credit is allowed and claimed under this paragraph shall not be used in the calculation of any other credit allowed under this subchapter. For the purposes of this subdivision, "research and development property" shall mean property that is used for purposes of research and development in the experimental or laboratory sense. Such purposes shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions, or research in connection with literary, historical or similar projects.

(4) An eligible taxpayer shall be allowed a credit for nine per centum of qualified research expenses paid or incurred by the taxpayer in the calendar year that ends with or within the taxable year for which the credit is claimed. For the purposes of this subdivision, "qualified research expenses" shall mean expenses associated with in-house research and processes, and costs associated with the dissemination of the results of the products that directly result from such research and development activities; provided, however, that such costs shall not include advertising or promotion through media. In addition, costs asso-

ciated with the preparation of patent applications, patent application filing fees, patent research fees, patent examinations fees, patent post allowance fees, patent maintenance fees, and grant application expenses and fees shall qualify as qualified research expenses. In no case shall the credit allowed under this subparagraph apply to expenses for litigation or the challenge of another entity's intellectual property rights, or for contract expenses involving outside paid consultants.

(5) An eligible taxpayer shall be allowed a credit for qualified high-technology training expenditures as described in this subparagraph paid or incurred by the taxpayer during the calendar year that ends with or within the taxable year for which the credit is claimed.

(i) The amount of credit shall be one hundred percent of the training expenses described in clause (iii) of this subparagraph, subject to a limitation of no more than four thousand dollars per employee per calendar year for such training expenses.

(ii) Qualified high-technology training shall include a course or courses taken and satisfactorily completed by an employee of the taxpayer at an accredited, degree granting post-secondary college or university in the city that (A) directly relates to biotechnology activities, and (B) is intended to upgrade, retrain or improve the productivity or theoretical awareness of the employee. Such course or courses may include, but are not limited to, instruction or research relating to techniques, meta, macro, or micro-theoretical or practical knowledge bases or frontiers, or ethical concerns related to such activities. Such course or courses shall not include classes in the disciplines of management, accounting or the law or any class designed to fulfill the discipline specific requirements of a degree program at the associate, baccalaureate, graduate or professional level of these disciplines.

Satisfactory completion of a course or courses shall mean the earning and granting of credit or equivalent unit, with the attainment of a grade of "B" or higher in a graduate level course or courses, a grade of "C" or higher in an undergraduate level course or courses, or a similar measure of competency for a course that is not measured according to a standard grade formula.

(iii) Qualified high-technology training expenditures shall include expenses for tuition and mandatory fees, software required by the institution, fees for textbooks or other literature required by the institution offering the course or courses, minus applicable scholarships and tuition or fee waivers not granted by the taxpayer or any affiliates of the taxpayer, that are paid or reimbursed by the taxpayer. Qualified high-technology expenditures do not include room and board, computer hardware or software not specifically assigned for such course or courses, late-charges, fines or membership dues and similar expenses. Such qualified expenditures shall not be eligible for the credit provided by this section unless the employee for whom the expenditures are disbursed is continuously employed by the taxpayer in a full-time, full-year position primarily located at a qualified site during the period of such coursework and lasting through at least one hundred eighty days after the satisfactory completion of the qualifying course-work. Qualified high-technology training expenditures shall not include expenses for in-house or shared training outside of a city higher education institution or the use of consultants outside of credit granting courses, whether such consultants function inside of such higher education institution or not.

(iv) If a taxpayer relocates from an academic business incubator facility partnered with an accredited post-secondary education institu-

tion located within the city, which provides space and business support services to taxpayers, to another site, the credit provided in this subdivision shall be allowed for all expenditures referenced in clause (iii) of this subparagraph paid or incurred in the two preceding calendar years that the taxpayer was located in such an incubator facility for employees of the taxpayer who also relocate from said incubator facility to such city site and are employed and primarily located by the taxpayer in the city. Such expenditures in the two preceding years shall be added to the amounts otherwise qualifying for the credit provided by this subdivision that were paid or incurred in the calendar year that the taxpayer relocates from such a facility. Such expenditures shall include expenses paid for an eligible employee who is a full-time, full-year employee of said taxpayer during the calendar year that the taxpayer relocated from an incubator facility notwithstanding (A) that such employee was employed full or part-time as an officer, staff-person or paid intern of the taxpayer when such taxpayer was located at such incubator facility or (B) that such employee was not continuously employed when such taxpayer was located at the incubator facility during the one hundred eighty day period referred to in clause (iii) of this subparagraph, provided such employee received wages or equivalent income for at least seven hundred fifty hours during any twenty-four month period when the taxpayer was located at the incubator facility. Such expenditures shall include payments made to such employee after the taxpayer has relocated from the incubator facility for qualified expenditures if such payments are made to reimburse an employee for expenditures paid by the employee during such two preceding years. The credit provided under this paragraph shall be allowed in any taxable year that the taxpayer qualifies as an eligible taxpayer.

(v) For purposes of this subdivision the term "academic year" shall mean the annual period of sessions of a post-secondary college or university.

(vi) For the purposes of this subdivision the term "academic incubator facility" shall mean a facility providing low-cost space, technical assistance, support services and educational opportunities, including but not limited to central services provided by the manager of the facility to the tenants of the facility, to an entity located in the city. Such entity's primary activity must be in biotechnologies, and such entity must be in the formative stage of development. The academic incubator facility and the entity must act in partnership with an accredited post-secondary college or university located in the city. An academic incubator facility's mission shall be to promote job creation, entrepreneurship, technology transfer, and provide support services to incubator tenants, including, but not limited to, business planning, management assistance, financial-packaging, linkages to financing services, and coordinating with other sources of assistance.

(6) An eligible taxpayer may claim credits under this subdivision for three consecutive years. In no case shall the credit allowed by this subdivision to a taxpayer exceed two hundred fifty thousand dollars per calendar year for eligible expenditures made during such calendar year.

(7) The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the amount prescribed in clause (iv) of subparagraph one of paragraph (e) of subdivision one of this section. Provided, however, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in

accordance with the provisions of section 11-677 of this chapter; provided, however, that notwithstanding the provisions of section 11-679 of this chapter, no interest shall be paid thereon.

(8) The credit allowed under this subdivision shall only be allowed for taxable years beginning before January first, two thousand sixteen.

(b) (1) The percentage of the credit allowed to a taxpayer under this subdivision in any calendar year shall be:

(i) If the average number of individuals employed full time by a taxpayer in the city during the calendar year that ends with or within the taxable year for which the credit is claimed is at least one hundred five percent of the taxpayer's base year employment, one hundred percent, except that in no case shall the credit allowed under this clause exceed two hundred fifty thousand dollars per calendar year. Provided, however, the increase in base year employment shall not apply to a taxpayer allowed a credit under this subdivision that was, (A) located outside of the city, (B) not doing business, or (C) did not have any employees, in the year preceding the first year that the credit is claimed. Any such taxpayer shall be eligible for one hundred percent of the credit for the first calendar year that ends with or within the taxable year for which the credit is claimed, provided that such taxpayer locates in the city, begins doing business in the city or hires employees in the city during such calendar year and is otherwise eligible for the credit pursuant to the provisions of this subdivision.

(ii) If the average number of individuals employed full time by a taxpayer in the city during the calendar year that ends with or within the taxable year for which the credit is claimed is less than one hundred five percent of the taxpayer's base year employment, fifty percent, except that in no case shall the credit allowed under this

clause exceed one hundred twenty-five thousand dollars per calendar year. In the case of an entity located in the city receiving space and business support services by an academic incubator facility, if the average number of individuals employed full time by such entity in the city during the calendar year in which the credit allowed under this subdivision is claimed is less than one hundred five percent of the taxpayer's base year employment, the credit shall be zero.

(2) For the purposes of this subdivision, "base year employment" means the average number of individuals employed full-time by the taxpayer in the city in the year preceding the first calendar year that ends with or within the taxable year for which the credit is claimed.

(3) For the purposes of this subdivision, average number of individuals employed full-time shall be computed by adding the number of such individuals employed by the taxpayer at the end of each quarter during each calendar year or other applicable period and dividing the sum so obtained by the number of such quarters occurring within such calendar year or other applicable period.

(4) Notwithstanding anything contained in this section to the contrary, the credit provided by this subdivision shall be allowed against the taxes authorized by this chapter for the taxable year after reduction by all other credits permitted by this chapter.

(c) Notwithstanding any other provision of this subdivision to the contrary, in the case of a taxpayer that has received, in a taxable year beginning before January first, two thousand fifteen, the credit set forth in subdivision twenty-one of section 11-604 of this chapter for an eligible acquisition of property and/or expense paid or incurred, a credit shall be allowed to the taxpayer under this subdivision for any tax year beginning on or after January first, two thousand fifteen in

the same amount and to the same extent that a credit would have been allowed under subdivision twenty-one of section 11-604 of this chapter, as in effect on December thirty-first, two thousand fourteen, if such subdivision continued to apply to the taxpayer for such taxable year.

§ 11-654.1 Net operating loss. 1. In computing the business income subject to tax, taxpayers shall be allowed both a prior net operating loss conversion subtraction under subdivision two of this section and a net operating loss deduction under subdivision three of this section. The prior net operating loss conversion subtraction computed under subdivision two of this section shall be applied against business income before the net operating loss deduction computed under subdivision three of this section.

2. Prior net operating loss conversion subtraction. (a) Definitions. (1) "Base year" means the last taxable year beginning on or after January first, two thousand fourteen and before January first, two thousand fifteen.

(2) "Unabsorbed net operating loss" means the unabsorbed portion of net operating loss as calculated under paragraph (f) of subdivision eight of section 11-602 of this chapter or subdivision (k-1) of section 11-641 of this chapter as such sections were in effect on December thirty-first, two thousand fourteen, that was not deductible in previous taxable years and was eligible for carryover on the last day of the base year subject to the limitations for deduction under such sections, including any net operating loss sustained by the taxpayer during the base year.

(3) "Base year BAP" means the taxpayer's business allocation percentage as calculated under paragraph (a) of subdivision three of section 11-604 of this chapter for the base year, or the taxpayer's allocation

percentage as calculated under section 11-642 of this chapter for purposes of calculating entire net income for the base year, as such sections were in effect on December thirty-first, two thousand fourteen.

(4) "Base year tax rate" means the taxpayer's tax rate for the base year as calculated under subdivision one of section 11-604 of this chapter or section 11-643.5 of this chapter, as such provisions were in effect on December thirty-first, two thousand fourteen.

(b) The prior net operating loss conversion subtraction shall be calculated as follows:

(1) The taxpayer shall first calculate the tax value of its unabsorbed net operating loss for the base year. The value is equal to the product of (i) the amount of the taxpayer's unabsorbed net operating loss, (ii) the taxpayer's base year BAP, and (iii) the taxpayer's base year tax rate.

(2) The product determined under subparagraph one of this paragraph shall then be divided by eight and eighty-five one hundredths per centum. This result shall equal the taxpayer's prior net operating loss conversion subtraction pool.

(3) The taxpayer's prior net operating loss conversion subtraction for the taxable year shall equal one-tenth of its prior net operating loss conversion subtraction pool, plus any amount of unused prior net operating loss conversion subtraction from preceding taxable years.

(4) In lieu of the prior net operating loss conversion subtraction described in subparagraph three of this paragraph, if the taxpayer so elects, the taxpayer's prior net operating loss conversion subtraction for its taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand seventeen shall equal, in each year, not more than one-half of its prior net operating loss

conversion subtraction pool until the pool is exhausted. If the pool is not exhausted at the end of such time period, the remainder of the pool shall be forfeited. The taxpayer shall make such election on its first return for the tax year beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen by the due date for such return (determined with regard to extensions).

(c) (1) Where a taxpayer was properly included or required to be included in a combined report for the base year pursuant to subdivision four of section 11-605 of this chapter or a combined return for the base year under subdivision (f) of section 11-646 of this chapter, as such sections were in effect on December thirty-first, two thousand fourteen, and the members of the combined group for the base year are the same as the members of the combined group for the taxable year immediately succeeding the base year, the combined group shall calculate its prior net operating loss conversion subtraction pool using the combined group's total unabsorbed net operating loss, base year BAP, and base year tax rate.

(2) If a combined group includes additional members in the taxable year immediately succeeding the base year that were not included in the combined group during the base year, each base year combined group and each taxpayer that filed separately for the base year but is included in the combined group in the taxable year succeeding the base year shall calculate its prior net operating loss conversion subtraction pool, and the sum of the pools shall be the combined prior net operating loss conversion subtraction pool of the combined group.

(3) If a taxpayer was properly included in a combined report for the base year and files a separate report for a subsequent taxable year, then the amount of remaining prior net operating loss conversion

subtraction allowed to the taxpayer filing such separate report shall be proportionate to the amount that such taxpayer contributed to the prior net operating loss conversion subtraction pool on a combined basis, and the remaining prior net operating loss conversion subtraction allowed to the remaining members of the combined group shall be reduced accordingly.

(4) If a taxpayer filed a separate report for the base year and is properly included in a combined report for a subsequent taxable year, then the prior net operating loss conversion subtraction pool of the combined group shall be increased by the amount of the remaining prior net operating loss conversion subtraction allowed to the taxpayer at the time the taxpayer is properly included in the combined group.

(d) The prior net operating loss conversion subtraction may be used to reduce the taxpayer's tax on allocated business income to the higher of the tax on capital under clause (ii) of subparagraph one of paragraph (e) of subdivision one of section 11-654 of this subchapter or the fixed dollar minimum under clause (iv) of subparagraph one of paragraph (e) of subdivision one of section 11-654 of this subchapter. Unless the taxpayer has made the election provided for in subparagraph four of paragraph (b) of this subdivision, any amount of unused prior net operating loss conversion subtraction shall be carried forward to a subsequent tax year or subsequent tax years until the prior net operating loss conversion subtraction pool is exhausted, but for no longer than twenty taxable years or not after the taxable year beginning on or after January first, two thousand thirty-five but before January first, two thousand thirty-six, whichever comes first. Such amount carried forward shall not be subject to the one-tenth limitation for the subsequent tax year or years under subparagraph three of paragraph (b) of this subdivision. However,

if the taxpayer elects to compute its prior net operating loss conversion subtraction pursuant to subparagraph four of paragraph (b) of this subdivision, the taxpayer shall not carry forward any unused amount of such prior net operating loss conversion subtraction to any tax year beginning on or after January first, two thousand seventeen.

3. In computing business income, a net operating loss deduction shall be allowed. A net operating loss deduction shall be the amount of net operating loss or losses from one or more taxable years that are carried forward or carried back to a particular taxable year. A net operating loss shall be the amount of a business loss incurred in a particular tax year multiplied by the business allocation percentage for that year as determined under subdivision three of section 11-654 of this subchapter. The maximum net operating loss deduction that is allowed in a taxable year shall be the amount that reduces the taxpayer's tax on allocated business income to the higher of the tax on capital or the fixed dollar minimum amount. Such net operating loss deduction and net operating loss shall be determined in accordance with the following:

(a) Such net operating loss deduction shall not be limited to the amount allowed under section one hundred seventy-two of the internal revenue code or the amount that would have been allowed if the taxpayer did not have an election under subchapter S of chapter one of the internal revenue code in effect for the applicable tax year.

(b) Such net operating loss deduction shall not include any net operating loss incurred during any taxable year beginning prior to January first, two thousand fifteen, or during any taxable year in which the taxpayer was not subject to the tax imposed by this subchapter.

(c) A taxpayer that files as part of a federal consolidated return but on a separate basis for purposes of this subchapter shall compute its

deduction and loss as if it were filing on a separate basis for federal income tax purposes.

(d) A net operating loss may be carried back three taxable years preceding the taxable year of the loss except that no loss may be carried back to a taxable year beginning before January first, two thousand fifteen. The loss first shall be carried to the earliest of the three taxable years preceding the taxable year of the loss. If it is not entirely used in that year, it shall be carried to the second taxable year preceding the taxable year of the loss, and any remaining amount shall be carried to the taxable year immediately preceding the taxable year of the loss. Any unused amount of loss then remaining may be carried forward for as many as twenty taxable years following the taxable year of the loss. Losses carried forward are carried forward first to the taxable year immediately following the taxable year of the loss, then to the second taxable year following the taxable year of the loss, and then to the next immediately subsequent taxable year or years until the loss is used up or the twentieth taxable year following the loss year, whichever comes first.

(e) Such net operating loss deduction shall not include any net operating loss incurred during any year commencing after January first, two thousand fifteen if the taxpayer was subject to tax under subchapter two or three of this chapter in that year; provided, however, any year commencing after January first, two thousand fifteen that the taxpayer was subject to tax under subchapter two or three of this chapter in that year must be treated as a taxable year for purposes of determining the number of taxable years to which a net operating loss may be carried forward.

(f) Where there are two or more allocated net operating losses, or portions thereof, carried back or carried forward to be deducted in one particular tax year from allocated business income, the earliest allocated loss incurred must be applied first.

(g) A taxpayer may elect to waive the entire carryback period with respect to a net operating loss. Such election must be made on the taxpayer's original timely filed return (determined with regard to extensions) for the taxable year of the net operating loss for which the election is to be in effect. Once an election is made for a taxable year, it shall be irrevocable for that taxable year. A separate election must be made for each taxable year of the loss. This election applies to all members of a combined group.

§ 11-654.2 Receipts apportionment. 1. The percentage of receipts of the taxpayer to be allocated to the city for purposes of subparagraph two of paragraph (a) of subdivision three of section 11-654 of this subchapter shall be equal to the receipts fraction determined pursuant to this section. The receipts fraction is a fraction, determined by including only those receipts, net income, net gains, and other items described in this section that are included in the computation of the taxpayer's business income (determined without regard to the modification provided in subparagraph fourteen of paragraph (a) of subdivision eight of section 11-652 of this subchapter) for the taxable year. The numerator of the receipts fraction shall be equal to the sum of all the amounts required to be included in the numerator pursuant to the provisions of this section and the denominator of the receipts fraction shall be equal to the sum of all the amounts required to be included in the denominator pursuant to the provisions of this section.

2. (a) Receipts from sales of tangible personal property where shipments are made to points within the city or the destination of the property is a point within the city shall be included in the numerator of the receipts fraction. Receipts from sales of tangible personal property where shipments are made to points within and without the city or the destination is within and without the city shall be included in the denominator of the receipts fraction.

(b) Receipts from sales of electricity delivered to points within the city shall be included in the numerator of the receipts fraction. Receipts from sales of electricity delivered to points within and without the city shall be included in the denominator of the receipts fraction.

(c) Receipts from sales of tangible personal property and electricity that are traded as commodities as the term "commodity" is defined in section four hundred seventy-five of the internal revenue code shall be included in the receipts fraction in accordance with clause (i) of subparagraph two of paragraph (a) of subdivision five of this section.

(d) Net gains (not less than zero) from the sales of real property located within the city shall be included in the numerator of the receipts fraction. Net gains (not less than zero) from the sales of real property located within and without the city shall be included in the denominator of the receipts fraction.

3. (a) Receipts from rentals of real and tangible personal property located within the city shall be included in the numerator of the receipts fraction. Receipts from rentals of real and tangible personal property located within and without the city shall be included in the denominator of the receipts fraction.

(b) Receipts of royalties from the use of patents, copyrights, trademarks, and similar intangible personal property within the city shall be included in the numerator of the receipts fraction. Receipts of royalties from the use of patents, copyrights, trademarks, and similar intangible personal property within and without the city shall be included in the denominator of the receipts fraction. A patent, copyright, trademark, or similar intangible personal property is used within the city to the extent that the activities thereunder are carried on within the city.

(c) Receipts from the sales of rights for closed-circuit and cable television transmissions of an event (other than events occurring on a regularly scheduled basis) taking place within the city as a result of the rendition of services by employees of the corporation, as athletes, entertainers or performing artists, shall be included in the numerator of the receipts fraction to the extent that such receipts are attributable to such transmissions received or exhibited within the city. Receipts from all sales of rights for closed-circuit and cable television transmissions of an event shall be included in the denominator of the receipts fraction.

4. (a) For purposes of determining the receipts fraction under this section, the term "digital product" means any property or service, or combination thereof, of whatever nature delivered to the purchaser through the use of wire, cable, fiber-optic, laser, microwave, radio wave, satellite or similar successor media, or any combination thereof. Digital product includes, but is not limited to, an audio work, audiovisual work, visual work, book or literary work, graphic work, game, information or entertainment service, storage of digital products and computer software by whatever means delivered. The term "delivered to"

includes furnished or provided to or accessed by. A digital product shall not include legal, medical, accounting, architectural, research, analytical, engineering or consulting services provided by the taxpayer.

(b) Receipts from the sale of, license to use, or granting of remote access to digital products within the city, determined according to the hierarchy of methods set forth in subparagraphs one through four of paragraph (c) of this subdivision, shall be included in the numerator of the receipts fraction. Receipts from the sale of, license to use, or granting of remote access to digital products within and without the city shall be included in the denominator of the receipts fraction. The taxpayer must exercise due diligence under each method described in paragraph (c) of this subdivision before rejecting it and proceeding to the next method in the hierarchy, and must base its determination on information known to the taxpayer or information that would be known to the taxpayer upon reasonable inquiry. If the receipt for a digital product is comprised of a combination of property and services, it cannot be divided into separate components and shall be considered to be one receipt regardless of whether it is separately stated for billing purposes. The entire receipt must be allocated by this hierarchy.

(c) The hierarchy of sourcing methods is as follows: (1) the customer's primary use location of the digital product; (2) the location where the digital product is received by the customer, or is received by a person designated for receipt by the customer; (3) the receipts fraction determined pursuant to this subdivision for the preceding taxable year for such digital product; or (4) the receipts fraction in the current taxable year for those digital products that can be sourced using the hierarchy of sourcing methods in subparagraphs one and two of this paragraph.

5. (a) A financial instrument is a "qualified financial instrument" if it is eligible or required to be marked to market under section four hundred seventy-five or section twelve hundred fifty-six of the internal revenue code, provided that loans secured by real property shall not be qualified financial instruments. A financial instrument is a "nonqualified financial instrument" if it is not a qualified financial instrument.

(1) In determining the inclusion of receipts and net gains from qualified financial instruments in the receipts fraction, taxpayers may elect to use the fixed percentage method described in this subparagraph for qualified financial instruments. The election is irrevocable, applies to all qualified financial instruments, and must be made on an annual basis on the taxpayer's original, timely filed return. If the taxpayer elects the fixed percentage method, then all income, gain or loss, including marked to market net gains as defined in clause (x) of subparagraph two of this paragraph from qualified financial instruments constitute business income, gain or loss. If the taxpayer does not elect to use the fixed percentage method, then receipts and net gains are included in the receipts fraction in accordance with the customer sourcing method described in subparagraph two of this paragraph. Under the fixed percentage method, eight percent of all net income (not less than zero) from qualified financial instruments shall be included in the numerator of the receipts fraction. All net income (not less than zero) from qualified financial instruments shall be included in the denominator of the receipts fraction.

(2) Receipts and net gains from qualified financial instruments, in cases where the taxpayer did not elect to use the fixed percentage method described in subparagraph one of this paragraph, and from nonquali-

fied financial instruments shall be included in the receipts fraction in accordance with this subparagraph. For purposes of this paragraph, an individual is deemed to be located within the city if his or her billing address is within the city. A business entity is deemed to be located within the city if its commercial domicile is located within the city.

(i)(A) Receipts constituting interest from loans secured by real property located within the city shall be included in the numerator of the receipts fraction. Receipts constituting interest from loans secured by real property located within and without the city shall be included in the denominator of the receipts fraction.

(B) Receipts constituting interest from loans not secured by real property shall be included in the numerator of the receipts fraction if the borrower is located within the city. Receipts constituting interest from loans not secured by real property, whether the borrower is located within or without the city, shall be included in the denominator of the receipts fraction.

(C) Net gains (not less than zero) from sales of loans secured by real property shall be included in the numerator of the receipts fraction as provided in this subclause. The amount of net gains from the sales of loans secured by real property included in the numerator of the receipts fraction shall be determined by multiplying the net gains by a fraction, the numerator of which shall be the amount of gross proceeds from sales of loans secured by real property located within the city and the denominator of which shall be the gross proceeds from sales of loans secured by real property located within and without the city. Gross proceeds shall be determined after the deduction of any cost incurred to acquire the loans but shall not be less than zero. Net gains (not less than zero) from sales of loans secured by real property located within and

without the city shall be included in the denominator of the receipts fraction.

(D) Net gains (not less than zero) from sales of loans not secured by real property shall be included in the numerator of the receipts fraction as provided in this subclause. The amount of net gains from the sales of loans not secured by real property included in the numerator of the receipts fraction shall be determined by multiplying the net gains by a fraction, the numerator of which shall be the amount of gross proceeds from sales of loans not secured by real property to purchasers located within the city and the denominator of which shall be the amount of gross proceeds from sales of loans not secured by real property to purchasers located within and without the city. Gross proceeds shall be determined after the deduction of any cost incurred to acquire the loans but shall not be less than zero. Net gains (not less than zero) from sales of loans not secured by real property shall be included in the denominator of the receipts fraction.

(E) For purposes of this subdivision, a loan is secured by real property if fifty percent or more of the value of the collateral used to secure the loan, when valued at fair market value as of the time the loan was entered into, consists of real property.

(ii) Federal, state, and municipal debt. Receipts constituting interest and net gains from sales of debt instruments issued by the United States, any state, or political subdivision of a state shall not be included in the numerator of the receipts fraction. Receipts constituting interest and net gains (not less than zero) from sales of debt instruments issued by the United States and the state of New York or its political subdivisions, including the city, shall be included in the denominator of the receipts fraction. Fifty percent of the receipts

constituting interest and net gains (not less than zero) from sales of debt instruments issued by other states or their political subdivisions shall be included in the denominator of the receipts fraction.

(iii) Asset backed securities and other government agency debt. Eight percent of the interest income from asset backed securities or other securities issued by government agencies, including but not limited to securities issued by the government national mortgage association (GNMA), the federal national mortgage association (FNMA), the federal home loan mortgage corporation (FHLMC), or the small business administration, or eight percent of the interest income from asset backed securities issued by other entities shall be included in the numerator of the receipts fraction. Eight percent of the net gains (not less than zero) from (A) sales of asset backed securities or other securities issued by government agencies, including but not limited to securities issued by GNMA, FNMA, FHLMC, or the small business administration, or (B) sales of other asset backed securities that are sold through a registered securities broker or dealer or through a licensed exchange, shall be included in the numerator of the receipts fraction. The amount of net gains (not less than zero) from sales of other asset backed securities not referenced in subclause (A) or (B) of this clause included in the numerator of the receipts fraction shall be determined by multiplying such net gains by a fraction, the numerator of which shall be the amount of gross proceeds from such sales to purchasers located in the city and the denominator of which shall be the amount of gross proceeds from such sales to purchasers located within and without the city. Receipts constituting interest income from asset backed securities and other securities referenced in this clause and net gains (not less than zero) from sales of asset backed securities and other securities refer-

enced in this clause shall be included in the denominator of the receipts fraction. Gross proceeds shall be determined after the deduction of any cost to acquire the securities but shall not be less than zero.

(iv) Receipts constituting interest from corporate bonds shall be included in the numerator of the receipts fraction if the commercial domicile of the issuing corporation is within the city. Eight percent of the net gains (not less than zero) from sales of corporate bonds sold through a registered securities broker or dealer or through a licensed exchange shall be included in the numerator of the receipts fraction. The amount of net gains (not less than zero) from other sales of corporate bonds included in the numerator of the receipts fraction shall be determined by multiplying such net gains by a fraction, the numerator of which is the amount of gross proceeds from such sales to purchasers located within the city and the denominator of which is the amount of gross proceeds from sales to purchasers located within and without the city. Receipts constituting interest from corporate bonds, whether the issuing corporation's commercial domicile is within or without the city, and net gains (not less than zero) from sales of corporate bonds to purchasers within and without the city shall be included in the denominator of the receipts fraction. Gross proceeds shall be determined after the deduction of any cost to acquire the bonds but shall not be less than zero.

(v) Eight percent of net interest income (not less than zero) from reverse repurchase agreements and securities borrowing agreements shall be included in the numerator of the receipts fraction. Net interest income (not less than zero) from reverse repurchase agreements and securities borrowing agreements shall be included in the denominator of the

receipts fraction. Net interest income from reverse repurchase agreements and securities borrowing agreements shall be determined for purposes of this subdivision after the deduction of the interest expense from the taxpayer's repurchase agreements and securities lending agreements but shall not be less than zero. For this calculation, the amount of such interest expense shall be the interest expense associated with the sum of the value of the taxpayer's repurchase agreements where it is the seller/borrower plus the value of the taxpayer's securities lending agreements where it is the securities lender, provided such sum is limited to the sum of the value of the taxpayer's reverse repurchase agreements where it is the purchaser/lender plus the value of the taxpayer's securities lending agreements where it is the securities borrower.

(vi) Eight percent of the net interest (not less than zero) from federal funds shall be included in the numerator of the receipts fraction. The net interest (not less than zero) from federal funds shall be included in the denominator of the receipts fraction. Net interest from federal funds shall be determined after deduction of interest expense from federal funds.

(vii) Dividends from stock, net gains (not less than zero) from sales of stock and net gains (not less than zero) from sales of partnership interests shall not be included in either the numerator or denominator of the receipts fraction unless the commissioner of finance determines pursuant to subdivision eleven of this section that inclusion of such dividends and net gains (not less than zero) is necessary to properly reflect the business income or capital of the taxpayer.

(viii)(A) Receipts constituting interest from other financial instruments shall be included in the numerator of the receipts fraction if the

payor is located within the city. Receipts constituting interest from other financial instruments, whether the payor is within or without the city, shall be included in the denominator of the receipts fraction.

(B) Net gains (not less than zero) from sales of other financial instruments and other income (not less than zero) from other financial instruments where the purchaser or payor is located within the city shall be included in the numerator of the receipts fraction, provided that, if the purchaser or payor is a registered securities broker or dealer or the transaction is made through a licensed exchange, then eight percent of the net gains (not less than zero) or other income (not less than zero) shall be included in the numerator of the receipts fraction. Net gains (not less than zero) from sales of other financial instruments and other income (not less than zero) from other financial instruments shall be included in the denominator of the receipts fraction.

(ix) Net income (not less than zero) from sales of physical commodities shall be included in the numerator of the receipts fraction as provided in this clause. The amount of net income from sales of physical commodities included in the numerator of the receipts fraction shall be determined by multiplying the net income from sales of physical commodities by a fraction, the numerator of which shall be the amount of receipts from sales of physical commodities actually delivered to points within the city or, if there is no actual delivery of the physical commodity, sold to purchasers located within the city, and the denominator of which shall be the amount of receipts from sales of physical commodities actually delivered to points within and without the city or, if there is no actual delivery of the physical commodity, sold to purchasers located within and without the city. Net income (not less

than zero) from sales of physical commodities shall be included in the denominator of the receipts fraction. Net income (not less than zero) from sales of physical commodities shall be determined after the deduction of the cost to acquire or produce the physical commodities.

(x)(A) For purposes of this subdivision, "marked to market" means that a financial instrument is, under section four hundred seventy-five or section twelve hundred fifty-six of the internal revenue code, treated by the taxpayer as sold for its fair market value on the last business day of the taxpayer's taxable year. "Marked to market gain or loss" means the gain or loss recognized by the taxpayer under section four hundred seventy-five or section twelve hundred fifty-six of the internal revenue code because the financial instrument is treated as sold for its fair market value on the last business day of the taxpayer's taxable year.

(B) The amount of marked to market net gains (not less than zero) from each type of financial instrument that is marked to market included in the numerator of the receipts fraction shall be determined by multiplying the marked to market net gains (not less than zero) from such type of financial instrument by a fraction, the numerator of which shall be the numerator of the receipts fraction for that type of financial instrument determined under the applicable clause of this subparagraph and the denominator of which shall be the denominator of the receipts fraction for net gains from that type of financial instrument determined under the applicable clause of this subparagraph. Marked to market net gains (not less than zero) from financial instruments for which the numerator of the receipts fraction for net gains is determined under the immediately preceding sentence shall be included in the denominator of the receipts fraction.

(C) If the type of financial instrument that is marked to market is not otherwise sourced by the taxpayer under this subparagraph, or if the taxpayer has a net loss from the sales of that type of financial instrument under the applicable clause of this subparagraph, the amount of marked to market net gains (not less than zero) from that type of financial instrument included in the numerator of the receipts fraction shall be determined by multiplying the marked to market net gains (but not less than zero) from that type of financial instrument by a fraction, the numerator of which shall be the sum of the amount of receipts included in the numerator of the receipts fraction under clauses (i) through (ix) of this subparagraph and subclause (B) of this clause, and the denominator of which shall be the sum of the amount of receipts included in the denominator of the receipts fraction under clauses (i) through (ix) of this subparagraph and subclause (B) of this clause. Marked to market net gains (not less than zero) for which the amount to be included in the numerator of the receipts fraction is determined under the immediately preceding sentence shall be included in the denominator of the receipts fraction.

(b) Receipts of a registered securities broker or dealer from securities or commodities broker or dealer activities described in this paragraph shall be deemed to be generated within the city as described in subparagraphs one through eight of this paragraph. Receipts from such activities generated within the city shall be included in the numerator of the receipts fraction. Receipts from such activities generated within and without the city shall be included in the denominator of the receipts fraction. For the purposes of this paragraph, the term "securities" shall have the same meaning as in paragraph two of subsection (c) of section four hundred seventy-five of the internal revenue code and

the term "commodities" shall have the same meaning as in paragraph two of subsection (e) of section four hundred seventy-five of the internal revenue code.

(1) Receipts constituting brokerage commissions derived from the execution of securities or commodities purchase or sales orders for the accounts of customers shall be deemed to be generated within the city if the mailing address in the records of the taxpayer of the customer who is responsible for paying such commissions is within the city.

(2) Receipts constituting margin interest earned on behalf of brokerage accounts shall be deemed to be generated within the city if the mailing address in the records of the taxpayer of the customer who is responsible for paying such margin interest is within the city.

(3) (i) Receipts constituting fees earned by the taxpayer for advisory services to a customer in connection with the underwriting of securities for such customer (such customer being the entity that is contemplating issuing or is issuing securities) or fees earned by the taxpayer for managing an underwriting shall be deemed to be generated within the city if the mailing address in the records of the taxpayer of such customer who is responsible for paying such fees is within the city.

(ii) Receipts constituting the primary spread of selling concession from underwritten securities shall be deemed to be generated within the city if the customer is located within the city.

(iii) The term "primary spread" means the difference between the price paid by the taxpayer to the issuer of the securities being marketed and the price received from the subsequent sale of the underwritten securities at the initial public offering price, less any selling concession and any fees paid to the taxpayer for advisory services or any manager's fees, if such fees are not paid by the customer to the taxpayer sepa-

rately. The term "public offering price" means the price agreed upon by the taxpayer and the issuer at which the securities are to be offered to the public. The term "selling concession" means the amount paid to the taxpayer for participating in the underwriting of a security where the taxpayer is not the lead underwriter.

(4) Receipts constituting account maintenance fees shall be deemed to be generated within the city if the mailing address in the record of the taxpayer of the customer who is responsible for paying such account maintenance fees is within the city.

(5) Receipts constituting fees for management or advisory services, including fees for advisory services in relation to merger or acquisition activities, but excluding fees paid for services described in paragraph (d) of this subdivision, shall be deemed to be generated within the city if the mailing address in the records of the taxpayer of the customer who is responsible for paying such fees is within the city.

(6) Receipts constituting interest earned by the taxpayer on loans and advances made by the taxpayer to a corporation affiliated with the taxpayer but with which the taxpayer is not permitted or required to file a combined report pursuant to section 11-654.3 of this subchapter shall be deemed to arise from services performed at the principal place of business of such affiliated corporation.

(7) If the taxpayer receives any of the receipts enumerated in subparagraphs one through four of this paragraph as a result of a securities correspondent relationship such taxpayer has with another broker or dealer with the taxpayer acting in this relationship as the clearing firm, such receipts shall be deemed to be generated within the city to the extent set forth in each of such subparagraphs. The amount of such receipts shall exclude the amount the taxpayer is required to pay to the

correspondent firm for such correspondent relationship. If the taxpayer receives any of the receipts enumerated in subparagraphs one through four of this paragraph as result of a securities correspondent relationship such taxpayer has with another broker or dealer with the taxpayer acting in this relationship as the introducing firm, such receipts shall be deemed to be generated within the city to the extent set forth in each of such subparagraphs.

(8) If, for the purposes of subparagraph one, subparagraph two, clause (i) of subparagraph three, subparagraph four, or subparagraph five of this paragraph the taxpayer is unable from its records to determine the mailing address of the customer, eight percent of the receipts shall be included in the numerator of the receipts fraction.

(c) Receipts relating to the bank, credit, travel, and entertainment card activities described in this paragraph shall be deemed to be generated within the city as described in subparagraphs one through four of this paragraph. Receipts from such activities generated within the city shall be included in the numerator of the receipts fraction. Receipts from such activities generated within and without the city shall be included in the denominator of the receipts fraction.

(1) Receipts constituting interest, and fees and penalties in the nature of interest, from bank, credit, travel and entertainment card receivables shall be deemed to be generated within the city if the mailing address of the card holder in the records of the taxpayer is within the city;

(2) Receipts from service charges and fees from such cards shall be deemed to be generated within the city if the mailing address of the card holder in the records of the taxpayer is within the city;

(3) Receipts from merchant discounts shall be deemed to be generated within the city if the merchant is located within the city. In the case of a merchant with locations both within and without the city, only receipts from merchant discounts attributable to sales made from locations within the city are allocated to the city. It shall be presumed that the location of the merchant is the address of the merchant shown on the invoice submitted by the merchant to the taxpayer; and

(4) Receipts from credit card authorization processing, and clearing and settlement processing received by a credit card processor shall be deemed to be generated within the city if the location where the credit card processor's customer accesses the credit card processor's network is located within the city. The amount of all other receipts received by a credit card processor not specifically addressed in subdivisions one through nine or subdivision twelve of this section deemed to be generated within the city shall be determined by multiplying the total amount of such other receipts by the average of (i) eight percent and (ii) the percent of New York city access points. The percent of New York city access points shall be the number of locations in New York city from which the credit card processor's customers access the credit card processor's network divided by the total number of locations in the United States where the credit card processor's customers access the credit card processor's network.

(d) Receipts received from an investment company arising from the sale of management, administration or distribution services to such investment company shall be included in the denominator of the receipts fraction. The portion of such receipts included in the numerator of the

receipts fraction (such portion referred to herein as the New York city portion) shall be determined as provided in this paragraph.

(1) The New York city portion shall be the product of the total of such receipts from the sale of such services and a fraction. The numerator of that fraction shall be the sum of the monthly percentages (as defined hereinafter) determined for each month of the investment company's taxable year for federal income tax purposes which taxable year ends within the taxable year of the taxpayer (but excluding any month during which the investment company had no outstanding shares). The monthly percentage for each such month shall be determined by dividing the number of shares in the investment company that are owned on the last day of the month by shareholders that are located in the city by the total number of shares in the investment company outstanding on that date. The denominator of the fraction shall be the number of such monthly percentages.

(2)(i) For purposes of this paragraph, an individual, estate or trust shall be deemed to be located within the city if his, her or its mailing address in the records of the investment company is located within the city. A business entity is deemed to be located within the city if its commercial domicile is located within the city.

(ii) For purposes of this paragraph, the term "investment company" means a regulated investment company, as defined in section eight hundred fifty-one of the internal revenue code, and a partnership to which subsection (a) of section seven thousand seven hundred four of the internal revenue code applies (by virtue of paragraph three of subsection (c) of section seven thousand seven hundred four of such code) and that meets the requirements of subsection (b) of section eight hundred fifty-one of such code. The preceding sentence shall be applied

to the taxable year for federal income tax purposes of the business entity that is asserted to constitute an investment company that ends within the taxable year of the taxpayer.

(iii) For purposes of this paragraph, the term "receipts received from an investment company" includes amounts received directly from an investment company as well as amounts received from the shareholders in such investment company, in their capacity as such.

(iv) For purposes of this paragraph, the term "management services" means the rendering of investment advice to an investment company, making determinations as to when sales and purchases of securities are to be made on behalf of an investment company, or the selling or purchasing of securities constituting assets of an investment company, and related activities, but only where such activity or activities are performed pursuant to a contract with the investment company entered into pursuant to subsection (a) of section fifteen of the federal investment company act of nineteen hundred forty, as amended.

(v) For purposes of this paragraph, the term "distribution services" means the services of advertising, servicing investor accounts (including redemptions), marketing shares or selling shares of an investment company, but, in the case of advertising, servicing investor accounts (including redemptions) or marketing shares, only where such service is performed by a person who is (or was, in the case of a closed end company) also engaged in the service of selling such shares. In the case of an open end company, such service of selling shares must be performed pursuant to a contract entered into pursuant to subsection (b) of section fifteen of the federal investment company act of nineteen hundred forty, as amended.

(vi) For purposes of this paragraph, the term "administration services" includes clerical, accounting, bookkeeping, data processing, internal auditing, legal and tax services performed for an investment company but only if the provider of such service or services during the taxable year in which such service or services are sold also sells management or distribution services, as defined hereinabove, to such investment company.

(e) For purposes of this subdivision, a taxpayer shall use the following hierarchy to determine the commercial domicile of a business entity, based on the information known to the taxpayer or information that would be known upon reasonable inquiry: (1) the seat of management and control of the business entity; and (2) the billing address of the business entity in the taxpayer's records. The taxpayer must exercise due diligence before rejecting the first method in this hierarchy and proceeding to the next method.

(f) For purposes of this subdivision, the term "registered securities broker or dealer" means a broker or dealer registered as such by the securities and exchange commission or a broker or dealer registered as such by the commodities futures trading commission, and shall include an OTC derivatives dealer as defined under regulations of the securities and exchange commission at title 17, part 240, section 3b-12 of the code of federal regulations (17 CFR 240.3b-12).

6. Receipts from the conduct of a railroad business (including surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car or sleeping car business) or a trucking business shall be included in the numerator of the receipts fraction as follows. The amount of receipts from the conduct of a railroad business or a trucking business included in the numerator of the receipts fraction

shall be determined by multiplying the amount of receipts from such business by a fraction, the numerator of which shall be the miles in such business within the city during the period covered by the taxpayer's report and the denominator of which shall be the miles in such business within and without the city during such period. Receipts from the conduct of the railroad business or a trucking business shall be included in the denominator of the receipts fraction.

7. (a) Receipts of a taxpayer acting as principal from the activity of air freight forwarding and like indirect air carrier receipts arising from such activity shall be included in the numerator of the receipts fraction as follows: one hundred percent of such receipts if both the pickup and delivery associated with such receipts are made within the city and fifty percent of such receipts if either the pickup or delivery associated with such receipts is made within this city. Such receipts, whether the pickup or delivery associated with the receipts is within or without the city, shall be included in the denominator of the receipts fraction.

(b)(1)(i) The portion of receipts of a taxpayer from aviation services (other than services described in paragraph (a) of this subdivision, but including the receipts of a qualified air freight forwarder) to be included in the numerator of the receipts fraction shall be determined by multiplying its receipts from such aviation services by a percentage which is equal to the arithmetic average of the following three percentages:

(A) the percentage determined by dividing the aircraft arrivals and departures within the city by the taxpayer during the period covered by its report by the total aircraft arrivals and departures within and without the city during such period; provided, however, arrivals and

departures solely for maintenance or repair, refueling (where no debarkation or embarkation of traffic occurs), arrivals and departures of ferry and personnel training flights or arrivals and departures in the event of emergency situations shall not be included in computing such arrival and departure percentage; provided, further, the commissioner of finance may also exempt from such percentage aircraft arrivals and departures of all non-revenue flights including flights involving the transportation of officers or employees receiving air transportation to perform maintenance or repair services or where such officers or employees are transported in conjunction with an emergency situation or the investigation of an air disaster (other than on a scheduled flight); provided, however, that arrivals and departures of flights transporting officers and employees receiving air transportation for purposes other than specified above (without regard to remuneration) shall be included in computing such arrival and departure percentage;

(B) the percentage determined by dividing the revenue tons handled by the taxpayer at airports within the city during such period by the total revenue tons handled by it at airports within and without the city during such period; and

(C) the percentage determined by dividing the taxpayer's originating revenue within the city for such period by its total originating revenue within and without the city for such period.

(ii) As used herein the term "aircraft arrivals and departures" means the number of landings and takeoffs of the aircraft of the taxpayer and the number of air pickups and deliveries by the aircraft of such taxpayer; the term "originating revenue" means revenue to the taxpayer from the transportation of revenue passengers and revenue property first received by the taxpayer either as originating or connecting traffic at

airports; and the term "revenue tons handled by the taxpayer at airports" means the weight in tons of revenue passengers (at two hundred pounds per passenger) and revenue cargo first received either as originating or connecting traffic or finally discharged by the taxpayer at airports.

(2) All such receipts of a taxpayer from aviation services described in this paragraph shall be included in the denominator of the receipts fraction.

(3) A corporation is a qualified air freight forwarder with respect to another corporation:

(i) if it owns or controls either directly or indirectly all of the capital stock of such other corporation, or if all of its capital stock is owned or controlled either directly or indirectly by such other corporation, or if all of the capital stock of both corporations is owned or controlled either directly or indirectly by the same interests;

(ii) if it is principally engaged in the business of air freight forwarding; and

(iii) if its air freight forwarding business is carried on principally with the airline or airlines operated by such other corporation.

8. (a) The amount of receipts from sales of advertising in newspapers or periodicals included in the numerator of the receipts fraction shall be determined by multiplying the total of such receipts by a fraction, the numerator of which shall be the number of newspapers and periodicals delivered to points within the city and the denominator of which shall be the number of newspapers and periodicals delivered to points within and without the city. The total of such receipts from sales of advertising in newspapers or periodicals shall be included in the denominator of the receipts fraction.

(b) The amount of receipts from sales of advertising on television or radio included in the receipts fraction shall be determined by multiplying the total of such receipts by a fraction, the numerator of which shall be the number of viewers or listeners within the city and the denominator of which shall be the number of viewers or listeners within and without the city. The total of such receipts from sales of advertising on television or radio shall be included in the denominator of the receipts fraction.

(c) The amount of receipts from sales of advertising not described in paragraph (a) or (b) of this subdivision that is furnished, provided or delivered to, or accessed by the viewer or listener through the use of wire, cable, fiber-optic, laser, microwave, radio wave, satellite or similar successor media or any combination thereof, included in the numerator of the receipts fraction shall be determined by multiplying the total of such receipts by a fraction, the numerator of which shall be the number of viewers or listeners within the city and the denominator of which shall be the number of viewers or listeners within and without the city. The total of such receipts from sales of advertising described in this paragraph shall be included in the denominator of the receipts fraction.

9. Receipts from the transportation or transmission of gas through pipes shall be included in the numerator of the receipts fraction as follows. The amount of receipts from the transportation or transmission of gas through pipes included in the numerator of the receipts fraction shall be determined by multiplying the total amount of such receipts by a fraction, the numerator of which shall be the taxpayer's transportation units within the city and the denominator of which shall be the taxpayer's transportation units within and without the city. A transpor-

tation unit is the transportation of one cubic foot of gas over a distance of one mile. The total amount of receipts from the transportation or transmission of gas through pipes shall be included in the denominator of the receipts fraction.

10. (a) Receipts from services not addressed in subdivisions one through nine or subdivision twelve of this section and other business receipts not addressed in such subdivisions shall be included in the numerator of the receipts fraction if the location of the customer is within the city. Such receipts from customers within and without the city shall be included in the denominator of the receipts fraction. Whether the receipts are included in the numerator of the receipts fraction shall be determined according to the hierarchy of methods set forth in paragraph (b) of this subdivision. The taxpayer must exercise due diligence under each method described in such paragraph before rejecting it and proceeding to the next method in the hierarchy, and must base its determination on information known to the taxpayer or information that would be known to the taxpayer upon reasonable inquiry.

(b) The hierarchy of methods is as follows: (1) the benefit is received in the city; (2) delivery destination; (3) the receipts fraction for such receipts within the city determined pursuant to this subdivision for the preceding taxable year; or (4) the receipts fraction in the current taxable year determined pursuant to this subdivision for those receipts that can be sourced using the hierarchy of sourcing methods in subparagraphs one and two of this paragraph.

11. If it shall appear that the receipts fraction determined pursuant to this section does not result in a proper reflection of the taxpayer's business income or capital within the city, the commissioner of finance is authorized in his or her discretion to adjust it, or the taxpayer may

request that the commissioner of finance adjust it, by (a) excluding one or more items in such determination, (b) including one or more other items in such determination, or (c) any other similar or different method calculated to effect a fair and proper apportionment of the business income and capital reasonably attributed to the city. The party seeking the adjustment shall bear the burden of proof to demonstrate that the receipts fraction determined pursuant to this section does not result in a proper reflection of the taxpayer's business income or capital within the city and that the proposed adjustment is appropriate.

12. Receipts from the operation of vessels shall be included in the numerator of the receipts fraction as follows. The amount of receipts from the operation of vessels included in the numerator of the receipts fraction shall be determined by multiplying the amount of such receipts by a fraction, the numerator of which shall be the aggregate number of working days of the vessels owned or leased by the taxpayer in territorial waters of the city during the period covered by the taxpayer's report and the denominator of which shall be the aggregate number of working days of all vessels owned or leased by the taxpayer during such period. Receipts from the operation of vessels shall be included in the denominator of the receipts fraction.

§ 11-654.3 Combined reports. 1. (a) The tax on a combined report shall be the highest of (1) the combined business income multiplied by the tax rate specified in clause (i) of subparagraph one of paragraph (e) of subdivision one of section 11-654 of this subchapter; (2) the combined capital multiplied by the tax rate specified in clause (ii) of subparagraph one of paragraph (e) of subdivision one of section 11-654 of this subchapter, but not exceeding the limitation provided for in such clause (ii); or (3) the fixed dollar minimum that is attributable to the desig-

nated agent of the combined group. In addition, the tax on a combined report shall include the fixed dollar minimum tax specified in clause (iv) of subparagraph one of paragraph (e) of subdivision one of section 11-654 of this subchapter for each member of the combined group, other than the designated agent, that is a taxpayer.

(b) The combined business income base is the amount of the combined business income of the combined group that is allocated to the city, reduced by any prior net operating loss conversion subtraction and any net operating loss deduction for the combined group. The combined capital base is the amount of the combined capital of the combined group that is allocated to the city.

2. (a) Except as provided in paragraph (c) of this subdivision, any taxpayer (1) which owns or controls either directly or indirectly more than fifty percent of the voting power of the capital stock of one or more other corporations, or (2) more than fifty percent of the voting power of the capital stock of which is owned or controlled either directly or indirectly by one or more other corporations, or (3) more than fifty percent of the voting power of the capital stock of which and the capital stock of one or more other corporations, is owned or controlled, directly or indirectly, by the same interests, and (4) that is engaged in a unitary business with those corporations (hereinafter referred to as "related corporations"), shall make a combined report with those other corporations.

(b) A corporation required to make a combined report within the meaning of this section shall also include (1) a captive REIT and a captive RIC; (2) a combinable captive insurance company; and (3) an alien corporation that satisfies the conditions in paragraph (a) of this subdivision if (i) under any provision of the internal revenue code, that

corporation is treated as a "domestic corporation" as defined in section seven thousand seven hundred one of the internal revenue code, or (ii) it has effectively connected income for the taxable year pursuant to clause three of the opening paragraph of subdivision eight of section 11-652 of this subchapter.

(c) A corporation required or permitted to make a combined report under this section does not include (1) a corporation that is taxable under a tax imposed by subchapter two of this chapter or chapter eleven of this title (except for a vendor of utility services that is taxable under both chapter eleven of this title and this subchapter), or would be taxable under a tax imposed by subchapter two of this chapter or chapter eleven of this title (except for a vendor of utility services that is taxable under both chapter eleven of this title and this subchapter), or would have been taxable as an insurance corporation under the former part IV, title R, chapter forty-six of the administrative code as in effect on June thirtieth, nineteen hundred seventy-four; (2) a REIT that is not a captive REIT, and a RIC that is not a captive RIC; or (3) an alien corporation that under any provision of the internal revenue code is not treated as a "domestic corporation" as defined in section seven thousand seven hundred one of such code and has no effectively connected income for the taxable year pursuant to clause three of the opening paragraph of subdivision eight of section 11-652 of this subchapter. If a corporation is subject to tax under this subchapter solely as a result of its ownership of a limited partner interest in a limited partnership that is doing business, employing capital, owning or leasing property, maintaining an office in this state, or deriving receipts from activity in this state, and none of the corporation's related corporations are subject to tax under this subchapter, such

corporation shall not be required or permitted to file a combined report under this section with such related corporations.

(d) A combined report shall be filed by the designated agent of the combined group as determined under subdivision seven of this section.

3. (a) Subject to the provisions of paragraph (c) of subdivision two of this section, a taxpayer may elect to treat as its combined group all corporations that meet the ownership requirements described in paragraph (a) of subdivision two of this section (such corporations collectively referred to in this subdivision as the "commonly owned group"). If that election is made, the commonly owned group shall calculate the combined business income, combined capital, and fixed dollar minimum amount of all members of the group in accordance with paragraph four of this subdivision, whether or not that business income or business capital is from a single unitary business.

(b) The election under this subdivision shall be made on an original, timely filed return of the combined group. Any corporation entering a commonly owned group subsequent to the year of election shall be included in the combined group and is considered to have waived any objection to its inclusion in the combined group.

(c) The election shall be irrevocable, and binding for and applicable to the taxable year for which it is made and for the next six taxable years. The election will automatically be renewed for another seven taxable years after it has been in effect for seven taxable years unless it is affirmatively revoked. The revocation shall be made on an original, timely filed return for the first taxable year after the completion of a seven year period for which an election under this subdivision was in place. In the case of a revocation, a new election under this subdivision shall not be permitted in any of the immediately

following three taxable years. In determining the seven and three year periods described in this paragraph, short taxable years shall not be considered or counted.

4. (a) In computing the tax bases for a combined report, the combined group shall generally be treated as a single corporation, except as otherwise provided, and subject to any regulations or guidance issued by the commissioner of finance or the department of finance.

(b)(1) In computing combined business income, all intercorporate dividends shall be eliminated, and all other intercorporate transactions shall be deferred in a manner similar to the United States Treasury regulations relating to intercompany transactions under section fifteen hundred two of the internal revenue code.

(2) In computing combined capital, all intercorporate stockholdings, intercorporate bills, intercorporate notes receivable and payable, intercorporate accounts receivable and payable, and other intercorporate indebtedness, shall be eliminated.

(c) Qualification for credits, including any limitations thereon, shall be determined separately for each of the members of the combined group, and shall not be determined on a combined group basis, except as otherwise provided. However, the credits shall be applied against the combined tax of the group. To the extent that a provision of section 11-654 of this subchapter, or any other applicable section of this subchapter, limits a credit to the fixed dollar minimum amount prescribed in clause (iv) of subparagraph one of paragraph (e) of subdivision one of section 11-654 of this subchapter, such fixed dollar minimum amount shall be the fixed dollar minimum amount that is attributable to the designated agent of the combined group.

(d)(1) A net operating loss deduction is allowed in computing the combined business income base. Such deduction may reduce the tax on the combined business income base to the higher of the tax on the combined capital or the fixed dollar minimum amount that is attributable to the designated agent of the combined group and the members of the combined group. A combined net operating loss deduction is equal to the amount of combined net operating loss or losses from one or more taxable years that are carried forward or carried back to a particular taxable year. A combined net operating loss is the combined business loss incurred in a particular taxable year multiplied by the combined business allocation percentage for that year determined as provided in subdivision five of this section.

(2) The combined net operating loss deduction and combined net operating loss are also subject to the provisions contained in paragraphs (a) through (g) of subdivision three of section 11-654.1 of this subchapter.

(3) In the case of a corporation that files a combined report, either in the year the net operating loss is incurred or in the year in which a deduction is claimed on account of the loss, the combined net operating loss deduction is determined as if the combined group is a single corporation and, to the extent possible and not otherwise inconsistent with this subdivision, is subject to the same limitations that would apply for federal income tax purposes under the internal revenue code and the code of federal regulations as if such corporation had filed for such taxable year a consolidated federal income tax return with the same corporations included in the combined report. If a corporation files a combined report, regardless of whether it filed a separate return or consolidated return for federal income tax purposes, the net operating loss and net operating loss deduction for the combined group must be

computed as if the corporation had filed a consolidated return for the same corporations for federal income tax purposes.

(4) In general, any net operating loss carryover from a year in which a combined report was filed shall be based on the combined net operating loss of the group of corporations filing such report. The portion of the combined loss attributable to any member of the group that files a separate report for a succeeding taxable year will be an amount bearing the same relation to the combined loss as the net operating loss of such corporation bears to the total net operating loss of all members of the group having such losses to the extent that they are taken into account in computing the combined net operating loss.

(d-1) A prior net operating loss conversion subtraction is allowed in computing the combined business income base, as provided in subdivisions one and two of section 11-654.1 of this subchapter. Such subtraction may reduce the tax on combined business income to the higher of the tax on combined capital or the fixed dollar minimum amount that is attributable to the designated agent of the combined group and the members of the combined group.

(e) Any election made pursuant to paragraph (b) of subdivision five, paragraphs (b) and (c) of subdivision five-a of section 11-652 of this subchapter, and paragraph (d) of subdivision three of section 11-654.1 of this subchapter shall apply to all members of the combined group.

(f)(1) In the case of a captive REIT or captive RIC required under this section to be included in a combined report, entire net income shall be computed as required under subdivision seven (in the case of a captive REIT) or subdivision eight (in the case of a captive RIC) of section 11-653 of this subchapter. However, the deduction under the internal revenue code for dividends paid by the captive REIT or captive

RIC to any member of the affiliated group that includes the corporation that directly or indirectly owns over fifty percent of the voting stock of the captive REIT or captive RIC shall not be allowed. For purposes of this subparagraph, the term "affiliated group" means "affiliated group" as defined in section fifteen hundred four of the internal revenue code, but without regard to the exceptions provided for in subsection (b) of that section.

(2) In the case of a combinable captive insurance company required under this section to be included in a combined report, entire net income shall be computed as required by subdivision eight of section 11-652 of this subchapter.

(g) If more than one member of a combined group is eligible for any of the modifications described in paragraphs (q), (r) or (s) of subdivision eight of section 11-652 of this subchapter, all such members must utilize the same modification.

5. (a) In determining the business allocation percentage for a combined report, the receipts, net income, net gains and other items of each member of the combined group, whether or not they are a taxpayer, are included and intercorporate receipts, income and gains are eliminated. Receipts, net income, net gains and other items are sourced, and the amounts allowed in the receipts fraction are determined, as provided in section 11-654.2 of this subchapter.

(b) An election made to allocate income and gains from qualifying financial instruments pursuant to subparagraph one of paragraph (a) of subdivision five of section 11-654.2 of this subchapter shall apply to all members of the combined group.

6. Every member of the combined group that is subject to tax under this article shall be jointly and severally liable for the tax due pursuant to a combined report.

7. Each combined group shall appoint a designated agent for the combined group, which shall be a taxpayer. Only the designated agent may act on behalf of the members of the combined group for matters relating to the combined report.

§ 11-655 Reports. 1. Every corporation having an officer, agent or representative within the city, shall annually on or before March fifteenth, transmit to the commissioner of finance a report in a form prescribed by the commissioner of finance (except that a corporation which reports on the basis of a fiscal year shall transmit its report within two and one-half months after the close of its fiscal year), setting forth such information as the commissioner of finance may prescribe and every taxpayer which ceases to do business in the city or to be subject to the tax imposed by this subchapter shall transmit to the commissioner of finance a report on the date of such cessation or at such other time as the commissioner of finance may require covering each year or period for which no report was theretofore filed. Every taxpayer shall also transmit such other reports and such facts and information as the commissioner of finance may require in the administration of this subchapter. The commissioner of finance may grant a reasonable extension of time for filing reports whenever good cause exists.

An automatic extension of six months for the filing of its annual report shall be allowed any taxpayer if, within the time prescribed by either of the preceding paragraphs, whichever is applicable, such taxpayer files with the commissioner of finance an application for extension in such form as the commissioner of finance may prescribe by

regulation and pays on or before the date of such filing the amount properly estimated as its tax.

2. Every report shall have annexed thereto a certification by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or another officer of the taxpayer duly authorized so to act to the effect that the statements contained therein are true. In the case of an association, within the meaning of paragraph three of section (a) of section seventy-seven hundred one of the internal revenue code, a publicly-traded partnership treated as a corporation for purposes of the internal revenue code pursuant to section seventy-seven hundred four thereof and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by certificates or other written instruments, such certification shall be made by any person duly authorized so to act on behalf of such association, publicly-traded partnership or business. The fact that an individual's name is signed on a certification of the report shall be prima facie evidence that such individual is authorized to sign and certify the report on behalf of the corporation. Blank forms of reports shall be furnished by the commissioner of finance, on application, but failure to secure such a blank shall not release any corporation from the obligation of making any report required by this subchapter.

2-a. The commissioner of finance may prescribe regulations and instructions requiring returns of information to be made and filed in conjunction with the reports required to be filed pursuant to this section, relating to payments made to shareholders owning, directly or indirectly, individually or in the aggregate, more than fifty percent of the issued capital stock of the taxpayer, where such payments are treat-

ed as payments of interest in the computation of entire net income reported on such reports.

3. If the amount of taxable income or other basis of tax for any year of any taxpayer as returned to the United States treasury department or the New York state commissioner of taxation and finance is changed or corrected by the commissioner of internal revenue or other officer of the United States or the New York state commissioner of taxation and finance or other competent authority, or where a renegotiation of a contract or subcontract with the United States or the state of New York results in a change in taxable income or other basis of tax, or where a recovery of a war loss results in a computation or recomputation of any tax imposed by the United States or the state of New York, or if a taxpayer, pursuant to subsection (d) of section sixty-two hundred thirteen of the internal revenue code, executes a notice of waiver of the restrictions provided in subsection (a) of said section, or if a taxpayer, pursuant to subsection (f) of section one thousand eighty-one of the tax law, executes a notice of waiver of the restrictions provided in subsection (c) of said section, such taxpayer shall report such changed or corrected taxable income or other basis of tax, or the results of such renegotiation, or such computation, or recomputation, or such execution of such notice of waiver and the changes or corrections of the taxpayer's federal or New York state taxable income or other basis of tax on which it is based, within ninety days (or one hundred twenty days, in the case of a taxpayer making a combined report under this subchapter for such year) after such execution or the final determination of such change or correction or renegotiation, or such computation, or recomputation, or as required by the commissioner of finance, and shall concede the accuracy of such determination or state wherein it

is erroneous. The allowance of a tentative carryback adjustment based upon a net operating loss carryback or net capital loss carryback pursuant to section sixty-four hundred eleven of the internal revenue code shall be treated as a final determination for purposes of this subdivision. Any taxpayer filing an amended return with such department shall also file within ninety days (or one hundred twenty days, in the case of a taxpayer making a combined report under this subchapter for such year) thereafter an amended report with the commissioner of finance.

4. The provisions of section 11-654.3 of this subchapter shall apply to combined reports.

5. In case it shall appear to the commissioner of finance that any agreement, understanding or arrangement exists between the taxpayer and any other corporation or any person or firm, whereby the activity, business, income or capital of the taxpayer within the city is improperly or inaccurately reflected, the commissioner of finance is authorized and empowered, in its discretion and in such manner as it may determine, to adjust items of income, deductions and capital, and to eliminate assets in computing any allocation percentage provided only that any income directly traceable thereto be also excluded from entire net income, so as equitably to determine the tax. Where (a) any taxpayer conducts its activity or business under any agreement, arrangement or understanding in such manner as either directly or indirectly to benefit its members or stockholders, or any of them, or any person or persons directly or indirectly interested in such activity or business, by entering into any transaction at more or less than a fair price which, but for such agreement, arrangement or understanding, might have been paid or received therefor, or (b) any taxpayer, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation,

enters into any transaction with such other corporation on such terms as to create an improper loss or net income, the commissioner of finance may include in the entire net income of the taxpayer the fair profits, which, but for such agreement, arrangement or understanding, the taxpayer might have derived from such transaction. Where any taxpayer owns, directly or indirectly, more than fifty percent of the capital stock of another corporation subject to tax under section fifteen hundred two-a of the tax law and fifty percent or less of whose gross receipts for the taxable year consist of premiums, the commissioner of finance may include in the entire net income of the taxpayer, as a deemed distribution, the amount of the net income of the other corporation that is in excess of its net premium income.

6. An action may be brought at any time by the corporation counsel at the instance of the commissioner of finance to compel the filing of reports due under this subchapter.

7. Reports shall be preserved for five years, and thereafter until the commissioner of finance orders them to be destroyed.

8. Where the state tax commission changes or corrects a taxpayer's sales and compensating use tax liability with respect to the purchase or use of items for which a sales or compensating use tax credit against the tax imposed by this subchapter was claimed, the taxpayer shall report such change or correction to the commissioner of finance within ninety days of the final determination of such change or correction, or as required by the commissioner of finance, and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended return or report relating to the purchase or use of such items shall also file within ninety days thereafter a copy of such amended return or report with the commissioner of finance.

§ 11-656 Payment and lien of tax. 1. To the extent the tax imposed by section 11-653 of this subchapter shall not have been previously paid pursuant to section 11-658 of this subchapter:

(a) such tax, or the balance thereof, shall be payable to the commissioner of finance in full at the time the report is required to be filed; and

(b) such tax, or the balance thereof, imposed on any taxpayer which ceases to do business in the city or to be subject to the tax imposed by this subchapter shall be payable to the commissioner of finance at the time the report is required to be filed; all other taxes of any such taxpayer, which pursuant to the foregoing provisions of this section would otherwise be payable subsequent to the time such report is required to be filed, shall nevertheless be payable at such time.

If the taxpayer, within the time prescribed by section 11-655 of this subchapter, shall have applied for an automatic extension of time to file its annual report and shall have paid to the commissioner of finance on or before the date such application is filed an amount properly estimated as provided by said section, the only amount payable in addition to the tax shall be interest at the underpayment rate set by the commissioner of finance pursuant to section 11-687 of this chapter, or, if no rate is set, at the rate of seven and one-half percent per annum upon the amount by which the tax, or the portion thereof payable on or before the date the report was required to be filed, exceeds the amount so paid. For purposes of the preceding sentence:

(1) an amount so paid shall be deemed properly estimated if it is either: (i) not less than ninety percent of the tax as finally determined, or (ii) not less than the tax shown on the taxpayer's report for

the preceding taxable year, if such preceding year was a taxable year of twelve months; and

(2) the time when a report is required to be filed shall be determined without regard to any extension of time for filing such report.

2. The commissioner of finance may grant a reasonable extension of time for payment of any tax imposed by this subchapter under such conditions as the commissioner of finance deems just and proper.

3. Intentionally omitted.

§ 11-657 Declaration of estimated tax. 1. Every taxpayer subject to the tax imposed by section 11-653 of this subchapter shall make a declaration of its estimated tax for the current privilege period, containing such information as the commissioner of finance may prescribe by regulations or instructions, if such estimated tax can reasonably be expected to exceed one thousand dollars.

2. The term "estimated tax" means the amount which a taxpayer estimates to be the tax imposed by section 11-653 of this subchapter for the current privilege period, less the amount which it estimates to be the sum of any credits allowable against the tax.

3. In the case of a taxpayer which reports on the basis of a calendar year, a declaration of estimated tax shall be filed on or before June fifteenth of the current privilege period, except that if the requirements of subdivision one of this section are first met:

(a) after May thirty-first and before September first of such current privilege period, the declaration shall be filed on or before September fifteenth; or

(b) after August thirty-first and before December first of such current privilege period, the declaration shall be filed on or before December fifteenth.

4. A taxpayer may amend a declaration under regulations of the commissioner of finance.

5. If, on or before February fifteenth of the succeeding year in the case of a taxpayer which reports on the basis of a calendar year, a taxpayer files its report for the year for which the declaration is required, and pays therewith the balance, if any, of the full amount of the tax shown to be due on the report:

(a) such report shall be considered as its declaration if no declaration is required to be filed during the calendar or fiscal year for which the tax was imposed, but is otherwise required to be filed on or before December fifteenth pursuant to subdivision three of this section; and

(b) such report shall be considered as the amendment permitted by subdivision four of this section to be filed on or before December fifteenth if the tax shown on the report is greater than the estimated tax shown on a declaration previously made.

6. This section shall apply to privilege periods of twelve months other than a calendar year by the substitution of the months of such fiscal year for the corresponding months specified in this section.

7. If the privilege period for which a tax is imposed by section 11-653 of this subchapter is less than twelve months, every taxpayer required to make a declaration of estimated tax for such privilege period shall make such a declaration in accordance with regulations of the commissioner of finance.

8. The commissioner of finance may grant a reasonable extension of time, not to exceed three months, for the filing of any declaration required pursuant to this section, on such terms and conditions as it may require.

§ 11-658 Payments on account of estimated tax. 1. Every taxpayer subject to the tax imposed by section 11-653 of this subchapter shall pay with the report required to be filed for the preceding privilege period, if any, or with an application for extension of the time and filing such report, an amount equal to twenty-five per centum of the preceding year's tax if such preceding year's tax exceeded one thousand dollars.

2. The estimated tax with respect to which a declaration for such privilege period is required shall be paid, in the case of a taxpayer which reports on the basis of a calendar year, as follows:

(a) If the declaration is filed on or before June fifteenth, the estimated tax shown thereon, after applying thereto the amount, if any, paid during the same privilege period pursuant to subdivision one of this section, shall be paid in three equal installments. One of such installments shall be paid at the time of the filing of the declaration, one shall be paid on the following September fifteenth, and one on the following December fifteenth.

(b) If the declaration is filed after June fifteenth and not after September fifteenth of such privilege period, and is not required to be filed on or before June fifteenth of such period, the estimated tax shown on such declaration, after applying thereto the amount, if any, paid during the same privilege period pursuant to subdivision one of this section, shall be paid in two equal installments. One of such installments shall be paid at the time of the filing of the declaration and one shall be paid on the following December fifteenth.

(c) If the declaration is filed after September fifteenth of such privilege period, and is not required to be filed on or before September fifteenth of such privilege period, the estimated tax shown on such

declaration, after applying thereto the amount, if any, paid in respect to such privilege period pursuant to subdivision one of this section, shall be paid in full at the time of the filing of the declaration.

(d) If the declaration is filed after the time prescribed therefor, or after the expiration of any extension of time therefor, paragraphs (b) and (c) of this subdivision shall not apply, and there shall be paid at the time of such filing all installments of estimated tax payable at or before such time, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been filed when due.

3. If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased (as the case may be) to reflect any increase or decrease in the estimated tax by reason of such amendment, and if any amendment is made after September fifteenth of the privilege period, any increase in the estimated tax by reason thereof shall be paid at the time of making such amendment.

4. Any amount paid shall be applied after payment as a first installment against the estimated tax of the taxpayer for the current privilege period shown on the declaration required to be filed pursuant to section 11-657 of this subchapter or, if no declaration of estimated tax is required to be filed by the taxpayer pursuant to such section, any such amount shall be considered a payment on account of the tax shown on the report required to be filed by the taxpayer for such privilege period.

5. Notwithstanding the provisions of section 11-679 of this chapter or of section three-a of the general municipal law, if an amount paid pursuant to subdivision one of this section exceeds the tax shown on the report required to be filed by the taxpayer for the privilege period during which the amount was paid, interest shall be allowed and paid on

the amount by which the amount so paid pursuant to such subdivision exceeds such tax, at the overpayment rate set by the commissioner of finance pursuant to section 11-687 of this chapter, or, if no rate is set, at the rate of four percent per annum from the date of payment of the amount so paid pursuant to such subdivision to the fifteenth day of the third month following the close of the privilege period, provided, however, that no interest shall be allowed or paid under this subdivision if the amount thereof is less than one dollar or if such interest becomes payable solely because of a carryback of a net operating loss in a subsequent privilege period.

6. As used in this section, "the preceding year's tax" means the tax imposed upon the taxpayer by section 11-653 of this subchapter for the preceding calendar or fiscal year, or, for purposes of computing the first installment of estimated tax when an application has been filed for extension of the time for filing the report required to be filed for such preceding calendar or fiscal year, the amount properly estimated pursuant to section 11-657 of this subchapter as the tax imposed upon the taxpayer for such calendar or fiscal year.

7. This section shall apply to a privilege period of less than twelve months in accordance with regulations of the commissioner of finance.

8. The provisions of this section shall apply to privilege periods of twelve months other than a calendar year by the substitution of the months of such fiscal year for the corresponding months specified in such provisions.

9. The commissioner of finance may grant a reasonable extension of time, not to exceed six months, for payment of any installment of estimated tax required pursuant to this section, on such terms and conditions as the commissioner of finance may require including the furnish-

ing of a bond or other security by the taxpayer in an amount not exceeding twice the amount for which any extension of time for payment is granted, provided however that interest at the underpayment rate set by the commissioner of finance pursuant to section 11-687 of this subchapter, or, if no rate is set, at the rate of seven and one-half percent per annum for the period of the extension shall be charged and collected on the amount for which any extension of time for payment is granted under this subdivision.

10. A taxpayer may elect to pay any installment of estimated tax prior to the date prescribed in this section for payment thereof.

11. Intentionally omitted.

§ 11-659 Collection of taxes. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this subchapter, except a corporation having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this subchapter may be served within this state, and setting forth an address to which the secretary of state shall mail a copy of any such process against the corporation which may be served upon the secretary of state. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed the secretary of state to mail copies of process served upon him or her

to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation the secretary of state shall mail copies of process thereafter served upon the secretary of state to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which the secretary of state is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority under section eight hundred five of the limited liability company law or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this subchapter, may be made by either: (a) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service duplicate copies thereof at the office of the department of state in the city of Albany, in which event the secretary of state shall forthwith send by registered mail, return receipt requested, one of such copies to the corporation at the address designated by it or at its last known office address within or without the state, or (b) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in the city of Albany and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding

functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 11-660 Limitations of time. The provisions of the civil practice law and rules relative to the limitation of time enforcing a civil remedy shall not apply to any proceeding or action taken to levy, appraise, assess, determine or enforce the collection of any tax or penalty prescribed by this subchapter, provided, however, that as to real estate in the hands of persons who are owners thereof who would be purchasers in good faith but for such tax or penalty and as to the lien on real estate of mortgages held by persons who would be holders thereof in good faith but for such tax or penalty, all such taxes and penalties shall cease to be a lien on such real estate as against such purchasers or holders after the expiration of ten years from the date such taxes became due and payable. The limitations herein provided for shall not apply to any transfer from a corporation to a person or corporation with intent to avoid payment of any taxes, or where with like intent the transfer is made to a grantee corporation, or any subsequent grantee corporation, controlled by such grantor or which has any community of interest with it, either through stock ownership or otherwise.

§ 2. Subparagraph (A) of paragraph 2 of subdivision (f) of section 11-508 of the administrative code of the city of New York, as added by chapter 485 of the laws of 1994, is amended to read as follows:

(A) In the case of an issuer or obligor subject to tax under subchapter two or three-A of chapter six of this title, or subject to tax as a utility corporation under chapter eleven of this title, the issuer's

allocation percentage shall be the percentage of the appropriate measure (as defined hereinafter) which is required to be allocated within the city on the report or reports, if any, required of the issuer or obligor under chapter six or eleven of this title for the preceding year. The appropriate measure referred to in the preceding sentence shall be: in the case of an issuer or obligor subject to subchapter two or three-A of chapter six of this title, entire capital; and in the case of an issuer or obligor subject to chapter eleven of this title as a utility corporation, gross income.

§ 3. The administrative code of the city of New York is amended by adding a new section 11-602.1 to read as follows:

§ 11-602.1 Application of this subchapter. 1. For taxable years beginning on or after January first, two thousand fifteen, the tax imposed under this subchapter shall only apply to a corporation that (a) has an election in effect under subsection (a) of section thirteen hundred sixty-two of the internal revenue code of 1986, as amended, or (b) is a qualified subchapter S subsidiary within the meaning of paragraph three of subsection (b) of section thirteen hundred sixty-one of the internal revenue code of 1986, as amended.

2. For taxable years beginning on or after January first, two thousand fifteen, the tax imposed under this subchapter shall not apply to a corporation that is not described in subdivision one of this section except to the extent provided in subchapter three-A of this chapter.

3. Cross-Reference. For the taxation of corporations that are not described in subdivision one of this section, that were taxable under this subchapter for tax years beginning before January first, two thousand fifteen, see subchapter three-A of this chapter.

§ 4. Subdivision (a) of section 11-639 of the administrative code of the city of New York is amended to read as follows:

(a) (1) For the privilege of doing business in the city in a corporate or organized capacity, a tax, computed under section 11-643 of this part, is hereby annually imposed on every banking corporation for each of its taxable years, or any part thereof, beginning on or after January first, nineteen hundred seventy-three and ending December thirty-first, two thousand fourteen.

(2) For the privilege of doing business in the city in a corporate or organized capacity, a tax, computed under section 11-643 of this part, is hereby annually imposed on every banking corporation for each taxable year, or any part thereof, commencing on or after January first, two thousand fifteen, where such banking corporation (i) has an election in effect under subsection (a) of section thirteen hundred sixty-two of the internal revenue code of 1986, as amended, or (ii) is a qualified subchapter S subsidiary within the meaning of paragraph three of subsection (b) of section thirteen hundred sixty-one of the internal revenue code of 1986, as amended.

§ 5. Section 11-639 of the administrative code of the city of New York is amended by adding a new subdivision (d) to read as follows:

(d) Cross-Reference. For the taxation of corporations that are not described in paragraph two of subdivision (a) of this section, that were taxable under this subchapter for tax years beginning before January first, two thousand fifteen, see subchapter three-A of this chapter.

§ 6. Paragraph 2 of subdivision (b) of section 11-641 of the administrative code of the city of New York, as amended by chapter 525 of the laws of 1988, is amended to read as follows:

(2) taxes on or measured by income or profits paid or accrued within the taxable year to the United States, or any of its possessions or to any foreign country and taxes imposed under article nine, nine-A, thirteen-A or thirty-two of the tax law as in effect on December thirty-first, two thousand fourteen and any tax imposed under this part or subchapter two or three-A of this chapter;

§ 7. Subdivision 1 and paragraph (a) of subdivision 2 of section 11-671 of the administrative code of the city of New York are amended to read as follows:

1. General. The provisions of this subchapter shall apply to the administration of and the procedures with respect to the taxes imposed by subchapters two, three, three-A and four of this chapter.

(a) the term "named subchapters" means subchapters two, threeor three-A and four of this chapter;

§ 8. Paragraph (a) of subdivision 5 and subdivisions 7, 8 and 9 of section 11-672 of the administrative code of the city of New York, paragraph (a) of subdivision 5 as amended by chapter 525 of the laws of 1988, and paragraph (b) of subdivision 9 as amended by chapter 808 of the laws of 1992, are amended to read as follows:

(a) If the taxpayer fails to comply with subchapter two [or], three or three-A of this chapter in not reporting a change or correction or renegotiation, or computation or recomputation of tax, increasing or decreasing its federal or New York state taxable income, alternative minimum taxable income or other basis of tax as reported on its federal or New York state income tax return or in not reporting a change or correction or renegotiation, or computation or recomputation of tax, which is treated in the same manner as if it were a deficiency for federal or New York state income tax purposes or in not filing an

amended return or in not reporting the execution of a notice of waiver executed pursuant to subsection (d) of section six thousand two hundred thirteen of the internal revenue code or pursuant to subdivision (f) of section one thousand eighty-one of the tax law, instead of the mode and time of assessment provided for in subdivision two of this section, the commissioner of finance may assess a deficiency based upon such increased or decreased federal or New York state taxable income, alternative minimum taxable income or other basis of tax by mailing to the taxpayer a notice of additional tax due specifying the amount of the deficiency, and such deficiency, together with the interest, additions to tax and penalties stated in such notice, shall be deemed assessed on the date such notice is mailed unless within thirty days after the mailing of such notice a report of the federal or New York state change or correction or renegotiation, or computation or recomputation of tax, or an amended return, where such return was required by subchapter two [or], three or three-A, is filed accompanied by a statement showing wherein such federal or New York state determination and such notice of additional tax due are erroneous.

7. Two or more corporations. In case of a combined return under subchapter two or three-A or a consolidated return under subchapter three of two or more corporations, the commissioner of finance may determine a deficiency of tax under subchapter two [or subchapter], three or three-A of this chapter with respect to the entire tax due upon such return against any taxpayer included therein. In the case of a taxpayer which might have been included in such a return under subchapter two [or subchapter], three or three-A of this chapter when the tax was originally reported, the commissioner of finance may determine a deficiency of tax under subchapter two [or], three or three-A of this

chapter against such taxpayer and against any other taxpayers which might have been included in such a return.

8. Deficiency defined. For the purposes of this subchapter, a deficiency means the amount of the tax imposed by the named subchapters, or any of them, less: (a) the amount shown as the tax upon the taxpayer's return (whether the return was made or the tax computed by it or by the commissioner of finance), and less (b) the amounts previously assessed (or collected without assessment) as a deficiency and plus (c) the amount of any rebates. For the purpose of this definition, the tax imposed by subchapter two [or], three or three-A of this chapter and the tax shown on the return shall both be determined without regard to any payment of estimated tax; and a rebate means so much of an abatement, credit, refund or other repayment (whether or not erroneous) as was made on the ground that the amounts entering into the definition of a deficiency showed a balance in favor of the taxpayer.

9. Exception where change or correction of sales and compensating use tax liability is not reported.

(a) If a taxpayer fails to comply with subchapter two or three-A of this chapter in not reporting a change or correction of its sales and compensating use tax liability or in not filing a copy of an amended return or report relating to its sales and compensating use tax liability, instead of the mode and time of assessment provided for in subdivision two of this section, the commissioner of finance may assess a deficiency based upon such changed or corrected sales and compensating use tax liability, as same relates to credits claimed under subchapter two or three-A of this chapter, by mailing to the taxpayer a notice of additional tax due specifying the amount of the deficiency, and such deficiency, together with the interest, additions to tax and penalties stat-

ed in such notice, shall be deemed assessed on the date such notice is mailed unless within thirty days after the mailing of such notice a report of the state change or correction or a copy of an amended return or report, where such copy was required by subchapter two or three-A, is filed accompanied by a statement showing wherein such state determination and such notice of additional tax due are erroneous.

(b) Such notice shall not be considered as a notice of deficiency for the purposes of this section, subdivision six of section 11-678 (limiting credits or refunds after petition to the tax appeals tribunal), or subdivision two of section 11-680 (authorizing the filing of a petition with the tax appeals tribunal based on a notice of deficiency), nor shall such assessment or the collection thereof be prohibited by the provisions of subdivision three of this section.

(c) If the taxpayer has terminated its existence, a notice of additional tax due may be mailed to its last known address in or out of the city, and such notice shall be sufficient for purposes of this subchapter. If the commissioner of finance has received notice that a person is acting for the taxpayer in a fiduciary capacity, a copy of such notice shall also be mailed to the fiduciary named in such notice.

§ 9. Subdivisions 1 and 3 of section 11-673 of the administrative code of the city of New York, the first undesignated paragraph of subdivision 1 as amended by chapter 808 of the laws of 1992, are amended to read as follows:

1. Assessment date. The amount of tax which a return shows to be due, or the amount of tax which a return would have shown to be due but for a mathematical error, shall be deemed to be assessed on the date of filing of the return (including any amended return showing an increase of tax). If a notice of deficiency has been mailed, the amount of the deficiency

shall be deemed to be assessed on the date specified in subdivision two of section 11-672 of this subchapter if no petition is both served on the commissioner of finance and filed with the tax appeals tribunal, or if a petition is so served and filed, then upon the date when a decision of the tax appeals tribunal establishing the amount of the deficiency becomes final. If a report or an amended return filed pursuant to subchapter two [or], three or three-A of this chapter concedes the accuracy of a federal or New York state adjustment or change or correction or renegotiation or computation or recomputation of tax, any deficiency in tax under subchapter two [or], three or three-A of this chapter resulting therefrom shall be deemed to be assessed on the date of filing such report or amended return, and such assessment shall be timely notwithstanding section 11-674 of this chapter.

If a report filed pursuant to subchapter two or three-A of this chapter concedes the accuracy of a state change or correction of sales and compensating use tax liability, any deficiency in tax under subchapter two or three-A of this chapter resulting therefrom shall be deemed assessed on the date of filing such report, and such assessment shall be timely notwithstanding section 11-674 of this chapter.

If a notice of additional tax due, as prescribed in subdivision five of section 11-672 of this chapter, has been mailed, the amount of the deficiency shall be deemed to be assessed on the date specified in such subdivision unless within thirty days after the mailing of such notice a report of the federal or New York state adjustment or change or correction or renegotiation or computation or recomputation of tax, or an amended return, where such return was required by subchapter two [or], three or three-A of this chapter, is filed accompanied by a state-

ment showing wherein such federal or New York state determination and such notice of additional tax due are erroneous.

If a notice of additional tax due, as prescribed in subdivision nine of section 11-672 of this subchapter, has been mailed, the amount of the deficiency shall be deemed to be assessed on the date specified in such subdivision unless within thirty days after the mailing of such notice a report of the state change or correction, or a copy of an amended return or report, where such copy was required by subchapter two or three-A of this chapter, is filed accompanied by a statement showing wherein such state determination and such notice of additional tax due are erroneous.

Any amount paid as a tax or in respect of a tax, other than amounts paid as estimated tax, shall be deemed to be assessed upon the date of receipt of payment notwithstanding any other provisions.

3. Estimated tax. No unpaid amount of estimated tax under subchapter two [or], three or three-A of this chapter shall be assessed.

§ 10. Subdivisions 3 and 4 of section 11-674 of the administrative code of the city of New York, subparagraph 3 of paragraph (a) and paragraph (c) of subdivision 3 as amended by chapter 525 of the laws of 1988 and paragraph (d) of subdivision 3 as amended by local law number 57 of the city of New York for the year 2001, are amended to read as follows:

3. Exceptions.

(a) Assessment at any time. The tax may be assessed at any time if:

(1) no return is filed,

(2) a false or fraudulent return is filed with intent to evade tax,

(3) in the case of the tax imposed under subchapter two [or], three or three-A of this chapter, the taxpayer fails to file a report or amended return required thereunder, in respect of an increase or decrease in federal or New York state taxable income, alternative minimum taxable

income or other basis of tax or federal or New York state tax, or in respect of a change or correction or renegotiation or in respect of the execution of a notice of waiver report of which is required thereunder, or computation or recomputation of tax, which is treated in the same manner as if it were a deficiency for federal or New York state income tax purposes, or

(4) in the case of the tax imposed under subchapter two or three-A of this chapter, the taxpayer fails to file a report or amended return or report required thereunder, in respect of a change or correction of sales and compensating use tax liability, relating to the purchase or use of items for which a sales or compensating use tax credit against the tax imposed by subchapter two or three-A was claimed.

(b) Extension by agreement. Where, before the expiration of the time prescribed in this section for the assessment of tax, both the commissioner of finance and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(c) Report of federal or New York state change or correction. In the case of the tax imposed under subchapter two [or], three or three-A of this chapter, if the taxpayer files a report or amended return required thereunder, in respect of an increase or decrease in federal or New York state taxable income, alternative minimum taxable income or other basis of tax or federal or New York state tax, or in respect of a change or correction or renegotiation, or in respect of the execution of a notice of waiver report of which is required thereunder, or computation or recomputation of tax, which is treated in the same manner as if it were

a deficiency for federal or New York state income tax purposes, the assessment (if not deemed to have been made upon the filing of the report or amended return) may be made at any time within two years after such report or amended return was filed. The amount of such assessment of tax shall not exceed the amount of the increase in city tax attributable to such federal or New York state change or correction or renegotiation, or computation or recomputation of tax. The provisions of this paragraph shall not affect the time within which or the amount for which an assessment may otherwise be made.

(d) Deficiency attributable to carry back. If a deficiency of tax under subchapter two or three-A of this chapter is attributable to the application to taxpayer of a net operating loss carry back or a capital loss carry back, it may be assessed at any time that a deficiency for the taxable year of the loss may be assessed.

(e) Recovery of erroneous refund. An erroneous refund shall be considered an underpayment of tax on the date made, and an assessment of a deficiency arising out of an erroneous refund may be made at any time within two years from the making of the refund, except that the assessment may be made within five years from the making of the refund if it appears that any part of the refund was induced by fraud or misrepresentation of a material fact.

(f) Request for prompt assessment. The tax shall be assessed within eighteen months after written request therefor (made after the return is filed) by the taxpayer or by a fiduciary representing the taxpayer, but not more than three years after the return was filed, except as otherwise provided in this subdivision and subdivision four. This subdivision shall not apply unless:

(1) (A) such written request notifies the commissioner of finance that the taxpayer contemplates dissolution at or before the expiration of such eighteen-month period, (B) the dissolution is in good faith begun before the expiration of such eighteen-month period, (C) the dissolution is completed;

(2) (A) such written request notifies the commissioner of finance that a dissolution has in good faith been begun, and (B) the dissolution is completed; or

(3) a dissolution has been completed at the time such written request is made.

(g) Change of the allocation of taxpayer's income or capital. [No] (1) With regard to taxable years beginning before January first, two thousand fifteen, no change of the allocation of income or capital upon which the taxpayer's return (or any additional assessment) was based shall be made where an assessment of tax is made during the additional period of limitation under subparagraph three or four of paragraph (a), or under paragraph (c), (d) or (i); and where any such assessment has been made, or where a notice of deficiency has been mailed to the taxpayer on the basis of any such proposed assessment, no change of the allocation of income or capital shall be made in a proceeding on the taxpayer's claim for refund of such assessment or on the taxpayer's petition for redetermination of such deficiency.

(2) With regard to taxable years beginning on or after January first, two thousand fifteen, no change of the allocation of income or capital upon which the taxpayer's return (or any additional assessment) was based shall be made where an assessment of tax is made during the additional period of limitation under subparagraph three or four of paragraph (a) or under paragraph (c), (d) or (i), except to the extent such

assessment is based on an increase or decrease in New York state taxable income or other basis of tax or New York state tax, or based on a change, correction or renegotiation of tax, or based on the execution of a notice of waiver report which is required thereunder, or computation or recomputation of tax, which is treated in the same manner as if it were a deficiency for New York state income tax purposes; and where any such assessment has been made, or where a notice of deficiency has been mailed to the taxpayer on the basis of any such proposed assessment, no change of the allocation of income or capital shall be made in a proceeding on the taxpayer's claim for refund of such assessment or on the taxpayer's petition for redetermination of such deficiency, except to the extent such assessment is based on an increase or decrease in New York state taxable income or other basis of tax or New York state tax, or based on a change or correction or renegotiation of tax, or based on the execution of a notice of waiver report which is required thereunder, or computation or recomputation of tax, which is treated in the same manner as if it were an overpayment for New York state income tax purposes.

(h) Report concerning waste treatment facility. Under the circumstances described in subparagraph three of paragraph (g) of subdivision eight of section 11-602 of this chapter or in subparagraph three of paragraph (g) of subdivision eight of section 11-652 of this chapter, the tax may be assessed within three years after the filing of the report containing the information required by such paragraph.

(i) Report of changed or corrected sales and compensating use tax liability. In the case of a tax imposed under subchapter two or three-A of this chapter, if the taxpayer files a report or amended return or report required thereunder, in respect of a change or correction of

sales and compensating use tax liability, the assessment (if not deemed to have been made upon the filing of the report) may be made at any time within two years after such report or amended return or report was filed. The amount of such assessment of tax shall not exceed the amount of the increase in city tax attributable to such state change or correction. The provisions of this paragraph shall not affect the time within which or the amount for which an assessment may otherwise be made.

4. Omission of income on return. The tax may be assessed at any time within six years after the return was filed if a taxpayer omits from gross income required to be reported on a return under any of the named subchapters an amount properly includable therein which is in excess of twenty-five per centum of the amount of gross income stated in the return.

For the purposes of this subdivision:

(a) the term "gross income" means gross income for federal income tax purposes as reportable on a return under subchapter two <u>or three-A</u> of this chapter and "gross earnings", "gross income," "gross operating income" and "gross direct premiums less return premiums," as those terms are used in whichever of the named subchapters is applicable;

(b) there shall not be taken into account any amount which is omitted in the return if such amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the commissioner of finance of the nature and amount of such item.

§ 11. Subdivisions 2 and 5 of section 11-675 of the administrative code of the city of New York, subdivision 5 as amended by local law number 57 of the city of New York for the year 2001, are amended to read as follows:

2. Exception as to estimated tax. This section shall not apply to any failure to pay estimated tax under subchapter two [or subchapter], three or three-A of this chapter.

5. Tax reduced by carry back. If the amount of tax under subchapter two or three-A for any taxable year is reduced by reason of a carryback of a net operating loss or a capital loss, such reduction in tax shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which the net operating loss or capital loss arises. Such filing date shall be determined without regard to extensions of time to file.

§ 12. Subdivision 3 of section 11-676 of the administrative code of the city of New York, as amended by chapter 201 of the laws of 2009, is amended to read as follows:

3. Failure to file declaration or underpayment of estimated tax. If any taxpayer fails to file a declaration of estimated tax under subchapter two [or], three or three-A of this chapter, or fails to pay all or any part of an amount which is applied as an installment against such estimated tax, it shall be deemed to have made an underpayment of estimated tax. There shall be added to the tax for the taxable year an amount at the underpayment rate set by the commissioner of finance pursuant to section 11-687 of this subchapter, or, if no rate is set, at the rate of seven and one-half percent per annum upon the amount of the underpayment for the period of the underpayment but not beyond the fifteenth day of the third month following the close of the taxable year. The amount of the underpayment shall be, with respect to any installment of estimated tax computed on the basis of the preceding year's tax, the excess of the amount required to be paid over the amount, if any, paid on or before the last day prescribed for such

payment or, with respect to any other installment of estimated tax, the excess of the amount of the installment which would be required to be paid if the estimated tax were equal to ninety percent of the tax shown on the return for the taxable year (or if no return was filed, ninety percent of the tax for such year) over the amount, if any, of the installment paid on or before the last day prescribed for such payment. In any case in which there would be no underpayment if "eighty percent" were substituted for "ninety percent" each place it appears in this subdivision, the addition to the tax shall be equal to seventy-five percent of the amount otherwise determined. No underpayment shall be deemed to exist with respect to a declaration or installment otherwise due on or after the termination of existence of the taxpayer.

§ 13. The opening paragraph of subdivision 4 of section 11-676 of the administrative code of the city of New York is amended to read as follows:

The addition to tax under subdivision three with respect to any underpayment of any amount which is applied as an installment against estimated tax under subchapter two [or], three or three-A of this chapter shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of any such amount equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least:

§ 14. Subdivision 13 of section 11-676 of the administrative code of the city of New York, as added by chapter 525 of the laws of 1988, is amended to read as follows:

13. Failure to file report of information relating to certain interest payments. In case of failure to file the report of information required

under either subdivision two-a of section 11-605 of this chapter or subdivision two-a of section 11-655 of this chapter, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the tax a penalty of five hundred dollars.

§ 15. Subdivision 2 of section 11-677 of the administrative code of the city of New York is amended to read as follows:

2. Credits against estimated tax. The commissioner of finance may prescribe regulations providing for the crediting against the estimated tax under subchapter two [or], three or three-A of this chapter for any taxable year of the amount determined to be an overpayment of tax under any such subchapter for a preceding taxable year. If any overpayment of tax is so claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the tax under subchapter two [or], three or three-A of this chapter for the succeeding taxable year (whether or not claimed as a credit in the declaration of estimated tax for such succeeding taxable year), and no claim for credit or refund of such overpayment shall be allowed for the taxable year for which the overpayment arises.

§ 16. Subdivisions 3, 4, 9 and 11 of section 11-678 of the administrative code of the city of New York, subdivision 3 as amended by chapter 241 of the laws of 1989 and subdivision 4 as amended by local law number 57 of the city of New York for the year 2001, are amended to read as follows:

3. Notice of change or correction of federal or New York state income or other basis of tax. If a taxpayer is required by subchapter two [or], three or three-A of this chapter to file a report or amended return in respect of (a) a decrease or increase in federal or New York state taxa-

ble income, alternative minimum taxable income or other basis of tax or federal or New York state tax, (b) a federal or New York state change or correction or renegotiation, or computation or recomputation of tax, which is treated in the same manner as if it were an overpayment for federal or New York state income tax purposes, claim for credit or refund of any resulting overpayment of tax shall be filed by the taxpayer within two years from the time such report or amended return was required to be filed with the commissioner of finance. If the report or amended return required by subchapter two [or], three or three-A of this chapter is not filed within the ninety day period therein specified, no interest shall be payable on any claim for credit or refund of the overpayment attributable to the federal or New York state change or correction. The amount of such credit or refund:

(c) shall, (i) for taxable years beginning before January first, two thousand fifteen, be computed without change of the allocation of income or capital upon which the taxpayer's return (or any additional assessment) was based, and, (ii) for taxable years beginning on or after January first, two thousand fifteen, be computed without change of the allocation of income or capital upon which the taxpayer's return (or any additional assessment) was based to the extent that the claim for refund arises from a decrease or increase in federal taxable income or other basis of tax or federal tax, or from a federal change, correction, renegotiation, computation or recomputation of tax, which is treated in the same manner as if it were an overpayment for federal income tax purposes, and

(d) shall not exceed the amount of the reduction in tax attributable to such decrease or increase in federal or New York state taxable income, alternative minimum taxable income or other basis of tax or

federal or New York state tax or to such federal or New York state change or correction or renegotiation, or computation or recomputation of tax.

This subdivision shall not affect the time within which or the amount for which a claim for credit or refund may be filed apart from this subdivision.

4. Overpayment attributable to net operating loss carry back or capital loss carry back. A claim for credit or refund of so much of an overpayment under subchapter two or three-A of this chapter as is attributable to the application to the taxpayer of a net operating loss carry back or a capital loss carry back shall be filed within three years from the time the return was due (including extensions thereof) for the taxable year of the loss, or within the period prescribed in subdivision two in respect of such taxable year, or within the period prescribed in subdivision three, where applicable, in respect to the taxable year to which the net operating loss or capital loss is carried back, whichever expires the latest. Where such claim for credit or refund is filed after the expiration of the period prescribed in subdivision one or in subdivision two where applicable, in respect to the taxable year to which the net operating loss or capital loss is carried back, the amount of such credit or refund shall be computed without change of the allocation of income or capital upon which the taxpayer's return (or any additional assessment) was based.

9. Prepaid tax. For purposes of this section, any tax paid by the taxpayer before the last day prescribed for its payment (including any amount paid by the taxpayer as estimated tax for a taxable year) shall be deemed to have been paid by it on the fifteenth day of the third month following the close of the taxable year the income of which is the

basis for tax under subchapter two [or], three or three-A of this chapter, or on the last day prescribed in part one of subchapter three or subchapter four for the filing of a final return for such taxable year, or portion thereof, determined in all cases without regard to any extension of time granted the taxpayer.

11. Notice of change or correction of sales and compensating use tax liability. (a) If a taxpayer is required by subchapter two or three-A of this chapter to file a report or amended return in respect of a change or correction of its sales and compensating use tax liability, claim for credit or refund of any resulting overpayment of tax shall be filed by the taxpayer within two years from the time such report or amended return was required to be filed with the commissioner of finance. The amount of such credit or refund shall be computed without change of the allocation of income or capital upon which the taxpayer's return (or any additional assessment) was based, and shall not exceed the amount of the reduction in tax attributable to such change or correction of sales and compensating use tax liability.

(b) This subdivision shall not affect the time within which or the amount for which a claim for credit or refund may be filed apart from this subdivision.

§ 17. Subdivisions 4 and 6 of section 11-679 of the administrative code of the city of New York, subdivision 4 as amended by local law number 57 of the city of New York for the year 2001 and subdivision 6 as amended by chapter 241 of the laws of 1989, are amended to read as follows:

4. Refund of tax caused by carryback. For purposes of this section, if any overpayment of tax imposed by subchapter two or three-A of this chapter results from a carryback of a net operating loss or a net capi-

tal loss, such overpayment shall be deemed not to have been made prior to the filing date for the taxable year in which such net operating loss or net capital loss arises. Such filing date shall be determined without regard to extensions of time to file. For purposes of subdivision three of this section any overpayment described herein shall be treated as an overpayment for the loss year and such subdivision shall be applied with respect to such overpayment by treating the return for the loss year as not filed before claim for such overpayment is filed. The term "loss year" means the taxable year in which such loss arises.

6. Cross reference. For provision with respect to interest after failure to file a report of federal or New York state change or correction or amended return under subchapter two [or], three or three-A, see subdivision three of section 11-678 of this subchapter.

§ 18. Paragraph (d) of subdivision 4 of section 11-680 of the administrative code of the city of New York, as amended by chapter 808 of the laws of 1992, is amended to read as follows:

(d) Restriction on further notices of deficiency. If the taxpayer files a petition with the tax appeals tribunal under this section, no notice of deficiency under section 11-672 of this subchapter may thereafter be issued by the commissioner of finance for the same taxable year, except in case of fraud or with respect to an increase or decrease in federal or New York state taxable income, alternative minimum taxable income or other basis of tax or federal or New York state tax or a federal or New York state change or correction or renegotiation, or computation or recomputation of tax, which is treated in the same manner as if it were a deficiency for federal or New York state income tax purposes, required to be reported under subchapter two [or], three or three-A of this chapter or with respect to a state change or correction

of sales and compensating use tax liability required to be reported under subchapter two or three-A of this chapter.

§ 19. Paragraph (c) of subdivision 5 of section 11-680 of the administrative code of the city of New York, as amended by chapter 808 of the laws of 1992, is amended to read as follows:

(c) whether the petitioner is liable for any increase in a deficiency where such increase is asserted initially after a notice of deficiency was mailed and a petition under this section filed, unless such increase in deficiency is the result of an increase or decrease in federal or New York state taxable income, alternative minimum taxable income or other basis of tax or federal or New York state tax or a federal or New York state change or correction or renegotiation, or computation or recomputation of tax, which is treated in the same manner as if it were a deficiency for federal or New York state income tax purposes, required to be reported under subchapter two [or], three or three-A of this chapter, and of which increase, decrease, change or correction or renegotiation, or computation or recomputation, the commissioner of finance had no notice at the time he or she mailed the notice of deficiency or unless such increase in deficiency is the result of a change or correction of sales and compensating use tax liability required to be reported under subchapter two or three-A of this chapter, and of which change or correction the commissioner of finance had no notice at the time he or she mailed the notice of deficiency; and

§ 20. Paragraph (a) of subdivision 5 of section 11-687 of the administrative code of the city of New York, as amended by chapter 201 of the laws of 2009, is amended to read as follows:

(a) Authority to set interest rates. The commissioner of finance shall set the overpayment and underpayment rates of interest to be paid pursu-

ant to sections 11-606, 11-608, 11-645, 11-647, 11-656, 11-658, 11-675, 11-676, and 11-679 of this chapter, but if no such rate or rates of interest are set, such overpayment rate shall be deemed to be set at six percent per annum and such underpayment rate shall be deemed to be set at seven and one-half percent per annum. Such overpayment and underpayment rates shall be the rates prescribed in paragraph (b) of this subdivision but the underpayment rate shall not be less than seven and one-half percent per annum. Any such rates set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due or overpaid on or after the date on which such rates become effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period during which such rates are in effect.

§ 21. Subdivision 7 of section 11-688 of the administrative code of the city of New York, as added by section 22 of part M of chapter 686 of the laws of 2003, is amended to read as follows:

7. Notwithstanding anything in subdivision one of this section, the commissioner of finance may disclose to a taxpayer or a taxpayer's related member, as defined in paragraph (n) of subdivision eight of section 11-602, paragraph (n) of subdivision eight of section 11-652 or paragraph one of subdivision (q) of section 11-641 of this chapter, information relating to any royalty paid, incurred or received by such taxpayer or related member to or from the other, including the treatment of such payments by the taxpayer or the related member in any report or return transmitted to the commissioner of finance under this title.

§ 22. Paragraph 4 of subdivision (f) of section 11-704 of the administrative code of the city of New York, as amended by chapter 831 of the laws of 1992, is amended to read as follows:

(4) No tenant shall be authorized to receive a reduction in base rent subject to tax under the provisions of this subdivision, until the premises with respect to which it is claiming a reduction in base rent meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor or an agency designated by the mayor, and an annual certification from the mayor or an agency designated by the mayor as to the number of eligible aggregate employment shares maintained by such tenant which may qualify for obtaining a base rent reduction for the tenant's tax year. Any written documentation submitted to the mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Application fees for such certifications shall be determined by the mayor or such agency or agencies. No certification of eligibility shall be issued to an eligible business on or after July first, nineteen hundred ninety-nine unless such business meets the requirements of either subparagraph (a) or (b) below:

(a) (1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease particular premises or a parcel on which will be constructed such premises or already owned such premises or parcel;

(2) prior to such date improvements have been commenced on such premises or parcel which improvements will meet the requirements of subdivision (e) of section 22-621 of this code relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agen-

cies with respect to a proposed relocation to such particular premises; and

(4) such business relocates to such particular premises not later than thirty-six months or, in a case in which the expenditures made for the improvements specified in clause two of this subparagraph are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application; or

(b) (1) not later than June thirtieth, two thousand two, such business has purchased, leased or entered into a contract to purchase or lease particular premises wholly contained in a building in which at least an aggregate of forty per centum or two hundred thousand square feet, whichever is less, of the nonresidential floor area of such building has been purchased or leased by a business or businesses which meet or will meet the requirements of subparagraph (a) of this paragraph with respect to such floor area and which are or will become certified as eligible to receive a credit under section 22-622 of this code with respect to such floor area;

(2) not later than June thirtieth, two thousand two, such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such particular premises; and

(3) not later than June thirtieth, two thousand two, such business relocates to such particular premises.

Any tenant subject to a tax imposed under chapter five, or subchapter two [or]<u>,</u> three <u>or three-A</u> of chapter six, of this title obtaining a certification of eligibility pursuant to subdivision (b) of section 22-622 of the code shall be deemed to have obtained the certification of eligibility required by this paragraph.

§ 23. Subdivision (a) and the opening paragraph of subdivision (o) of section 22-621 of the administrative code of the city of New York, subdivision (a) as amended by chapter 149 of the laws of 1999 and the opening paragraph of subdivision (o) as added by chapter 143 of the laws of 2004, are amended to read as follows:

(a) "Eligible Business." Any person subject to a tax imposed under chapter five, or subchapter two [or], three or three-A of chapter six, or chapter eleven, of title eleven of the code, that: (1) has been conducting substantial business operations at one or more business locations outside the eligible area for the twenty-four consecutive months immediately preceding the taxable year during which such eligible business relocates as defined in subdivision (j) of this section; and (2) on or after May twenty-seventh, nineteen hundred eighty-seven relocates as defined in subdivision (j) of this section all or part of such business operations; and (3) either (i) on or after May twenty-seventh, nineteen hundred eighty-seven first enters into a contract to purchase or lease the premises to which it relocates as defined in subdivision (j) of this section, or a parcel on which will be constructed such premises, or (ii) as of May twenty-seventh, nineteen hundred eighty-seven owns such parcel or premises and has not prior to such date made application for benefits pursuant to part four of subchapter two of chapter two of title eleven of the code.

"Total attributed eligible aggregate employment shares" means, for any relocation, the sum of the number of eligible aggregate employment shares apportioned to such relocation pursuant to paragraph one of this subdivision, less any excess shares determined with respect to such relocation pursuant to paragraph two of this subdivision, plus any excess shares attributed to such relocation pursuant to paragraph three

of this subdivision. Except as provided in paragraph four of this subdivision, any eligible aggregate employment shares that are attributed to a relocation to particular premises pursuant to paragraph three of this subdivision shall be treated as eligible aggregate employment shares that are maintained with respect to such premises and shall be subject to all provisions of this chapter and the provisions for a credit against a tax imposed under chapter five or subchapter two [or], three or three-A of chapter six or chapter eleven of title eleven of the code as such provisions pertain to such relocation.

§ 24. Subdivisions (a) and (d) of section 22-622 of the administrative code of the city of New York, subdivision (a) as amended and subdivision (d) as added by chapter 149 of the laws of 1999, are amended to read as follows:

(a) An eligible business that relocates as defined in subdivision (j) of section 22-621 of the code shall be allowed to receive a credit against a tax imposed by chapter five, or subchapter two [or], three or three-A of chapter six, or chapter eleven, of title eleven of the code, as described in subdivision (i) of section 11-503, subdivision seventeen of section 11-604, subdivision seventeen of section 11-654, section 11-643.7 and section 11-1105.2 of the code, and a reduction in base rent subject to tax as described in subdivision f of section 11-704 of the code, provided, however, notwithstanding any other provision of law to the contrary, no such credit shall be allowed against the tax imposed under such chapter eleven for a relocation taking place prior to January first, nineteen hundred ninety-nine.

(d) An eligible business other than a utility company subject to the supervision of the department of public service shall not be authorized to receive a credit against the gross receipts tax imposed under chapter

eleven of title eleven of the code, unless such eligible business elects to take the credit authorized by this section against the tax imposed by such chapter on an application filed with respect to the first relocation of such business that qualifies or will qualify under this section, with the mayor or the agency designated by such mayor pursuant to subdivision (b) of this section. The election authorized by this subdivision may not be withdrawn after the issuance of such certification of eligibility. No taxpayer that has previously received a certification of eligibility to receive such credit against any tax imposed by chapter five or subchapter two [or], three or three-A of chapter six of title eleven of the code may make the election authorized by this subdivision. No taxpayer that makes the election provided in this subdivision shall be authorized to take such credit against any tax imposed by chapter five or subchapter two [or], three or three-A of chapter six of title eleven of the code.

§ 25. Subdivisions (a) and (l) of section 22-623 of the administrative code of the city of New York, subdivision (a) as added by chapter 143 of the laws of 2004 and subdivision (l) as added by section 10 of part E of chapter 2 of the laws of 2005, are amended to read as follows:

(a) "Eligible business" means any person subject to a tax imposed under chapter five, or subchapter two [or], three or three-A of chapter six, or chapter eleven, of title eleven of the code, that:

(1) has been conducting substantial business operations at one or more business locations outside the city of New York for the twenty-four consecutive months immediately preceding the taxable year during which such eligible business relocates as defined in subdivision (j) of this section but has not maintained employment shares at premises in the city of New York at any time during the period beginning January first, two

thousand two and ending on the date it enters into a lease or a contract to purchase the premises that will qualify as eligible premises pursuant to this chapter; and

(2) on or after July first, two thousand three relocates as defined in subdivision (j) of this section all or part of such business operations.

(l) "Special eligible business" means any person subject to a tax imposed under chapter five, or subchapter two [or], three or three-A of chapter six, or chapter eleven, of title eleven of the code, that: (1) has been conducting substantial business operations at one or more business locations outside the city of New York for the twenty-four consecutive months immediately preceding the taxable year during which such eligible business relocates as defined in subdivision (m); (2) maintained employment shares at premises in Manhattan in the city of New York at some time during the period beginning January first, two thousand two, and ending on the date it enters into a lease or a contract to purchase the premises that will qualify as eligible premises pursuant to this section, and (3) on or after June thirtieth, two thousand five, relocates as defined in subdivision (m) of this section all or part of such business operations.

§ 26. Subdivisions (a) and (d) of section 22-624 of the administrative code of the city of New York, subdivision (a) as amended by section 11 of part E of chapter 2 of the laws of 2005 and subdivision (d) as amended by section 12 of part E of chapter 2 of the laws of 2005, are amended to read as follows:

(a) An eligible business that relocates as defined in subdivision (j) of section 22-623 of this chapter or a special eligible business that relocates as defined in subdivision (m) of section 22-623 of this chapter shall be allowed to receive a credit against a tax imposed by chap-

ter five, or subchapter two [or], three or three-A of chapter six, or chapter eleven, of title eleven of the code, as described in subdivision (l) of section 11-503, subdivision nineteen of section 11-604, subdivision nineteen of section 11-654, section 11-643.9 or section 11-1105.3 of the code.

(d) An eligible business or special eligible business other than a utility company subject to the supervision of the department of public service shall not be authorized to receive a credit against the gross receipts tax imposed under chapter eleven of title eleven of the code unless such eligible business or special eligible business elects to take the credit authorized by this section against the tax imposed by such chapter on its application filed with the mayor or the agency designated by such mayor pursuant to subdivision (b) of this section. The election authorized by this subdivision may not be withdrawn after the issuance of such certification of eligibility. No taxpayer that has previously received a certification of eligibility to receive such credit against any tax imposed by chapter five or subchapter two [or], three or three-A of chapter six of title eleven of the code may make the election authorized by this subdivision. No taxpayer that makes the election provided in this subdivision shall be authorized to take such credit against any tax imposed by chapter five or subchapter two [or], three or three-A of chapter six of title eleven of the code.

§ 27. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2015.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in

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

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