

2015-16 NEW YORK STATE EXECUTIVE BUDGET
REVENUE ARTICLE VII LEGISLATION

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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
s14 Comrie	s47 Griffo	s52 Libous	s30 Perkins	s16 Stavisky
s03 Croci	s20 Hamilton	s45 Little	s61 Ranzenhofer	s35 Stewart-
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s48 Ritchie	Cousins
s32 Diaz	s36 Hassell-	s43 Marchione	s33 Rivera	s53 Valesky
s18 Dilan	Thompson	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 Skoufif
a117 Blankenbush	a126 Finch	a134 Lawrence	a141 Peoples-	a022 Solages
a062 Borelli	a008 Fitzpatrick	a050 Lentol	Stokes	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).

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:

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

12 PART A

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

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

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

7 § 2. This act shall take effect immediately.

8 PART B

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

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

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

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

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

12 <u>If the city taxable income is:</u>	<u>The tax is:</u>
13 <u>Not over \$21,600</u>	<u>2.55% of the city taxable income</u>
14 <u>Over \$21,600 but not</u>	<u>\$551 plus 3.1% of excess</u>
15 <u>over \$45,000</u>	<u>over \$21,600</u>
16 <u>Over \$45,000 but not</u>	<u>\$1,276 plus 3.15% of excess</u>
17 <u>over \$90,000</u>	<u>over \$45,000</u>
18 <u>Over \$90,000 but not</u>	<u>\$2,694 plus 3.2% of excess</u>
19 <u>over \$500,000</u>	<u>over \$90,000</u>
20 <u>Over \$500,000</u>	<u>\$16,803 plus 3.4% of excess</u>
21	<u>over \$500,000</u>

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

24 If the city taxable income is: The tax is:

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

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

13	If the city taxable income is:	The tax is:
14	Not over \$21,600	2.55% of the city taxable income
15	Over \$21,600 but not	\$551 plus 3.1% of excess
16	over \$45,000	over \$21,600
17	Over \$45,000 but not	\$1,276 plus 3.15% of excess
18	over \$90,000	over \$45,000
19	Over \$90,000	\$2,694 plus 3.2% of excess
20		over \$90,000]

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

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

1	<u>If the city taxable income is:</u>	<u>The tax is:</u>
2	<u>Not over \$14,400</u>	<u>2.55% of the city taxable income</u>
3	<u>Over \$14,400 but not</u>	<u>\$367 plus 3.1% of excess</u>
4	<u>over \$30,000</u>	<u>over \$14,400</u>
5	<u>Over \$30,000 but not</u>	<u>\$851 plus 3.15% of excess</u>
6	<u>over \$60,000</u>	<u>over \$30,000</u>
7	<u>Over \$60,000 but not</u>	<u>\$1,796 plus 3.2% of excess</u>
8	<u>over \$500,000</u>	<u>over \$60,000</u>
9	<u>Over \$500,000</u>	<u>\$16,869 plus 3.4% of excess</u>
10		<u>over \$500,000</u>

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

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

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

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

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

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

19	<u>If the city taxable income is:</u>	<u>The tax is:</u>
20	<u>Not over \$12,000</u>	<u>2.55% of the city taxable income</u>
21	<u>Over \$12,000 but not</u>	<u>\$306 plus 3.1% of excess</u>
22	<u>over \$25,000</u>	<u>over \$12,000</u>
23	<u>Over \$25,000 but not</u>	<u>\$709 plus 3.15% of excess</u>
24	<u>over \$50,000</u>	<u>over \$25,000</u>
25	<u>Over \$50,000 but not</u>	<u>\$1,497 plus 3.2% of excess</u>

1	<u>over \$500,000</u>	<u>over \$50,000</u>
2	<u>Over \$500,000</u>	<u>\$16,891 plus 3.4%</u>
3		<u>of excess over \$500,000</u>

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

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

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

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

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

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

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

13 <u>If the city taxable income is:</u>	<u>The tax is:</u>
14 <u>Not over \$21,600</u>	<u>2.55% of the city taxable income</u>
15 <u>Over \$21,600 but not</u>	<u>\$551 plus 3.1% of excess</u>
16 <u>over \$45,000</u>	<u>over \$21,600</u>
17 <u>Over \$45,000 but not</u>	<u>\$1,276 plus 3.15% of excess</u>
18 <u>over \$90,000</u>	<u>over \$45,000</u>
19 <u>Over \$90,000 but not</u>	<u>\$2,694 plus 3.2% of excess</u>
20 <u>over \$500,000</u>	<u>over \$90,000</u>
21 <u>Over \$500,000</u>	<u>\$16,803 plus 3.4% of excess</u>
22	<u>over \$500,000</u>

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

1	If the city taxable income is:	The tax is:
2	Not over \$21,600	2.55% of the city taxable income
3	Over \$21,600 but not	\$551 plus 3.1% of excess
4	over \$45,000	over \$21,600
5	Over \$45,000 but not	\$1,276 plus 3.15% of excess
6	over \$90,000	over \$45,000
7	Over \$90,000 but not	\$2,694 plus 3.2% of excess
8	over \$500,000	over \$90,000
9	Over \$500,000	\$15,814 plus 3.4% of excess
10		over \$500,000

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

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

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

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

1	<u>If the city taxable income is:</u>	<u>The tax is:</u>
2	<u>Not over \$14,400</u>	<u>2.55% of the city taxable income</u>
3	<u>Over \$14,400 but not</u>	<u>\$367 plus 3.1% of excess</u>
4	<u>over \$30,000</u>	<u>over \$14,400</u>
5	<u>Over \$30,000 but not</u>	<u>\$851 plus 3.15% of excess</u>
6	<u>over \$60,000</u>	<u>over \$30,000</u>
7	<u>Over \$60,000 but not</u>	<u>\$1,796 plus 3.2% of excess</u>
8	<u>over \$500,000</u>	<u>over \$60,000</u>
9	<u>Over \$500,000</u>	<u>\$16,869 plus 3.4% of excess</u>
10		<u>over \$500,000</u>

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

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

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

1	If the city taxable income is:	The tax is:
2	Not over \$14,400	2.55% of the city taxable income
3	Over \$14,400 but not	\$367 plus 3.1% of excess
4	over \$30,000	over \$14,400
5	Over \$30,000 but not	\$851 plus 3.15% of excess
6	over \$60,000	over \$30,000
7	Over \$60,000	\$1,796
8		plus 3.2% of excess
9		over \$60,000]

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

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

20	<u>If the city taxable income is:</u>	<u>The tax is:</u>
21	<u>Not over \$12,000</u>	<u>2.55% of the city taxable income</u>
22	<u>Over \$12,000 but not</u>	<u>\$306 plus 3.1% of excess</u>
23	<u>over \$25,000</u>	<u>over \$12,000</u>
24	<u>Over \$25,000 but not</u>	<u>\$709 plus 3.15% of excess</u>
25	<u>over \$50,000</u>	<u>over \$25,000</u>

1	<u>Over \$50,000 but not</u>	<u>\$1,497 plus 3.2% of excess</u>
2	<u>over \$500,000</u>	<u>over \$50,000</u>
3	<u>Over \$500,000</u>	<u>\$16,891 plus 3.4% of excess</u>
4		<u>over \$500,000</u>

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

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

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

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

1 over \$50,000 over \$25,000
2 Over \$50,000 \$1,497 plus 3.2% of excess
3 over \$50,000]

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

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

3 § 5. 1. Notwithstanding any provision of law to the contrary, no addi-
4 tion to tax shall be imposed for failure to pay the estimated tax in
5 subsection (c) of section 685 of the tax law and subdivision (c) of
6 section 11-1785 of the administrative code of the city of New York with
7 respect to any underpayment of a required installment due prior to, or
8 within thirty days of, the effective date of this act to the extent that
9 such underpayment was created or increased by the amendments made by
10 this act, provided, however, that the taxpayer remits the amount of any
11 underpayment prior to or with his or her next quarterly estimated tax
12 payment.

13 2. The commissioner of taxation and finance shall take steps to publi-
14 cize the necessary adjustments to estimated tax and, to the extent
15 reasonably possible, to inform the taxpayer of the tax liability changes
16 made by this act.

17 § 6. This act shall take effect immediately.

18 PART C

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

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

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

4 § 2. Paragraphs (h) and (i) of subdivision 2 and subdivision 7 of
5 section 171-y of the tax law, as added by section 2 of part B of chapter
6 59 of the laws of 2012, are amended to read as follows:

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

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

12 7. Activities to collect state tax liabilities undertaken by the
13 department pursuant to this section shall not in any way limit, restrict
14 or impair the department from exercising any other authority to collect
15 or enforce past-due state tax liabilities under any other applicable
16 provision of law. [The amount by which a taxpayer's property tax liabil-
17 ity increases as a result of the loss of the STAR exemption pursuant to
18 paragraph (f) of subdivision three of section four hundred twenty-five
19 of the real property tax law and this section shall be applied as an
20 offset against the amount of the taxpayer's past-due state tax liabil-
21 ity.] If a taxpayer loses the STAR exemption pursuant to paragraph (f)
22 of subdivision three of section four hundred twenty-five of the real
23 property tax law and this section, the taxpayer shall lose any entitle-
24 ment or claim of right to the STAR exemption for the applicable year.

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

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

5 § 4. This act shall take effect immediately.

6 PART D

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (D) "Owner" means:

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

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

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

8 (iv) a beneficial owner under a trust,

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

15 (vi) a resident of a farm dwelling which is owned either by a corpo-
16 ration of which the resident is a shareholder, or by a partnership of
17 which the resident is a partner, or

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

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

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

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

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

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

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

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

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

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

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

11 (ii) the taxpayer's qualifying taxes.

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

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

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

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

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

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

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

18 (ii) the taxpayer's qualifying taxes.

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

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

10 (6) Special cases. (A) In the case of property consisting of a cooper-
11 ative apartment corporation that is described by paragraph (k) of subdi-
12 vision two of section four hundred twenty-five of the real property tax
13 law, the amount of the credit allowable with respect to a cooperative
14 apartment shall be equal to sixty percent of the basic STAR tax savings
15 factor for the school district, or sixty percent of the enhanced STAR
16 tax savings factor for the school district, whichever is applicable.
17 Provided, however, that in the case of a cooperative apartment corpo-
18 ration that is described by subparagraph (iv) of paragraph (k) of subdi-
19 vision two of section four hundred twenty-five of the real property tax
20 law, the credit allowable with respect to a cooperative apartment shall
21 be equal to twenty percent of such factor.

22 (B) In the case of property consisting of a mobile home that is
23 described by paragraph (1) of subdivision two of section four hundred
24 twenty-five of the real property tax law, the amount of the credit
25 allowable with respect to such mobile home shall be equal to twenty-five
26 percent of the basic STAR tax savings factor for the school district, or
27 twenty-five percent of the enhanced STAR tax savings factor for the
28 school district, whichever is applicable.

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

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

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

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

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

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

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

1 taxes levied on the property for the associated fiscal year, the quali-
2 fyng taxes paid by the taxpayer, the names and taxpayer identification
3 numbers of all owners of the property and spouses who primarily reside
4 on the property, the parcel identification number and all other informa-
5 tion that may be required by the commissioner to determine the credit.

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

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

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

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

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

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

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

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

3 (C) For the two thousand sixteen taxable year, the taxpayer's primary
4 residence must have qualified for the STAR exemption for the two thou-
5 sand sixteen--two thousand seventeen school year, or would have so qual-
6 ified if an application for such exemption had been submitted in a time-
7 ly manner. Alternatively, the taxpayer must have qualified for the
8 school tax relief credit authorized by subsection (ccc) of this section
9 for the two thousand sixteen taxable year.

10 § 7. This act shall take effect immediately, provided that the
11 provisions of paragraph (b) of subdivision 15 of section 425 of the real
12 property tax law as added by section two of this act shall apply to all
13 applications for STAR exemptions beginning with assessment rolls used to
14 levy school district taxes for the 2015-2016 school year, including
15 those submitted prior to the effective date of this act; and provided
16 further that in the event that any such application shall have been
17 approved prior to the effective date of this act, such approval shall be
18 deemed void. In such cases, the assessor shall provide the applicant
19 with the notice required by paragraph (b) of subdivision 15 of section
20 425 of the real property tax law as added by section two of this act.

21 PART E

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

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

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

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

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

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

1 reviewed in a proceeding to review an assessment pursuant to title one
2 or one-A of article seven of this chapter. Such an action may only be
3 challenged before the department. If an owner is dissatisfied with the
4 department's final determination, the owner may appeal that determi-
5 nation to the board in a form and manner to be prescribed by the commis-
6 sioner. Such appeal shall be filed within forty-five days from the issu-
7 ance of the department's final determination. If dissatisfied with the
8 board's determination, the owner may seek judicial review thereof pursu-
9 ant to article seventy-eight of the civil practice law and rules. The
10 owner shall otherwise have no right to challenge such final determi-
11 nation in a court action, administrative proceeding, including but not
12 limited to an administrative proceeding pursuant to article forty of the
13 tax law, or any other form of legal recourse against the commissioner,
14 the department, the board, the assessor, or any other person, state
15 agency, or local government.

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

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

1 ter has occurred, the provisions of this subdivision shall not be appli-
2 cable to the exemptions so revoked or voluntarily renounced.

3 § 2. This act shall take effect immediately.

4 PART F

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

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

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

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

1 registrant, and if such commissioner finds that the unenrolled regis-
2 trant's property would have qualified for the STAR exemption authorized
3 by section 425 of the real property tax law on the 2014 assessment roll
4 if a completed application had been filed with the appropriate assessor
5 in a timely manner, then the commissioner of taxation and finance is
6 authorized to remit directly to the property owner or owners the tax
7 savings that the STAR exemption would have yielded if the STAR exemption
8 had been granted on the 2014 assessment roll. When remitting such
9 amount, the commissioner of taxation and finance shall advise the prop-
10 erty owner or owners that such payment is subject to recovery by such
11 commissioner if the property owner or owners do not apply for and quali-
12 fy for the STAR exemption on the 2015 assessment roll, or if it should
13 otherwise be found to have been erroneously remitted to such property
14 owner or owners.

15 (3) The amounts payable under this act shall be paid from the account
16 established for the payment of STAR benefits to late registrants pursu-
17 ant to subparagraph (iii) of paragraph (a) of subdivision 14 of section
18 425 of the real property tax law.

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

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

5 § 3. This act shall take effect immediately.

6 PART G

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

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

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

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

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

1 so much of the land abutting it, not exceeding one acre, as is reason-
2 ably necessary for use of the dwelling as a home, and may consist of a
3 part of a multi-dwelling or multi-purpose building including a cooper-
4 ative or condominium, and rental units within a single dwelling. Resi-
5 dence includes a trailer or mobile home, used exclusively for residen-
6 tial purposes and defined as real property pursuant to paragraph (g) of
7 subdivision twelve of section one hundred two of the real property tax
8 law.

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

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

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

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

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

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

6 (iv) A qualified taxpayer may elect to include any additional amount
7 that would have been levied by a taxing jurisdiction and paid by the
8 qualified taxpayer in the absence of an exemption from real property
9 taxation pursuant to section four hundred sixty-seven of the real prop-
10 erty tax law. If tenant-stockholders in a cooperative housing corpo-
11 ration have met the requirements of section two hundred sixteen of the
12 internal revenue code by which they are allowed a deduction for real
13 estate taxes, the amount of taxes so allowable, or which would be allow-
14 able if the taxpayer had filed returns on a cash basis, shall be quali-
15 fying real property taxes. If a residence is an integral part of a larg-
16 er unit, qualifying real property taxes shall be limited to that amount
17 of such taxes paid as may be reasonably apportioned to such residence.
18 If a taxpayer owns and occupies two residences during different periods
19 in the same taxable year, qualifying real property taxes shall be the
20 sum of the prorated qualifying real property taxes attributable to the
21 taxpayer during the periods such taxpayer occupies each of such resi-
22 dences. If the taxpayer owns and occupies a residence for part of the
23 taxable year and rents a residence for part of the same taxable year, it
24 may include the proration of qualifying real property taxes on the resi-
25 dence owned. Provided, however, for purposes of the credit allowed under
26 this subsection, qualifying real property taxes may be included by a
27 qualified taxpayer only to the extent that such taxpayer or the spouse
28 of such taxpayer, occupying such residence for one hundred eighty-three

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

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

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

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

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

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

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

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

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

<u>For the years beginning in:</u>	<u>Percentage:</u>
<u>2015</u>	<u>3.75%</u>
<u>2016 and after</u>	<u>6.0%</u>

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

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

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

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

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

16 (B) For taxable years beginning on or after January first, two thou-
17 sand sixteen and before January first, two thousand seventeen, the cred-
18 it amount allowed under this subsection shall equal the applicable
19 percentage of the excess real property tax, calculated as follows:

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

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

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

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

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

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

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

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

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

5 (D) For taxable years beginning on or after January first, two thou-
6 sand eighteen, the credit amount allowed under this subsection shall
7 equal the applicable percentage of the excess real property tax, calcu-
8 lated as follows:

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

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

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

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

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

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

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

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

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

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

1 imum credit amount allowed under this subsection shall be calculated as
2 follows:

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

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

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

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

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

1 (ii) For qualified taxpayers whose qualified gross income is greater
2 than seventy-five thousand dollars but less than or equal to one hundred
3 fifty thousand dollars, the maximum credit allowed shall be the differ-
4 ence between (a) one thousand six hundred dollars and (b) four hundred
5 dollars multiplied by a fraction, the numerator of which is the differ-
6 ence between the qualified taxpayer's qualified gross income and seven-
7 ty-five thousand dollars, and the denominator of which is seventy-five
8 thousand dollars.

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

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

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

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

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

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

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

17 (A) For taxable years beginning on or after January first, two thou-
18 sand fifteen and before January first, two thousand sixteen and qualify-
19 ing residences located in:

20 (i) the city of New York, and the counties of Nassau, Suffolk, Rock-
21 land, Westchester, Putnam, Orange and Dutchess, the maximum credit
22 allowed shall be two hundred dollars;

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

25 (B) For taxable years beginning on or after January first, two thou-
26 sand sixteen and before January first, two thousand seventeen and quali-
27 fyng residences located in:

1 (i) the city of New York, and the counties of Nassau, Suffolk, Rock-
2 land, Westchester, Putnam, Orange and Dutchess, the maximum credit
3 allowed shall be five hundred dollars;

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

6 (C) For taxable years beginning on or after January first, two thou-
7 sand seventeen and before January first, two thousand eighteen and qual-
8 ifying residences located in:

9 (i) the city of New York, and the counties of Nassau, Suffolk, Rock-
10 land, Westchester, Putnam, Orange and Dutchess, the maximum credit
11 allowed shall be six hundred fifty dollars;

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

14 (D) For taxable years beginning on or after January first, two thou-
15 sand eighteen and qualifying residences located in:

16 (i) the city of New York, and the counties of Nassau, Suffolk, Rock-
17 land, Westchester, Putnam, Orange and Dutchess, the maximum credit
18 allowed shall be seven hundred fifty dollars;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 § 3. This act shall take effect immediately.

16 PART I

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

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

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

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

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

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

22 (3-a) Pensions and annuities received by an individual who has
23 attained the age of fifty-nine and one-half, not otherwise excluded
24 pursuant to paragraph three of this subsection, to the extent includible
25 in gross income for federal income tax purposes, but not in excess of
26 twenty thousand dollars, which are periodic payments attributable to
27 personal services performed by such individual prior to his retirement
28 from employment, which arise (i) from an employer-employee relationship

1 or (ii) from contributions to a retirement plan which are deductible for
2 federal income tax purposes. However, the term "pensions and annuities"
3 shall also include distributions received by an individual who has
4 attained the age of fifty-nine and one-half from an individual retire-
5 ment account or an individual retirement annuity, as defined in section
6 four hundred eight of the internal revenue code, and distributions
7 received by an individual who has attained the age of fifty-nine and
8 one-half from self-employed individual and owner-employee retirement
9 plans which qualify under section four hundred one of the internal
10 revenue code, whether or not the payments are periodic in nature. Never-
11 theless, the term "pensions and annuities" shall not include any lump
12 sum distribution, as defined in subparagraph [(A)] (D) of paragraph four
13 of subsection (e) of section four hundred two of the internal revenue
14 code and taxed under section six hundred three of this article. Where a
15 husband and wife file a joint state personal income tax return, the
16 modification provided for in this paragraph shall be computed as if they
17 were filing separate state personal income tax returns. Where a payment
18 would otherwise come within the meaning of the term "pensions and annui-
19 ties" as set forth in this paragraph, except that such individual is
20 deceased, such payment shall, nevertheless, be treated as a pension or
21 annuity for purposes of this paragraph if such payment is received by
22 such individual's beneficiary.

23 § 4. Subparagraph (B) of paragraph (1) of subsection (e-1) of section
24 606 of the tax law, as added by section 2 of part K of chapter 59 of the
25 laws of 2014, is amended to read as follows:

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

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

7 § 5. Subparagraph (D) of paragraph (1) of subsection (e-1) of section
8 606 of the tax law, as added by section 2 of part K of chapter 59 of the
9 laws of 2014, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (d) To participate in the [developmentally disabled works] workers
18 with disabilities tax credit program, an employer must submit an appli-
19 cation (in a form prescribed by the commissioner) to the commissioner
20 [no later than November thirtieth of the prior year]. The commissioner
21 shall establish guidelines that specify requirements for employers to
22 participate in the program including criteria for certifying qualified
23 employees. Any regulations that the commissioner determines are neces-
24 sary may be adopted on an emergency basis notwithstanding anything to
25 the contrary in section two hundred two of the state administrative
26 procedure act. Such requirements may include the types of industries
27 that the employers are engaged in.

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

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

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

10 (iii) section seven of this act shall be deemed to have been in full
11 force and effect on and after the effective date of part DD of chapter
12 59 of the laws of 2014;

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

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

19 (vi) section ten of this act shall be deemed to have been in full
20 force and effect on and after the effective date of part MM of chapter
21 59 of the laws of 2014; and

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

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

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

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

11 (1) the total dollar amount of credits allocated, the name and address
12 of each qualified commercial production company allocated credits under
13 this section, the total amount of credits allocated to each qualified
14 commercial production company, the total amount of qualified production
15 costs and production costs for each qualified commercial production
16 company, and the estimated number of employees, credit-eligible man
17 hours, and credit-eligible wages associated with each qualified commer-
18 cial production company allocated credits under this section;

19 (2) for qualified commercial production companies that were allocated
20 credit pursuant to subparagraph (ii) of paragraph two of subdivision (a)
21 of this section: the name and address of each qualified commercial
22 production company, the total dollar amount of credits allocated, the
23 total amount of credits allocated to each qualified commercial
24 production company, total qualified production costs and production
25 costs for each qualified production company, and the estimated number of
26 employees, credit-eligible man hours, and credit-eligible wages associ-
27 ated with each qualified commercial production company that filmed or
28 recorded a qualified commercial within the district;

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

11 (4) the amount of credits reallocated to all eligible qualified
12 commercial production companies pursuant to subparagraph (iii) of para-
13 graph two of subdivision (a) of this section.

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

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

21 PART K

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

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

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

27 [8.] 9. "Investment zone" shall mean an area within the state that had
28 been designated under paragraph (i) of subdivision (a) and subdivision

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

6 [9.] 10. "Manufacturing" means the process of working raw materials
7 into products suitable for use or which gives new shapes, new quality or
8 new combinations to matter which has already gone through some artifi-
9 cial process by the use of machinery, tools, appliances, or other simi-
10 lar equipment. "Manufacturing" does not include an operation that
11 involves only the assembly of components, provided, however, the assem-
12 bly of motor vehicles or other high value-added products shall be
13 considered manufacturing.

14 [10.] 11. "Net new jobs" means [jobs created in this state that]:

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

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

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

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

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

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

3 [11.] 12. "Participant" means a business entity that:

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

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

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

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

11 [12.] 13. "Preliminary schedule of benefits" means the maximum aggre-
12 gate amount of each component of the tax credit that a participant in
13 the excelsior jobs program is eligible to receive pursuant to this arti-
14 cle. The schedule shall indicate the annual amount of each component of
15 the credit a participant may claim in each of its ten years of eligibil-
16 ity. The preliminary schedule of benefits shall be issued by the
17 department when the department approves the application for admission
18 into the program. The commissioner may amend that schedule, provided
19 that the commissioner complies with the credit caps in section three
20 hundred fifty-nine of this article.

21 [13.] 14. "Qualified investment" means an investment in tangible prop-
22 erty (including a building or a structural component of a building)
23 owned by a business enterprise which:

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

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

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

1 (d) has a situs in this state; and

2 (e) is placed in service in the state on or after the date the certif-
3 icate of eligibility is issued to the business enterprise.

4 [14.] 15. "Regionally significant project" means (a) a manufacturer
5 creating at least fifty net new jobs in the state and making significant
6 capital investment in the state; (b) a business creating at least twenty
7 net new jobs in agriculture in the state and making significant capital
8 investment in the state, (c) a financial services firm, distribution
9 center, or back office operation creating at least three hundred net new
10 jobs in the state and making significant capital investment in the
11 state, [or] (d) a scientific research and development firm creating at
12 least twenty net new jobs in the state, and making significant capital
13 investment in the state or (e) an entertainment company creating or
14 obtaining at least two hundred net new jobs in the state and making
15 significant capital investment in the state. Other businesses creating
16 three hundred or more net new jobs in the state and making significant
17 capital investment in the state may be considered eligible as a
18 regionally significant project by the commissioner as well. The commis-
19 sioner shall promulgate regulations pursuant to section three hundred
20 fifty-six of this article to determine what constitutes significant
21 capital investment for each of the project categories indicated in this
22 subdivision and what additional criteria a business must meet to be
23 eligible as a regionally significant project, including, but not limited
24 to, whether a business exports a substantial portion of its products or
25 services outside of the state or outside of a metropolitan statistical
26 area or county within the state.

1 [15.] 16. "Related person" means a "related person" pursuant to
2 subparagraph (c) of paragraph three of subsection (b) of section four
3 hundred sixty-five of the internal revenue code.

4 [16.] 17. "Remuneration" means wages and benefits paid to an employee
5 by a participant in the excelsior jobs program.

6 [17.] 18. "Research and development expenditures" mean the expenses of
7 the business enterprise that are qualified research expenses under the
8 federal research and development credit under section forty-one of the
9 internal revenue code and are attributable to activities conducted in
10 the state. If the federal research and development credit has expired,
11 then the research and development expenditures shall be calculated as if
12 the federal research and development credit structure and definition in
13 effect in federal tax year two thousand nine were still in effect.

14 [18.] 19. "Scientific research and development" means conducting
15 research and experimental development in the physical, engineering, and
16 life sciences, including but not limited to agriculture, electronics,
17 environmental, biology, botany, biotechnology, computers, chemistry,
18 food, fisheries, forests, geology, health, mathematics, medicine, ocean-
19 ography, pharmacy, physics, veterinary, and other allied subjects. For
20 the purposes of this article, scientific research and development does
21 not include medical or veterinary laboratory testing facilities.

22 [19.] 20. "Software development" means the creation of coded computer
23 instructions and includes new media as defined by the commissioner in
24 regulations.

25 § 2. Subdivisions 1, 3, and 5 of section 353 of the economic develop-
26 ment law, subdivisions 1 and 5 as amended by section 2 of part G of
27 chapter 61 of the laws of 2011 and subdivision 3 as amended by section 1

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

3 1. To be a participant in the excelsior jobs program, a business enti-
4 ty shall operate in New York state predominantly:

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

7 (b) in manufacturing;

8 (c) in software development and new media;

9 (d) in scientific research and development;

10 (e) in agriculture;

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

13 (g) in a distribution center; [or]

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

19 (i) as an entertainment company.

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

1 development must create at least five net new jobs; a business entity
2 creating or expanding back office operations must create at least fifty
3 net new jobs; a business entity operating predominantly as an enter-
4 tainment company must create or obtain at least one hundred net new
5 jobs; or a business entity operating predominantly as a distribution
6 center in the state must create at least seventy-five net new jobs,
7 notwithstanding subdivision five of this section; or a business entity
8 must be a regionally significant project as defined in this article; or
9 5. A not-for-profit business entity, a business entity whose primary
10 function is the provision of services including personal services, busi-
11 ness services, or the provision of utilities, and a business entity
12 engaged predominantly in the retail or entertainment industry, other
13 than a business operating as an entertainment company as defined in this
14 article, and a company engaged in the generation or distribution of
15 electricity, the distribution of natural gas, or the production of steam
16 associated with the generation of electricity are not eligible to
17 receive the tax credit described in this article.

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

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

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

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

10 § 5. This act shall take effect immediately.

11 PART L

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

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

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

23 § 2. Section 211 of the tax law is amended by adding a new subdivision
24 15 to read as follows:

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

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

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

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

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

13 Column 1	Column 2
14 After December 31, 1968 and	
15 prior to January 1, 1974	one per cent
16 After December 31, 1973 and	
17 prior to January 1, 1978	two per cent
18 After December 31, 1977 and	
19 prior to January 1, 1979	three per cent
20 After December 31, 1978 and	
21 prior to June 1, 1981	four per cent
22 After May 31, 1981 and	
23 prior to July 1, 1982	five per cent
24 After June 30, 1982 and	
25 before January 1, 1987	six per cent
26 After December 31, 1986	four per cent, except that in the

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

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

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

17 (3-b) Notwithstanding the provisions of paragraph one of this
18 subsection, in order to administer the limitation in paragraph one of
19 subsection (a) of section six hundred six of this article regarding the
20 investment credit base of a master of a film, television show or commer-
21 cial, the commissioner may disclose to a taxpayer claiming the invest-
22 ment credit for costs associated with the creation, production or
23 reproduction of a film, television show or commercial pursuant to such
24 section information included in a report or a return of another taxpayer
25 filed pursuant to this chapter claiming a tax credit under this chapter
26 relating to costs associated with the creation, production or reprod-
27 uction of such film, television show or commercial.

1 § 5. Subparagraph (vi) of paragraph (a) of subdivision 1 of section
2 210 of the tax law, as amended by section 12 of part A of chapter 59 of
3 the laws of 2014, is amended to read as follows:

4 (vi) for taxable years beginning on or after January first, two thou-
5 sand fourteen, the amount prescribed by this paragraph for a taxpayer
6 which is a qualified New York manufacturer, shall be computed at the
7 rate of zero percent of the taxpayer's business income base. The term
8 "manufacturer" shall mean a taxpayer which during the taxable year is
9 principally engaged in the production of goods by manufacturing, proc-
10 essing, assembling, refining, mining, extracting, farming, agriculture,
11 horticulture, floriculture, viticulture or commercial fishing. However,
12 the generation and distribution of electricity, the distribution of
13 natural gas, and the production of steam associated with the generation
14 of electricity shall not be qualifying activities for a manufacturer
15 under this subparagraph. Moreover, the combined group shall be consid-
16 ered a "manufacturer" for purposes of this subparagraph only if the
17 combined group during the taxable year is principally engaged in the
18 activities set forth in this paragraph, or any combination thereof. A
19 taxpayer or a combined group shall be "principally engaged" in activ-
20 ities described above if, during the taxable year, more than fifty
21 percent of the gross receipts of the taxpayer or combined group, respec-
22 tively, are derived from receipts from the sale of goods produced by
23 such activities. However, the license of a master of a film, television
24 show or commercial shall not constitute the sale of a good under this
25 subparagraph. In computing a combined group's gross receipts, intercor-
26 porate receipts shall be eliminated. A "qualified New York manufacturer"
27 is a manufacturer which has property in New York which is described in
28 subdivision one of section two hundred ten-B of this article and either

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

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

14 PART M

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

22 § 25-a. Power to administer the [New York] urban youth [works] jobs
23 program tax credit [program]. (a) The commissioner is authorized to
24 establish and administer the [New York youth works tax credit] program
25 established under this section to provide tax incentives to employers
26 for employing at risk youth in part-time and full-time positions. There

1 will be five distinct pools of tax incentives. Program one will cover
2 tax incentives allocated for two thousand twelve and two thousand thir-
3 teen. Program two will cover tax incentives allocated in two thousand
4 fourteen [to be used in two thousand fourteen and fifteen]. Program
5 three will cover tax incentives allocated in two thousand fifteen [to be
6 used in two thousand fifteen and sixteen]. Program four will cover tax
7 incentives allocated in two thousand sixteen [to be used in two thousand
8 sixteen and seventeen]. Program five will cover tax incentives allocated
9 in two thousand seventeen [to be used in two thousand seventeen and
10 eighteen]. The commissioner is authorized to allocate up to twenty-five
11 million dollars of tax credits under program one, ten million dollars of
12 tax credits under program two, and ten million dollars of tax credits
13 for a base credit allocation and an additional ten million dollars of
14 tax credits for an incremental allocation under [program] each of
15 programs three, [ten million dollars of tax credits under program] four,
16 [ten million dollars of tax credits under program] and five.

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

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

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

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

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

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

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

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

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

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

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

1 (c) A qualified employer shall be entitled to a tax credit equal to
2 (1) five hundred dollars per month for up to six months for each quali-
3 fied employee the employer employs in a full-time job or two hundred
4 fifty dollars per month for up to six months for each qualified employee
5 the employer employs in a part-time job of at least twenty hours per
6 week or ten hours per week when the qualified employee is enrolled in
7 high school full-time, (2) one thousand dollars for each qualified
8 employee who is employed for at least an additional six months by the
9 qualified employer in a full-time job or five hundred dollars for each
10 qualified employee who is employed for at least an additional six months
11 by the qualified employer in a part-time job of at least twenty hours
12 per week or ten hours per week when the qualified employee is enrolled
13 in high school full-time, and (3) an additional one thousand dollars for
14 each qualified employee who is employed for at least an additional year
15 after the first year of the employee's employment by the qualified
16 employer in a full-time job or five hundred dollars for each qualified
17 employee who is employed for at least an additional year after the first
18 year of the employee's employment by the qualified employer in a part-
19 time job of at least twenty hours per week or ten hours per week when
20 the qualified employee is enrolled in high school full time. The tax
21 credits shall be claimed by the qualified employer as specified in
22 subdivision [forty-four] thirty-six of section two hundred [ten] ten-B
23 and subsection (tt) of section six hundred six of the tax law.

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

1 fourteen but no later than November thirtieth, two thousand fourteen for
2 program two, after January first, two thousand fifteen but no later than
3 November thirtieth, two thousand fifteen for program three, after Janu-
4 ary first, two thousand sixteen but no later than November thirtieth,
5 two thousand sixteen for program four, and after January first, two
6 thousand seventeen but no later than November thirtieth, two thousand
7 seventeen for program five. The qualified employees must start their
8 employment on or after January first, two thousand twelve but no later
9 than December thirty-first, two thousand twelve for program one, on or
10 after January first, two thousand fourteen but no later than December
11 thirty-first, two thousand fourteen for program two, on or after January
12 first, two thousand fifteen but no later than December thirty-first, two
13 thousand fifteen for program three, on or after January first, two thou-
14 sand sixteen but no later than December thirty-first, two thousand
15 sixteen for program four, and on or after January first, two thousand
16 seventeen but no later than December thirty-first, two thousand seven-
17 teen for program five. The commissioner shall establish guidelines and
18 criteria that specify requirements for employers to participate in the
19 program including criteria for certifying qualified employees. Any regu-
20 lations that the commissioner determines are necessary may be adopted on
21 an emergency basis notwithstanding anything to the contrary in section
22 two hundred two of the state administrative procedure act. Such require-
23 ments may include the types of industries that the employers are engaged
24 in. The commissioner may give preference to employers that are engaged
25 in demand occupations or industries, or in regional growth sectors,
26 including those identified by the regional economic development coun-
27 cils, such as clean energy, healthcare, advanced manufacturing and
28 conservation. In addition, the commissioner shall give preference to

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

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

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

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

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

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

23 § 3. The subdivision heading and paragraph 1 of subsection (tt) of
24 section 606 of the tax law, the subdivision heading as added by section
25 3 of part D of chapter 56 of the laws of 2011 and paragraph 1 as amended
26 by section 2 of part U of chapter 59 of the laws of 2014, are amended to
27 read as follows:

1 [New York] Urban youth [works] jobs program tax credit. (1) A taxpay-
2 er that has been certified by the commissioner of labor as a qualified
3 employer pursuant to section twenty-five-a of the labor law shall be
4 allowed a credit against the tax imposed by this article equal to (A)
5 five hundred dollars per month for up to six months for each qualified
6 employee the employer employs in a full-time job or two hundred fifty
7 dollars per month for up to six months for each qualified employee the
8 employer employs in a part-time job of at least twenty hours per week or
9 ten hours per week when the qualified employee is enrolled in high
10 school full-time, and (B) one thousand dollars for each qualified
11 employee who is employed for at least an additional six months by the
12 qualified employer in a full-time job or five hundred dollars for each
13 qualified employee who is employed for at least an additional six months
14 by the qualified employer in a part-time job of at least twenty hours
15 per week or ten hours per week when the qualified employee is enrolled
16 in high school full-time, and (C) an additional one thousand dollars for
17 each qualified employee who is employed for at least an additional year
18 after the first year of the employee's employment by the qualified
19 employer in a full-time job or five hundred dollars for each qualified
20 employee who is employed for at least an additional year after the first
21 year of the employee's employment by the qualified employer in a part-
22 time job of at least twenty hours per week or ten hours per week when
23 the qualified employee is enrolled in high school full-time. A taxpayer
24 that is a partner in a partnership, member of a limited liability compa-
25 ny or shareholder in an S corporation that has been certified by the
26 commissioner of labor as a qualified employer pursuant to section twen-
27 ty-five-a of the labor law shall be allowed its pro rata share of the
28 credit earned by the partnership, limited liability company or S corpo-

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

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

14 (xxxiii) [New York] <u>Urban</u> youth	Amount of credit under
15 [works] <u>jobs program</u>	subdivision thirty-six
16 tax credit	of section two hundred ten-B

17 § 5. This act shall take effect immediately.

18 PART N

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

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

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

10 (B) for taxable years beginning on or after January first, two thou-
11 sand sixteen and before January first, two thousand seventeen, if the
12 business income base is not more than two hundred ninety thousand
13 dollars the amount shall be three and one-quarter percent of the busi-
14 ness income base; if the business income base is more than two hundred
15 ninety thousand dollars but not over three hundred ninety thousand
16 dollars the amount shall be the sum of (1) nine thousand four hundred
17 twenty five dollars, (2) six and one-half percent of the excess of the
18 business income base over two hundred ninety thousand dollars but not
19 over three hundred ninety thousand dollars and (3) twenty-three and
20 fifty-six hundredths percent of the excess of the business income base
21 over three hundred fifty thousand dollars but not over three hundred
22 ninety thousand dollars;

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

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

7 (D) for taxable years beginning on or after January first, two thou-
8 sand eighteen, if the business income base is not more than two hundred
9 ninety thousand dollars the amount shall be two and one-half percent of
10 the business income base; if the business income base is more than two
11 hundred ninety thousand dollars but not over three hundred ninety thou-
12 sand dollars the amount shall be the sum of (1) seven thousand two
13 hundred fifty dollars, (2) six and one-half percent of the excess of the
14 business income base over two hundred ninety thousand dollars but not
15 over three hundred ninety thousand dollars and (3) twenty-nine percent
16 of the excess of the business income base over three hundred fifty thou-
17 sand dollars but not over three hundred ninety thousand dollars;

18 § 2. This act shall take effect immediately.

19 PART O

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

22 ARTICLE 22

23 EMPLOYEE TRAINING INCENTIVE PROGRAM

24 Section 441. Definitions.

- 1 442. Eligibility criteria.
- 2 443. Application and approval process.
- 3 444. Powers and duties of the commissioner.
- 4 445. Recordkeeping requirements.
- 5 446. Cap on tax credit.

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

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

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

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

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

20 (b) provided to employees filling net new jobs, or to existing employ-
21 ees in connection with a significant capital investment by a participat-
22 ing business entity;

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

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

1 (e) not training the completion of which may result in the awarding of
2 a license or certificate required by law in order to perform a job func-
3 tion; and

4 (f) not culturally focused training.

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

6 (a) is new to the state;

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

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

14 (d) is filled for more than six months;

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

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

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

20 6. "Strategic industry" means an industry in this state, as estab-
21 lished by the commissioner in regulations promulgated pursuant to this
22 article, based upon the following criteria:

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

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

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

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

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

5 § 442. Eligibility criteria. 1. In order to participate in the employ-
6 ee training incentive program, a business entity must satisfy all of the
7 following criteria:

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

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

12 (c) The business entity must create at least ten net new jobs or make
13 a significant capital investment in connection with the eligible train-
14 ing; and

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

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

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

23 (a) provide such documentation as the commissioner may require in
24 order for the commissioner to determine that the business entity intends
25 to procure eligible training for its employees from an approved provid-
26 er;

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

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

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

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

9 (e) provide a clear and detailed presentation of all related persons
10 to the applicant to assure the department that jobs are not being shift-
11 ed within the state; and

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

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

1 § 444. Powers and duties of the commissioner. 1. The commissioner
2 shall, in consultation with the commissioner of labor, promulgate regu-
3 lations consistent with the purposes of this article that, notwithstand-
4 ing any provisions to the contrary in the state administrative procedure
5 act, may be adopted on an emergency basis. Such regulations shall
6 include, but not be limited to, eligibility criteria for business enti-
7 ties desiring to participate in the employee training incentive program,
8 procedures for the receipt and evaluation of applications from business
9 entities to participate in the program, and such other provisions as the
10 commissioner deems to be appropriate in order to implement the
11 provisions of this article.

12 2. The commissioner shall, in consultation with the department of
13 taxation and finance, develop a certificate of tax credit that shall be
14 issued by the commissioner to participating business entities. Partic-
15 ipants may be required by the commissioner of taxation and finance to
16 include the certificate of tax credit with their tax return to receive
17 any tax benefits under this article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 <u>(xlii) Employee training incentive</u>	<u>Amount of credit under</u>
12 <u>program credit under</u>	<u>subdivision fifty of</u>
13 <u>subsection (ddd)</u>	<u>section two hundred ten-B</u>

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

16 PART P

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

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

1 Every corporation, joint-stock company or association formed for or
2 principally engaged in the conduct of canal, steamboat, ferry (except a
3 ferry company operating between any of the boroughs of the city of New
4 York under a lease granted by the city), express, navigation, pipe line,
5 transfer, baggage express, omnibus, taxicab, telegraph, mobile telecom-
6 munications or local telephone business, or formed for or principally
7 engaged in the conduct of two or more of such businesses, and every
8 corporation, joint-stock company or association formed for or principal-
9 ly engaged in the conduct of surface railroad, whether or not operated
10 by steam, subway railroad, elevated railroad, palace car, sleeping car
11 or trucking business or formed for or principally engaged in the conduct
12 of two or more such businesses and which has made an election pursuant
13 to subdivision ten of section one hundred eighty-three of this article,
14 and every other corporation, joint-stock company or association formed
15 for or principally engaged in the conduct of a transportation or trans-
16 mission business (other than a telephone business), except a corpo-
17 ration, joint-stock company or association formed for or principally
18 engaged in the conduct of a surface railroad, whether or not operated by
19 steam, subway railroad, elevated railroad, palace car, sleeping car or
20 trucking business or formed for or principally engaged in the conduct of
21 two or more of such businesses and which has not made the election
22 provided for in subdivision ten of section one hundred eighty-three of
23 this article, and, except a corporation, joint-stock company or associ-
24 ation principally engaged in the conduct of aviation (including air
25 freight forwarders acting as principal and like indirect air carriers)
26 and except a corporation principally engaged in providing telecommuni-
27 cation services between aircraft and dispatcher, aircraft and air traf-
28 fic control or ground station and ground station (or any combination of

1 the foregoing), at least ninety percent of the voting stock of which
2 corporation is owned, directly or indirectly, by air carriers and which
3 corporation's principal function is to fulfill the requirements of (i)
4 the federal aviation administration (or the successor thereto) or (ii)
5 the international civil aviation organization (or the successor there-
6 to), relating to the existence of a communication system between
7 aircraft and dispatcher, aircraft and air traffic control or ground
8 station and ground station (or any combination of the foregoing) for the
9 purposes of air safety and navigation and for the privilege of exercis-
10 ing its corporate franchise, or of doing business, or of employing capi-
11 tal, or of owning or leasing property in this state in a corporate or
12 organized capacity, or maintaining an office in this state, shall pay a
13 franchise tax which shall be equal to three-eighths of one percent for
14 taxable years commencing after two thousand, upon its gross earnings
15 from all sources within this state; except that, for taxable years
16 commencing on or after January first, nineteen hundred ninety, every
17 corporation, joint-stock company or association formed for or principal-
18 ly engaged in the conduct of a mobile telecommunications business, local
19 telephone business, or telegraph business shall pay a franchise tax
20 which shall be equal to three-eighths of one percent for taxable years
21 commencing after two thousand, upon its gross earnings from all sources
22 within this state, except that a corporation, joint-stock company or
23 association formed for or principally engaged in the conduct of a local
24 telephone business shall exclude the following earnings (but not in any
25 event earnings derived by such taxpayer from the provision of carrier
26 access services) derived by such taxpayer from sales for ultimate
27 consumption of telecommunications service to its customers (i) thirty
28 percent of separately charged intra-LATA toll service (which shall also

1 include interregion regional calling plan service) and (ii) one hundred
2 percent of separately charged inter-LATA, interstate or international
3 telecommunications service; and except that corporations, joint-stock
4 companies or associations formed for or principally engaged in the
5 conduct of canal, steamboat, ferry (except a ferry company operating
6 between any of the boroughs of the city of New York under a lease grant-
7 ed by the city), navigation or any corporation formed for or principally
8 engaged in the operation of vessels, shall pay a franchise tax which
9 shall be equal to three-quarters of one per centum upon its gross earn-
10 ings from all sources within this state, excluding earnings derived from
11 business of an interstate or foreign character; except that for taxable
12 years beginning in nineteen hundred ninety-seven or thereafter, in the
13 case of a corporation, joint-stock company or association which, with
14 respect to taxable years beginning after nineteen hundred ninety-seven,
15 has made an election pursuant to subdivision ten of section one hundred
16 eighty-three of this article and which is formed for or principally
17 engaged in the conduct of surface railroad, whether or not operated by
18 steam, subway railroad, elevated railroad, palace car, sleeping car or
19 trucking business or formed for or principally engaged in the conduct of
20 two or more of such businesses, such corporation, joint-stock company or
21 association shall pay a franchise tax which shall be equal to three-
22 eighths of one percent for taxable years commencing after two thousand,
23 upon its gross earnings from all sources within this state, provided
24 that in the case of a corporation, joint-stock company or association
25 formed for or principally engaged in the conduct of surface railroad,
26 whether or not operated by steam, subway railroad, elevated railroad,
27 palace car or sleeping car business, or formed for or principally
28 engaged in the conduct of two or more of such businesses, such gross

1 earnings shall not include earnings derived from business of an inter-
2 state or foreign character.

3 Provided, however, with respect to railroad, elevated railroad, palace
4 car or sleeping car business or any other corporation formed for or
5 principally engaged in the conduct of a railroad business and canal,
6 steamboat, ferry (except a ferry company operating between any of the
7 boroughs of the city of New York under a lease granted by the city),
8 navigation or any corporation formed for or principally engaged in the
9 operation of vessels where the gross earnings from such transportation
10 business both originating and terminating within this state and travers-
11 ing both this state and another state or states or country shall be
12 subject to the franchise tax imposed by this section (except where such
13 corporation, joint-stock company or association is formed for or princi-
14 pally engaged in the conduct of a railroad (including surface railroad,
15 whether or not operated by steam, subway railroad or elevated railroad),
16 palace car or sleeping car business or formed for or principally engaged
17 in the conduct of two or more of such businesses, and has not made the
18 election provided for under subdivision ten of section one hundred
19 eighty-three of this article) and such earnings shall be allocated to
20 this state in the same ratio that the mileage within the state bears to
21 the total mileage of such business. Provided, further, a corporation,
22 joint-stock company or association formed for or principally engaged in
23 the transportation, transmission or distribution of gas, electricity or
24 steam shall not be subject to tax under this section or section one
25 hundred eighty-three of this article.

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

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

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

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

15 § 2. Subdivision 1 of section 184-a of the tax law, as amended by
16 section 2 of part C of chapter 60 of the laws of 2004, the opening para-
17 graph as amended by section 63 of part A of chapter 59 of the laws of
18 2014, is amended to read as follows:

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

1 baggage express, omnibus, taxicab, telegraph, mobile telecommunications
2 or local telephone business, or formed for or principally engaged in the
3 conduct of two or more such businesses, and every corporation, joint-
4 stock company or association formed for or principally engaged in the
5 conduct of a surface railroad, whether or not operated by steam, subway
6 railroad, elevated railroad, palace car, sleeping car or trucking busi-
7 ness or principally engaged in the conduct of two or more such busi-
8 nesses and which has made an election pursuant to subdivision ten of
9 section one hundred eighty-three of this article, and every other corpo-
10 ration, joint-stock company or association formed for or principally
11 engaged in the conduct of a transportation or transmission business
12 (other than a telephone business) except a corporation, joint-stock
13 company or association formed for or principally engaged in the conduct
14 of a surface railroad, whether or not operated by steam, subway rail-
15 road, elevated railroad, palace car, sleeping car or trucking business
16 or principally engaged in the conduct of two or more such businesses and
17 which has not made the election provided for in subdivision ten of
18 section one hundred eighty-three of this article, and except a corpo-
19 ration, joint-stock company or association principally engaged in the
20 conduct of aviation (including air freight forwarders acting as princi-
21 pal and like indirect air carriers) and except a corporation principally
22 engaged in providing telecommunication services between aircraft and
23 dispatcher, aircraft and air traffic control or ground station and
24 ground station (or any combination of the foregoing), at least ninety
25 percent of the voting stock of which corporation is owned, directly or
26 indirectly, by air carriers and which corporation's principal function
27 is to fulfill the requirements of (i) the federal aviation adminis-
28 tration (or the successor thereto) or (ii) the international civil

1 aviation organization (or the successor thereto), relating to the exist-
2 ence of a communication system between aircraft and dispatcher, aircraft
3 and air traffic control or ground station and ground station (or any
4 combination of the foregoing) for the purposes of air safety and naviga-
5 tion, shall pay for the privilege of exercising its corporate franchise,
6 or of doing business, or of employing capital, or of owning or leasing
7 property in the metropolitan commuter transportation district in such
8 corporate or organized capacity, or of maintaining an office in such
9 district, a tax surcharge, which tax surcharge, in addition to the tax
10 imposed by section one hundred eighty-four of this article, shall be
11 computed at the rate of seventeen percent of the tax imposed under such
12 section for such taxable years or any part of such taxable years after
13 the deduction of any credits otherwise allowable under this article;
14 provided, however, that such rates of tax surcharge shall be applied
15 only to that portion of the tax imposed under section one hundred eight-
16 y-four of this article after the deduction of any credits otherwise
17 allowable under this article which is attributable to the taxpayer's
18 business activity carried on within the metropolitan commuter transpor-
19 tation district. Provided, however, that for taxable years beginning in
20 two thousand and thereafter, for purposes of this subdivision the tax
21 imposed under section one hundred eighty-four of this article shall be
22 deemed to have been imposed at the rate of three-quarters of one
23 percent, except that in the case of a corporation, joint-stock company
24 or association which has made an election pursuant to subdivision ten of
25 section one hundred eighty-three of this article, for purposes of this
26 subdivision the tax imposed under section one hundred eighty-four of
27 this article shall be deemed to have been imposed at the rate of six-
28 tenths of one percent.

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

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

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

11 PART Q

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

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

23 § 2. This act shall take effect immediately and shall apply to any
24 amended return or claim for refund submitted on and after January 1,
25 2015.

1

PART R

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

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

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

15 2. "Brownfield site" or "site" shall mean any real property[, the
16 redevelopment or reuse of which may be complicated by the presence or
17 potential presence of] where a contaminant is present at levels exceed-
18 ing the soil cleanup objectives or other health-based or environmental
19 standards, criteria or guidance adopted by the department that are
20 applicable based on the reasonably anticipated use of the property, as
21 determined by the department in accordance with applicable regulations.

22 Such term shall not include real property:

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

1 real property listed in the registry of inactive hazardous waste
2 disposal sites under subparagraph two of paragraph b of subdivision two
3 of section 27-1305 of this article [prior to the effective date of this
4 article], where such real property is owned by a volunteer or under
5 contract to be transferred to a volunteer, shall not be deemed ineligi-
6 ble to participate, provided that, prior to the site being accepted into
7 the brownfield cleanup program, the department has not identified any
8 responsible party for that property having the ability to pay for the
9 investigation or cleanup of the property and further provided that the
10 status of any such site as listed in the registry shall not be altered
11 prior to the issuance of a certificate of completion pursuant to section
12 27-1419 of this title. The department's assessment of eligibility under
13 this paragraph shall not constitute a finding concerning liability with
14 respect to the property;

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

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

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

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

4 29. "Affordable housing project" means a project subject to a regula-
5 tory agreement with a federal, state or local government housing agency
6 that is (a) a rental building in which at least twenty percent of the
7 dwelling units are restricted by the regulatory agreement for occupancy
8 by tenants whose annual incomes upon initial occupancy do not exceed
9 ninety percent of the area median income and in which at least an addi-
10 tional thirty percent of the dwelling units are restricted by the regu-
11 latory agreement for occupancy by tenants whose annual incomes upon
12 initial occupancy do not exceed one hundred thirty percent of the area
13 median income; (b) a cooperative or condominium project with at least
14 ten dwelling units where at least fifty percent of the dwelling units
15 are intended for buyers whose average annual incomes upon initial occu-
16 pancy do not exceed one hundred thirty percent of the area median
17 income; or (c) a single-family home-ownership project with one to three
18 units, consisting of not less than twenty fee-simple properties where at
19 least fifty percent of the homes are intended for buyers whose annual
20 incomes upon initial occupancy do not exceed one hundred thirty percent
21 of the area median income. Area median income means the area median
22 income for the primary metropolitan statistical area, or for the county
23 if located outside a metropolitan statistical area, as determined by the
24 United States department of housing and urban development, or its
25 successor, for a family of four, as adjusted for family size.

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

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

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

11 1-a. If the person is also seeking to receive the tangible property
12 credit component of the brownfield redevelopment tax credit pursuant to
13 paragraph three of subdivision (a) of section twenty-one of the tax law
14 such person shall submit information sufficient to demonstrate that: (a)
15 at least half of the site area is located in an environmental zone as
16 defined in section twenty-one of the tax law; (b) the projected cost of
17 the investigation and remediation which is protective for the antic-
18 ipated use of the site exceeds the certified appraised value of the
19 property absent contamination; or (c) the project is an affordable hous-
20 ing project. For any site located within a brownfield opportunity area
21 designated by the secretary of state pursuant to section nine hundred
22 seventy-r of the general municipal law such persons must also certify
23 that the development of the site will be in conformance with such brown-
24 field opportunity area plan. An applicant may request an eligibility
25 determination for tangible property credits at any time from application
26 until the site receives a certificate of completion pursuant to section
27 27-1419 of this title.

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

6 1-b. The department is authorized to accept the request of an appli-
7 cant which is currently active in its administrative voluntary cleanup
8 program for participation in this program, provided, however, that:

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

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

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

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

24 § 5. Subdivision 6 of section 27-1407 of the environmental conserva-
25 tion law, as added by section 1 of part A of chapter 1 of the laws of
26 2003, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 Track 3: The remedial program shall achieve contaminant-specific reme-
6 dial action objectives for soil which conform with the criteria used to
7 develop the generic tables for such objectives developed pursuant to
8 subdivision six of this section but may use site specific data to deter-
9 mine such objectives.

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

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

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

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

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

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

7 § 13. Paragraph (a) of subdivision 2 and subdivision 3 of section
8 27-1419 of the environmental conservation law, paragraph (a) of subdivi-
9 sion 2 as added by section 1 of part A of chapter 1 of the laws of 2003,
10 subdivision 3 as amended by chapter 390 of the laws of 2008, are amended
11 to read as follows:

12 (a) a description of the remediation activities completed pursuant to
13 the remedial work plan and any interim remedial measures for the brown-
14 field site and the costs paid for those activities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 § 27-1429. Permit waivers.

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

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

3 c. to inspect for compliance with the site management plan approved by
4 the department, including (i) inspection of the performance of mainte-
5 nance, monitoring and operational activities required as part of the
6 remedial program for the site, (ii) inspection for the purpose of ascer-
7 taining current uses of the site, and (iii) taking samples in accordance
8 with paragraph (a) of this subdivision.

9 § 17-a. Section 27-1435 of the environmental conservation law is
10 REPEALED.

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

13 § 27-1437. BCP-EZ Program.

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

20 (a) at the time of the application, the department has not determined
21 that the brownfield site poses a significant threat pursuant to section
22 27-1411 of this title;

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

26 (c) the activity is conducted in a manner which satisfies all substan-
27 tive technical requirements applicable to like activity conducted pursu-
28 ant to this title, including meeting applicable soil cleanup objectives

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

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

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

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

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

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

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

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

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

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

6 (3) Tangible property credit component.

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

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

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

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

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

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

8 (v) With respect to any qualified site for which the department of
9 environmental conservation has issued a notice to the taxpayer on or
10 after April first, two thousand fifteen that its request for partic-
11 ipation has been accepted under subdivision six of section 27-1407 of
12 the environmental conservation law, and the site is eligible for the
13 tangible property credit component because it is an affordable housing
14 project pursuant to subdivision one-a of section 27-1407 of the environ-
15 mental conservation law, the portion of eligible costs to be included in
16 the calculation of the tangible property credit component will be deter-
17 mined by multiplying the total costs qualified for the tangible property
18 credit component by a fraction, the numerator of which shall be the
19 square footage of space of the affordable housing units dedicated to
20 residential occupancy and the denominator of which shall be the total
21 square footage of the building together with the total square footage of
22 any other improvements on the site.

23 § 22. Subparagraph (A) of paragraph 3-a of subdivision (a) of section
24 21 of the tax law, as added by chapter 390 of the laws of 2008, is
25 amended to read as follows:

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

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

23 § 22-a. Subparagraph (C) of paragraph 3-a of subdivision (a) of
24 section 21 of the tax law, as added by chapter 390 of the laws of 2008,
25 is amended to read as follows:

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

1 under [paragraph three of] this subdivision on a taxpayer's return to
2 the department of environmental conservation and other taxpayers claim-
3 ing tax credits under this section with respect to the same qualifying
4 site.

5 § 23. Subparagraph (D) of paragraph 3-a of subdivision (a) of section
6 21 of the tax law, as added by chapter 390 of the laws of 2008, is
7 amended to read as follows:

8 (D) [If] With respect to any qualified site for which the department
9 of environmental conservation has issued a notice to the taxpayer before
10 April first, two thousand fifteen that its request for participation has
11 been accepted under subdivision six of section 27-1407 of the environ-
12 mental conservation law, or where the taxpayer has either been issued or
13 received a certificate of completion from another taxpayer under section
14 27-1419 of the environmental conservation law before April first, two
15 thousand fifteen, if the qualifying site is located in a brownfield
16 opportunity area and is developed in conformance with the goals and
17 priorities established for that applicable brownfield opportunity area
18 as designated pursuant to section nine hundred seventy-r of the general
19 municipal law, the applicable percentage of the tangible property credit
20 component will be increased by two percent.

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

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

1 remediation costs are not included in the determination of the site
2 preparation credit or the cost or other basis included in the determi-
3 nation of the tangible property credit). The credit component so deter-
4 mined for costs [incurred and] paid with respect to and prior to the
5 issuance of a certificate of completion shall be allowed for the taxable
6 year in which the effective date of the issuance of a certificate of
7 completion occurs. The credit component amount determined in taxable
8 years after the effective date of the issuance of a certificate of
9 completion shall be allowed in the taxable year such qualified costs are
10 [incurred and] paid for up to five taxable years after the issuance of
11 such certificate of completion.

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

15 (5) Applicable percentage. (A) For purposes of computing the site
16 preparation and on-site groundwater remediation credit components pursu-
17 ant to paragraphs two[, three] and four of this subdivision, with
18 respect to such qualified sites for which the department of environ-
19 mental conservation has issued a notice to the taxpayer before June
20 twenty-third, two thousand eight that its request for participation has
21 been accepted under subdivision six of section 27-1407 of the environ-
22 mental conservation law, or where the taxpayer has either been issued or
23 received a certificate of completion from another taxpayer under section
24 27-1419 of the environmental conservation law for such a site, and, for
25 purposes of computing the tangible property component pursuant to para-
26 graph three of this subdivision with respect to such qualified sites for
27 which the department of environmental conservation has issued a notice
28 to the taxpayer before April first, two thousand fifteen that its

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

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

1 to the limitations set forth in paragraphs three and three-a of subdivi-
2 sion (a) of this section:

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

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

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

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

11 (C) The taxpayer shall submit, in the manner prescribed by the commis-
12 sioner, information sufficient to demonstrate that the site qualifies
13 for any credit components available under subparagraph (B) of this para-
14 graph. If the site is located within a designated brownfield opportunity
15 area, the taxpayer shall submit a certification from the secretary of
16 state that the development is in conformance with such brownfield oppor-
17 tunity area plan pursuant to section nine hundred seventy-r of the
18 general municipal law.

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

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

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

5 § 27. Paragraphs 2, 4 and 6 of subdivision (b) of section 21 of the
6 tax law, as amended by section 1 of part H of chapter 577 of the laws of
7 2004 and subparagraph (B) and the closing paragraph of paragraph 6 as
8 amended by section 1 of part G of chapter 62 of the laws of 2006, are
9 amended to read as follows:

10 (2) Site preparation costs. The term "site preparation costs" shall
11 mean all amounts properly [chargeable] charged to a capital account, (i)
12 which are paid [or] within six months of the date the expense is
13 incurred in connection with a site's qualification for a certificate of
14 completion, and (ii) all other site preparation costs paid [or] within
15 six months of the date the expense is incurred in connection with
16 preparing a site for the erection of a building or a component of a
17 building, or otherwise to establish a site as usable for its industrial,
18 commercial (including the commercial development of residential hous-
19 ing), recreational or conservation purposes. Site preparation costs
20 shall include, but not be limited to, the costs of excavation, temporary
21 electric wiring, scaffolding, demolition costs, and the costs of fencing
22 and security facilities and shall include costs attributable to activ-
23 ities undertaken under the oversight of the department of labor or in
24 accordance with standards established by the department of health to
25 remediate regulated materials including asbestos, lead or polychlorinat-
26 ed biphenyls in buildings which will remain on the site. For a building
27 foundation, only costs equivalent to the cost of a site cover for the
28 area covered by the foundation shall be included in site preparation

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

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

1 environmental conservation law. "On-site groundwater remediation costs"
2 shall not include costs paid to a related party or parties, as such term
3 "related person" is defined in subparagraph (c) of paragraph three of
4 subdivision (b) of section four hundred sixty-five of the internal
5 revenue code. On site groundwater remediation costs are limited to
6 costs directly associated with actual groundwater remediation activ-
7 ities, including costs associated with all requirements of site remedi-
8 ation and easements required pursuant to title fourteen of article twen-
9 ty-seven and title thirty-six of article seventy-one of the
10 environmental conservation law such as architectural and engineering
11 fees, appraisal, surveys, soil boring/other investigations, legal fees
12 associated with any environmental easement required, operation, mainte-
13 nance and monitoring of treatment systems, testing for asbestos or lead
14 paint, legal fees associated with construction loan closing, cost
15 certification and insurance.

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

21 (A) areas that have both:

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

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

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

9 Such designation shall be made and a list of all such environmental
10 zones shall be established by the commissioner of [economic development
11 no later than December thirty-first, two thousand four provided, howev-
12 er, that a qualified site shall only be deemed to be located in an envi-
13 ronmental zone under subparagraph (B) of this paragraph if such site was
14 the subject of a brownfield site cleanup agreement pursuant to section
15 27-1409 of the environmental conservation law that was entered into
16 prior to September first, two thousand ten] labor based on the two thou-
17 sand nine through two thousand thirteen American Community Survey esti-
18 mate. Upon request of the commissioner of environmental conservation,
19 the commissioner of labor shall update such designation based on the
20 most recent American Community Survey, or its successor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (5) areas with known or suspected brownfield sites presenting strate-
6 gic opportunities to stimulate economic development, community revitali-
7 zation or the siting of public amenities.

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

11 a. Within the limits of appropriations therefor, the secretary is
12 authorized to provide, on a competitive basis, financial assistance to
13 municipalities, to community based organizations, to community boards,
14 or to municipalities and community based organizations acting in cooper-
15 ation to prepare a pre-nomination study for a brownfield opportunity
16 area designation. Such financial assistance shall not exceed ninety
17 percent of the costs of such pre-nomination study for any such area. A
18 nomination study must include sufficient information to designate the
19 brownfield opportunity area. The contents of the nomination study shall
20 be developed based on pre-nomination study information, which shall
21 principally consist of an area-wide study, documenting the historic
22 brownfield uses in the area proposed for designation. A nomination study
23 is not intended to be equivalent to or to serve as a master plan,
24 comprehensive plan, or other equivalent land use study, but rather is
25 intended to be a basic plan for designation of the brownfield opportu-
26 nity area based on historic brownfield use information and the community
27 participation required in this section. A master plan, comprehensive
28 plan or equivalent land use study may be separately developed under this

1 program as an implementation strategy for the final brownfield opportu-
2 nity area plan. Since a nomination study is not equivalent to a final
3 land use plan, the preparation of the nomination study does not require
4 review under the Environmental Quality Review Act pursuant to article
5 eight of the environmental conservation law, and a brownfield opportu-
6 nity area can be designated based exclusively on a nomination study. In
7 the event the municipality and/or community based organization elect to
8 develop implementation strategies, including but not limited to a master
9 plan, comprehensive plan or urban renewal plan, review under the Envi-
10 ronmental Quality Review Act under article eight of the environmental
11 conservation law is required. No such nomination study shall supersede
12 an existing master plan or equivalent land and use study.

13 § 33. Subparagraphs 2 and 5 of paragraph e of subdivision 3 and subdivi-
14 sion 4 of section 970-r of the general municipal law, subparagraphs 2
15 and 5 of paragraph e of subdivision 3 as added by section 1 of part F of
16 chapter 1 of the laws of 2003 and subdivision 4 as amended by chapter
17 390 of the laws of 2008, are amended to read as follows:

18 (2) areas with concentrations of known or suspected brownfield sites;
19 (5) areas with known or suspected brownfield sites presenting strate-
20 gic opportunities to stimulate economic development, community revitali-
21 zation or the siting of public amenities.

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

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

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

11 State assistance for brownfield site assessments in proposed or desig-
12 nated brownfield opportunity areas. a. Within the limits of appropri-
13 ations therefor, [the commissioner, in consultation with] the secretary
14 of state, is authorized to provide, on a competitive basis, financial
15 assistance to municipalities, to community based organizations, to
16 community boards, or to municipalities and community based organizations
17 acting in cooperation to conduct brownfield site assessments [in a
18 brownfield opportunity area designated pursuant to this section]. Such
19 financial assistance shall not exceed ninety percent of the costs of
20 such brownfield site assessment.

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

22 (5) areas with known or suspected brownfield sites presenting strate-
23 gic opportunities to stimulate economic development, community revitali-
24 zation or the siting of public amenities.

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

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

1 program pursuant to title fourteen of article twenty-seven of the envi-
2 ronmental conservation law and the brownfield redevelopment tax credits
3 pursuant to section twenty-one of the tax law. In establishing criteria,
4 the secretary shall be guided by, but not limited to, the following
5 considerations: how the proposed use and development advances the desig-
6 nated brownfield opportunity area plan's vision statement, goals and
7 objectives for revitalization; how the density of development and asso-
8 ciated buildings and structures advances the plan's objectives, desired
9 redevelopment and priorities for investment; and how the project
10 complies with zoning and other local laws and standards to guide and
11 ensure appropriate use of the project site.

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

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

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

3 § 37. Any site for which a brownfield cleanup agreement with the
4 department of environmental conservation was entered into prior to April
5 1, 2015 which has not received a certificate of completion by December
6 31, 2017, shall only be eligible for brownfield remediation tax credits
7 available pursuant to section 21 of the tax law as if the site was
8 accepted into the brownfield cleanup program on and after April 1, 2015
9 and shall be subject to the eligibility requirements for the tangible
10 property credit component set forth in subdivision 1-a of section
11 27-1407 of the environmental conservation law.

12 § 38. Paragraph c of subdivision 3 of section 27-0923 of the environ-
13 mental conservation law, as amended by section 5 of part I of chapter
14 577 of the laws of 2004, is amended to read as follows:

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

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

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

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

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

16 § 56-0501. Allocation of moneys.

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

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

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

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

1 this title, payments made to a municipality to reimburse the munici-
2 pality for the state share of the costs incurred by the municipality to
3 undertake an environmental restoration project or in the case of an
4 agreement authorized by subdivision three of section 56-0503 of this
5 title, costs incurred by the state to undertake an environmental resto-
6 ration project but not reimbursed by a municipality.

7 § 42. Paragraph (c) of subdivision 2 of section 56-0503 of the envi-
8 ronmental conservation law, as amended by section 4 of part D of chapter
9 1 of the laws of 2003, is amended and a new subdivision 3 is added to
10 read as follows:

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

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

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

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

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

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

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

1 or for such funding from any source pursuant to any other state, feder-
2 al, or local law, but such incidents of ownership shall not be suffi-
3 cient to qualify it as the owner of such property for the purposes of
4 holding it wholly or partially liable for any damages, past, present, or
5 future from any release of any hazardous material, substance, or contam-
6 inant into the air, ground, or water, unless such release was caused by
7 such taxing district.

8 4. within thirty days of the completion of the environmental restora-
9 tion investigation project and the receipt by the taxing jurisdiction of
10 the final report of such investigation, such taxing jurisdiction shall
11 file such report with the court on notice to the court and all other
12 parties of record, and the stay of the foreclosure shall be lifted
13 (unless lifted earlier by a prior court order), and all incidents of
14 temporary ownership of the taxing jurisdiction that was awarded such
15 taxing district, except any right [to receive funding] for the environ-
16 mental restoration investigation project to be funded, shall cease to
17 exist, and nothing in this subdivision shall preclude the taxing juris-
18 diction that conducted the environmental restoration investigation
19 project or the taxing jurisdiction that commenced the foreclosure
20 action, if it is a different taxing jurisdiction than the taxing juris-
21 diction which conducted the investigation, from withdrawing the parcel
22 from foreclosure pursuant to section eleven hundred thirty-eight of the
23 real property tax law.

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

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

1 (a) moneys appropriated for transfer to the fund's site investigation
2 and construction account; (b) all fines and other sums accumulated in
3 the fund prior to April first, nineteen hundred eighty-eight pursuant to
4 section 71-2725 of the environmental conservation law for deposit in the
5 fund's site investigation and construction account; (c) all moneys
6 collected or received by the department of taxation and finance pursuant
7 to section 27-0923 of the environmental conservation law for deposit in
8 the fund's industry fee transfer account; (d) all moneys paid into the
9 fund pursuant to section 72-0201 of the environmental conservation law
10 which shall be deposited in the fund's industry fee transfer account;
11 (e) all moneys paid into the fund pursuant to section one hundred eight-
12 y-six of the navigation law which shall be deposited in the fund's
13 industry fee transfer account; (f) [all moneys paid into the fund by
14 municipalities for repayment of landfill closure loans made pursuant to
15 title five of article fifty-two of the environmental conservation law
16 for deposit in the fund's site investigation and construction account;
17 (g)] all monies recovered under sections 56-0503, 56-0505 and 56-0507 of
18 the environmental conservation law into the fund's environmental resto-
19 ration project account; [(h) all] (g) fees paid into the fund pursuant
20 to section [72-0403] 72-0402 of the environmental conservation law which
21 shall be deposited in the fund's industry fee transfer account; [(i)]
22 (h) payments received for all state costs incurred in negotiating and
23 overseeing the implementation of brownfield site cleanup agreements
24 pursuant to title fourteen of article twenty-seven of the environmental
25 conservation law shall be deposited in the hazardous waste remediation
26 oversight and assistance account; and [(j)] (i) other moneys credited or
27 transferred thereto from any other fund or source for deposit in the
28 fund's site investigation and construction account.

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

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

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

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

14 PART S

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

18 (r) For filing a statement or amendment pursuant to section four
19 hundred eight of this chapter with the department of state, nine
20 dollars.

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

24 (b) Upon the failure of the designating corporation to file a certif-
25 icate of amendment or change providing for the designation by the corpo-
26 ration of the new address after the filing of a certificate of resigna-

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

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

14 § 3. Section 408 of the business corporation law, as added by chapter
15 55 of the laws of 1992, the section heading as amended by chapter 375 of
16 the laws of 1998, subparagraph (a) of paragraph 1 and paragraph 2 as
17 amended by chapter 172 of the laws of 1999, subparagraph (b) of para-
18 graph 3 as amended by chapter 170 of the laws of 1994, paragraph 6 as
19 added by chapter 469 of the laws of 1997, and paragraph 7 as added by
20 chapter 172 of the laws of 2000, is amended to read as follows:

21 § 408. [Biennial statement] Statement; filing.

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

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

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

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

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

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

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

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

1 chapter engaged in the production of crops, livestock and livestock
2 products on land used in agricultural production, as defined in section
3 301 of the agriculture and markets law. However, this exception for farm
4 corporations shall not be applicable if an agreement is made pursuant to
5 paragraph eight of this section so that these statements will be filed
6 with the department of taxation and finance.

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

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

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

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

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

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

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

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

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

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

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

1 that time, the limited liability company shall continue to provide annu-
2 ally the statement specified in paragraph one of this subdivision on its
3 filing fee payment form in lieu of the biennial statement required by
4 this subdivision.

5 (3) If the agreement described in paragraph two of this subdivision is
6 made, the department of taxation and finance shall deliver to the
7 department of state the statement specified in paragraph one of this
8 subdivision contained on filing fee payment forms. The department of
9 taxation and finance must, to the extent feasible, also include the
10 current name of the limited liability company, department of state iden-
11 tification number for such limited liability company, the name, signa-
12 ture and capacity of the signer of the statement, name and street
13 address of the filer of the statement, and the email address, if any, of
14 the filer of the statement.

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

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

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

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

1 three hundred one of this chapter, nine dollars. This fee shall not
2 apply if this statement is filed directly with the department of taxa-
3 tion and finance.

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

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

1 limited liability partnership required to file the statement specified
2 in this subdivision that is subject to the filing fee imposed by para-
3 graph three of subsection (c) of section six hundred fifty-eight of the
4 tax law shall provide such statement annually on its filing fee payment
5 form filed with the department of taxation and finance in lieu of filing
6 a statement under this subdivision with the department of state. Howev-
7 er, each registered limited liability partnership required to file a
8 statement under this section must continue to file a statement with the
9 department of state as required by this section until the registered
10 limited liability partnership in fact has filed a filing fee payment
11 form with the department of taxation and finance that includes all
12 required information. After that time, the limited liability partnership
13 shall continue to provide annually the statement specified in this
14 subdivision on its filing fee payment form in lieu of the statement
15 required by this subdivision. The commissioner of taxation and finance
16 shall deliver the completed statement specified in this subdivision to
17 the department of state for filing. The department of taxation and
18 finance must, to the extent feasible, also include in such delivery the
19 current name of the registered limited liability partnership, department
20 of state identification number for such registered limited liability
21 partnership, the name, signature and capacity of the signer of the
22 statement, name and street address of the filer of the statement, and
23 the email address, if any, of the filer of the statement. If a regis-
24 tered limited liability partnership shall not timely file the statement
25 required by this subdivision, the department of state may, upon sixty
26 days' notice mailed to the address of such registered limited liability
27 partnership as shown in the last registration or statement or certif-
28 icate of amendment filed by such registered limited liability partner-

1 ship, make a proclamation declaring the registration of such registered
2 limited liability partnership to be revoked pursuant to this subdivi-
3 sion. The department of state shall file the original proclamation in
4 its office and shall publish a copy thereof in the state register no
5 later than three months following the date of such proclamation. Upon
6 the publication of such proclamation in the manner aforesaid, the regis-
7 tration of each registered limited liability partnership named in such
8 proclamation shall be deemed revoked without further legal proceedings.
9 Any registered limited liability partnership whose registration was so
10 revoked may file in the department of state a [certificate of consent
11 certifying that either a] statement required by this subdivision [has
12 been filed or accompanies the certificate of consent and all fees
13 imposed under this chapter on the registered limited liability partner-
14 ship have been paid]. The filing of such [certificate of consent] state-
15 ment shall have the effect of annulling all of the proceedings thereto-
16 fore taken for the revocation of the registration of such registered
17 limited liability partnership under this subdivision and (1) the regis-
18 tered limited liability partnership shall thereupon have such powers,
19 rights, duties and obligations as it had on the date of the publication
20 of the proclamation, with the same force and effect as if such proclama-
21 tion had not been made or published and (2) such publication shall not
22 affect the applicability of the provisions of subdivision (b) of section
23 twenty-six of this chapter to any debt, obligation or liability
24 incurred, created or assumed from the date of publication of the procla-
25 mation through the date of the filing of the [certificate of consent.
26 The filing of a certificate of consent shall be accompanied by a fee of
27 fifty dollars and if accompanied by a statement, the fee required by
28 this subdivision] statement with the department of state. If, after the

1 publication of such proclamation, it shall be determined by the depart-
2 ment of state that the name of any registered limited liability partner-
3 ship was erroneously included in such proclamation, the department of
4 state shall make appropriate entry on its records, which entry shall
5 have the effect of annulling all of the proceedings theretofore taken
6 for the revocation of the registration of such registered limited
7 liability partnership under this subdivision and (A) such registered
8 limited liability partnership shall have such powers, rights, duties and
9 obligations as it had on the date of the publication of the proclama-
10 tion, with the same force and effect as if such proclamation had not
11 been made or published and (B) such publication shall not affect the
12 applicability of the provisions of subdivision (b) of section twenty-six
13 of this chapter to any debt, obligation or liability incurred, created
14 or assumed from the date of publication of the proclamation through the
15 date of the making of the entry on the records of the department of
16 state. Whenever a registered limited liability partnership whose regis-
17 tration was revoked shall have filed a [certificate of consent] state-
18 ment pursuant to this subdivision or if the name of a registered limited
19 liability partnership was erroneously included in a proclamation and
20 such proclamation was annulled, the department of state shall publish a
21 notice thereof in the state register.

22 § 9. Paragraph (I) of subdivision (f) of section 121-1502 of the part-
23 nership law, as amended by chapter 643 of the laws of 1995 and as desig-
24 nated by chapter 767 of the laws of 2005, is amended to read as follows:

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

1 (i) the name under which the New York registered foreign limited
2 liability partnership is carrying on or conducting or transacting busi-
3 ness or activities in this state, (ii) the address of the principal
4 office of the New York registered foreign limited liability partnership,
5 (iii) the post office address within or without this state to which the
6 secretary of state shall mail a copy of any process accepted against it
7 served upon him or her, which address shall supersede any previous
8 address on file with the department of state for this purpose, and (iv)
9 a statement that it is a foreign limited liability partnership. The
10 statement shall be executed by one or more partners of the New York
11 registered foreign limited liability partnership. The statement shall be
12 accompanied by a fee of fifty dollars if submitted directly to the
13 department of state. The commissioner of taxation and finance and the
14 secretary of state may agree to allow New York registered foreign limit-
15 ed liability partnerships to provide the statement specified in this
16 paragraph on tax reports filed with the department of taxation and
17 finance in lieu of statements filed directly with the secretary of state
18 and in a manner prescribed by the commissioner of taxation and finance.
19 If this agreement is made, starting with taxable years beginning on or
20 after January first, two thousand sixteen, each New York registered
21 foreign limited liability partnership required to file the statement
22 specified in this paragraph that is subject to the filing fee imposed by
23 paragraph three of subsection (c) of section six hundred fifty-eight of
24 the tax law shall provide such statement annually on its filing fee
25 payment form filed with the department of taxation and finance in lieu
26 of filing a statement under this paragraph directly with the department
27 of state. However, each New York registered foreign limited liability
28 partnership required to file a statement under this section must contin-

1 ue to file a statement with the department of state as required by this
2 section until the New York registered foreign limited liability partner-
3 ship in fact has filed a filing fee payment form with the department of
4 taxation and finance that includes all required information. After that
5 time, the New York registered foreign limited liability partnership
6 shall continue to provide annually the statement specified in this para-
7 graph on its filing fee payment form in lieu of filing the statement
8 required by this paragraph directly with the department of state. The
9 commissioner of taxation and finance shall deliver the completed state-
10 ment specified in this paragraph to the department of state for filing.
11 The department of taxation and finance must, to the extent feasible,
12 also include in such delivery the current name of the New York regis-
13 tered foreign limited liability partnership, department of state iden-
14 tification number for such New York registered foreign limited liability
15 partnership, the name, signature and capacity of the signer of the
16 statement, name and street address of the filer of the statement, and
17 the email address, if any, of the filer of the statement. If a New York
18 registered foreign limited liability partnership shall not timely file
19 the statement required by this subdivision, the department of state may,
20 upon sixty days' notice mailed to the address of such New York regis-
21 tered foreign limited liability partnership as shown in the last notice
22 or statement or certificate of amendment filed by such New York regis-
23 tered foreign limited liability partnership, make a proclamation declar-
24 ing the status of such New York registered foreign limited liability
25 partnership to be revoked pursuant to this subdivision. The department
26 of state shall file the original proclamation in its office and shall
27 publish a copy thereof in the state register no later than three months
28 following the date of such proclamation. Upon the publication of such

1 proclamation in the manner aforesaid, the status of each New York regis-
2 tered foreign limited liability partnership named in such proclamation
3 shall be deemed revoked without further legal proceedings. Any New York
4 registered foreign limited liability partnership whose status was so
5 revoked may file in the department of state a [certificate of consent
6 certifying that either a] statement required by this subdivision [has
7 been filed or accompanies the certificate of consent and all fees
8 imposed under this chapter on the New York registered foreign limited
9 liability partnership have been paid]. The filing of such [certificate
10 of consent] statement shall have the effect of annulling all of the
11 proceedings theretofore taken for the revocation of the status of such
12 New York registered foreign limited liability partnership under this
13 subdivision and (1) the New York registered foreign limited liability
14 partnership shall thereupon have such powers, rights, duties and obli-
15 gations as it had on the date of the publication of the proclamation,
16 with the same force and effect as if such proclamation had not been made
17 or published and (2) such publication shall not affect the applicability
18 of the laws of the jurisdiction governing the agreement under which such
19 New York registered foreign limited liability partnership is operating
20 (including laws governing the liability of partners) to any debt, obli-
21 gation or liability incurred, created or assumed from the date of publi-
22 cation of the proclamation through the date of the filing of the
23 [certificate of consent. The filing of a certificate of consent shall be
24 accompanied by a fee of fifty dollars and if accompanied by a statement,
25 the fee required by this subdivision] statement with the department of
26 state. If, after the publication of such proclamation, it shall be
27 determined by the department of state that the name of any New York
28 registered foreign limited liability partnership was erroneously

1 included in such proclamation, the department of state shall make appro-
2 priate entry on its records, which entry shall have the effect of
3 annulling all of the proceedings theretofore taken for the revocation of
4 the status of such New York registered foreign limited liability part-
5 nership under this subdivision and (1) such New York registered foreign
6 limited liability partnership shall have such powers, rights, duties and
7 obligations as it had on the date of the publication of the proclama-
8 tion, with the same force and effect as if such proclamation had not
9 been made or published and (2) such publication shall not affect the
10 applicability of the laws of the jurisdiction governing the agreement
11 under which such New York registered foreign limited liability partner-
12 ship is operating (including laws governing the liability of partners)
13 to any debt, obligation or liability incurred, created or assumed from
14 the date of publication of the proclamation through the date of the
15 making of the entry on the records of the department of state. Whenever
16 a New York registered foreign limited liability partnership whose status
17 was revoked shall have filed a [certificate of consent] statement pursu-
18 ant to this subdivision or if the name of a New York registered foreign
19 limited liability partnership was erroneously included in a proclamation
20 and such proclamation was annulled, the department of state shall
21 publish a notice thereof in the state register.

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

25 (d) The filing by the department of state of a certificate of amend-
26 ment or the filing of a statement providing for a new address by a
27 designating limited liability partnership shall annul the suspension and

1 its authority to do business in this state shall be restored and contin-
2 ued as if no suspension had occurred.

3 § 11. Section 192 of the tax law is amended by adding a new subdivi-
4 sion 5 to read as follows:

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

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

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

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

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

1 secretary of state for filing. Such provision may also include a copy
2 or image of that portion of the report solely pertinent to such informa-
3 tion to the extent feasible. The commissioner may also provide informa-
4 tion on noncompliance.

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

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

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

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

1 § 16. This act shall take effect immediately.

2 PART T

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (IV) Intercompany stockholdings and bills, notes and accounts
15 receivable, and other intercompany indebtedness between the corpo-
16 rations included in the combined report shall be eliminated.

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

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

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

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

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

8 (d)(i) A corporation with less than one million dollars but at least
9 ten thousand dollars of receipts within this state in a taxable year
10 that is part of a [combined reporting] unitary group that meets the
11 ownership test under section two hundred ten-C of this article is deriv-
12 ing receipts from activity in this state if the receipts within this
13 state of the members of the [combined reporting] unitary group that have
14 at least ten thousand dollars of receipts within this state in the
15 aggregate meet the threshold set forth in paragraph (b) of this subdivi-
16 sion.

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

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

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

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

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

4 For taxable years beginning before January first, two thousand
5 sixteen, the amount prescribed by this paragraph shall be computed at
6 the rate of seven and one-tenth percent of the taxpayer's business
7 income base. For taxable years beginning on or after January first, two
8 thousand sixteen, the amount prescribed by this paragraph shall be six
9 and one-half percent of the taxpayer's business income base. The taxpay-
10 er's business income base shall mean the portion of the taxpayer's busi-
11 ness income allocated within the state as hereinafter provided. However,
12 in the case of a small business taxpayer, as defined in paragraph (f) of
13 this subdivision, the amount prescribed by this paragraph shall be
14 computed pursuant to subparagraph (iv) of this paragraph and in the case
15 of a manufacturer, as defined in subparagraph (vi) of this paragraph,
16 the amount prescribed by this paragraph shall be computed pursuant to
17 subparagraph (vi) of this paragraph, and, in the case of a qualified
18 emerging technology company, as defined in subparagraph (vii) of this
19 paragraph, the amount prescribed by this paragraph shall be computed
20 pursuant to subparagraph (vii) of this paragraph.

21 § 11. Subparagraph (vi) of paragraph (a) of subdivision 1 of section
22 210 of the tax law, as amended by section 12 of part A of chapter 59 of
23 the laws of 2014, is amended to read as follows:

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

1 principally engaged in the production of goods by manufacturing, proc-
2 essing, assembling, refining, mining, extracting, farming, agriculture,
3 horticulture, floriculture, viticulture or commercial fishing. However,
4 the generation and distribution of electricity, the distribution of
5 natural gas, and the production of steam associated with the generation
6 of electricity shall not be qualifying activities for a manufacturer
7 under this subparagraph. Moreover, in the case of a combined report, the
8 combined group shall be considered a "manufacturer" for purposes of this
9 subparagraph only if the combined group during the taxable year is prin-
10 cipally engaged in the activities set forth in this paragraph, or any
11 combination thereof. A taxpayer or, in the case of a combined report, a
12 combined group shall be "principally engaged" in activities described
13 above if, during the taxable year, more than fifty percent of the gross
14 receipts of the taxpayer or combined group, respectively, are derived
15 from receipts from the sale of goods produced by such activities. In
16 computing a combined group's gross receipts, intercorporate receipts
17 shall be eliminated. A "qualified New York manufacturer" is a manufac-
18 turer which has property in New York which is described in clause (A) of
19 subparagraph (i) of paragraph (b) of subdivision one of section two
20 hundred ten-B of this article and either (I) the adjusted basis of such
21 property for federal income tax purposes at the close of the taxable
22 year is at least one million dollars or (II) all of its real and
23 personal property is located in New York. A taxpayer or, in the case of
24 a combined report, a combined group, that does not satisfy the princi-
25 pally engaged test may be a qualified New York manufacturer if the
26 taxpayer or the combined group employs during the taxable year at least
27 two thousand five hundred employees in manufacturing in New York and the
28 taxpayer or the combined group has property in the state used in manu-

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

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

7 (vii) For a taxpayer that is defined as a qualified emerging technolo-
8 gy company under paragraph (c) of subdivision one of section thirty-one
9 hundred two-e of the public authorities law regardless of the ten
10 million dollar limitation expressed in subparagraph one of such para-
11 graph (c) the amount prescribed by this paragraph shall be computed at
12 the rate [at which the tax is computed in effect for taxable years
13 beginning on or after January first, two thousand thirteen and before
14 January first, two thousand fourteen for such qualified emerging tech-
15 nology companies shall be reduced by nine and two-tenths percent for
16 taxable years commencing on or after January first, two thousand four-
17 teen and before January first, two thousand fifteen, twelve and three-
18 tenths percent for taxable years commencing on or after January first,
19 two thousand fifteen and before January first, two thousand sixteen,
20 fifteen and four-tenths percent for taxable years commencing on or after
21 January first, two thousand sixteen and before January first, two thou-
22 sand eighteen, and twenty-five percent for taxable years beginning on or
23 after January first, two thousand eighteen] of 5.7 percent for taxable
24 years beginning on or after January first, two thousand fifteen and
25 before January first, two thousand sixteen, 5.5 percent for taxable
26 years beginning on or after January first two thousand sixteen and
27 before January first, two thousand eighteen, and 4.875 percent for taxa-
28 ble years beginning on or after January first, two thousand eighteen. In

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

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

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

20 § 14. Subclause 4 of clause (B) of subparagraph (viii) of paragraph
21 (a) of subdivision 1 of section 210 of the tax law, as added by section
22 12 of part A of chapter 59 of the laws of 2014, is amended to read as
23 follows:

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

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

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

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

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

4 (4) [A net operating loss may be carried forward to each of the twenty
5 taxable years following the taxable year of the loss. A net operating
6 loss may be carried back to each of the three taxable years preceding
7 the taxable year of the loss; provided, however no loss can be carried
8 back to a tax year prior to a tax year beginning on or after January,
9 first, two thousand fifteen. A taxpayer must apply both of these limita-
10 tions in computing such net operating loss deduction.] A net operating
11 loss may be carried back three taxable years preceding the taxable year
12 of the loss. However no loss can be carried back to a taxable year
13 beginning before January first, two thousand fifteen. The loss is first
14 carried to the earliest of the three taxable years. If it is not entire-
15 ly used in that year, it is carried to the second taxable year preceding
16 the loss year, and any remaining amount is carried to the taxable year
17 immediately preceding the loss year. Any unused amount of loss then
18 remaining may be carried forward for as many as twenty taxable years
19 following the loss year. Losses carried forward are carried forward
20 first to the taxable year immediately following the loss year, then to
21 the second taxable year following the loss year, and then to the next
22 immediately subsequent taxable year or years until the loss is used up
23 or the twentieth taxable year following the loss year, whichever comes
24 first.

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

1 § 17. Subparagraph (ix) of paragraph (a) of subdivision 1 of section
2 210 of the tax law is amended by adding a new clause 7 to read as
3 follows:

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

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

15 (b) Capital base. (1) The amount prescribed by this paragraph shall be
16 computed at .15 percent for each dollar of the taxpayer's total business
17 capital, or the portion thereof allocated within the state as hereinaft-
18 er provided for taxable years beginning before January first, two thou-
19 sand sixteen. However, in the case of a cooperative housing corporation
20 as defined in the internal revenue code, the applicable rate shall be
21 .04 percent until taxable years beginning on or after January first, two
22 thousand twenty. The rate of tax for subsequent tax years shall be as
23 follows: .125 percent for taxable years beginning on or after January
24 first, two thousand sixteen and before January first, two thousand
25 seventeen; .100 percent for taxable years beginning on or after January
26 first, two thousand seventeen and before January first, two thousand
27 eighteen; .075 percent for taxable years beginning on or after January
28 first, two thousand eighteen and before January first, two thousand

1 nineteen; .050 percent for taxable years beginning on or after January
2 first, two thousand nineteen and before January first, two thousand
3 twenty; .025 percent for taxable years beginning on or after January
4 first, two thousand twenty and before January first, two thousand twen-
5 ty-one; and zero percent for years beginning on or after January first,
6 two thousand twenty-one. The rate of tax for a qualified New York
7 manufacturer [for tax years subsequent to taxable years beginning on or
8 after January first, two thousand fifteen and before January first, two
9 thousand sixteen] shall be .132 percent for taxable years beginning on
10 or after January first, two thousand fifteen and before January first,
11 two thousand sixteen, .106 percent for taxable years beginning on or
12 after January first, two thousand sixteen and before January first, two
13 thousand seventeen, .085 percent for taxable years beginning on or after
14 January first, two thousand seventeen and before January first, two
15 thousand eighteen; .056 percent for taxable years beginning on or after
16 January first, two thousand eighteen and before January first, two thou-
17 sand nineteen; .038 percent for taxable years beginning on or after
18 January first, two thousand nineteen and before January first, thousand
19 twenty; .019 percent for taxable years beginning on or after January
20 first, two thousand twenty and before January first, two thousand twen-
21 ty-one; and zero percent for years beginning on or after January first,
22 two thousand twenty-one. In no event shall the amount prescribed by this
23 paragraph exceed three hundred fifty thousand dollars for qualified New
24 York manufacturers and for all other taxpayers five million dollars.

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

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

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

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

8 (1) (A) The amount prescribed by this paragraph for New York S corpo-
 9 rations, other than New York S corporations that are qualified New York
 10 manufacturers or qualified emerging technology companies, will be deter-
 11 mined in accordance with the following table:

12 If New York receipts are:	The fixed dollar minimum tax is:
13 not more than \$100,000	\$ 25
14 more than \$100,000 but not over \$250,000	\$ 50
15 more than \$250,000 but not over \$500,000	\$ 175
16 more than \$500,000 but not over \$1,000,000	\$ 300
17 more than \$1,000,000 but not over \$5,000,000	\$1,000
18 more than \$5,000,000 but not over \$25,000,000	\$3,000
19 Over \$25,000,000	\$4,500

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

<u>1 If New York receipts are:</u>	<u>The fixed dollar minimum tax is:</u>
<u>2 not more than \$100,000</u>	<u>\$ 19</u>
<u>3 more than \$100,000 but not over \$250,000</u>	<u>\$ 38</u>
<u>4 more than \$250,000 but not over \$500,000</u>	<u>\$ 131</u>
<u>5 more than \$500,000 but not over \$1,000,000</u>	<u>\$ 225</u>
<u>6 more than \$1,000,000 but not over \$5,000,000</u>	<u>\$ 750</u>
<u>7 more than \$5,000,000 but not over \$25,000,000</u>	<u>\$2,250</u>
<u>8 Over \$25,000,000</u>	<u>\$3,375</u>

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

24 [For tax years beginning on or after January 1, 2014 and before January
 25 1, 2015:

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

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

8 For tax years beginning on or after January 1, 2015 and before January
9 1, 2016:

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

18 For tax years beginning on or after January 1, 2016 and before January
19 1, 2018:

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

1	more than \$100,000,000 but not over \$250,000,000	\$20,000
2	more than \$250,000,000 but not over \$500,000,000	\$50,000
3	more than \$500,000,000 but not over \$1,000,000,000	\$100,000
4	Over \$1,000,000,000	\$200,000

5 (E) For purposes of this paragraph, New York receipts are the receipts
6 included in the numerator of the apportionment factor determined under
7 section two hundred ten-A for the taxable year.

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

11 (f) For purposes of this section, the term "small business taxpayer"
12 shall mean a taxpayer (i) which has an entire net income of not more
13 than three hundred ninety thousand dollars for the taxable year; (ii)
14 the aggregate amount of money and other property received by the corpo-
15 ration for stock, as a contribution to capital, and as paid-in surplus,
16 does not exceed one million dollars; (iii) which is not part of an
17 affiliated group, as defined in section 1504 of the internal revenue
18 code, unless such group, if it had filed a report under this article on
19 a combined basis, would have itself qualified as a "small business
20 taxpayer" pursuant to this subdivision; and (iv) which has an average
21 number of individuals, excluding general executive officers, employed
22 full-time in the state during the taxable year of one hundred or fewer.
23 If the taxable period to which subparagraph (i) of this paragraph
24 applies is less than twelve months, entire net income under such subpar-
25 agraph shall be placed on an annual basis by multiplying the entire net
26 income by twelve and dividing the result by the number of months in the
27 period. For purposes of subparagraph (ii) of this paragraph, the amount

1 taken into account with respect to any property other than money shall
2 be the amount equal to the adjusted basis to the corporation of such
3 property for determining gain, reduced by any liability to which the
4 property was subject or which was assumed by the corporation. The deter-
5 mination under the preceding sentence shall be made as of the time the
6 property was received by the corporation. For purposes of subparagraph
7 [(iii)] (iv) of this [section] paragraph, "average number of individ-
8 uals, excluding general executive officers, employed full-time" shall be
9 computed by ascertaining the number of such individuals employed by the
10 taxpayer on the thirty-first day of March, the thirtieth day of June,
11 the thirtieth day of September and the thirty-first day of December
12 during each taxable year or other applicable period, by adding together
13 the number of such individuals ascertained on each of such dates and
14 dividing the sum so obtained by the number of such dates occurring with-
15 in such taxable year or other applicable period. An individual employed
16 full-time means an employee in a job consisting of at least thirty-five
17 hours per week, or two or more employees who are in jobs that together
18 constitute the equivalent of a job at least thirty-five hours per week
19 (full-time equivalent). Full-time equivalent employees in the state
20 [includes] include all employees regularly connected with or working out
21 of an office or place of business of the taxpayer within the state.

22 § 21. Subdivision 1 of section 210-A of the tax law, as added by
23 section 16 of part A of chapter 59 of the laws of 2014, is amended to
24 read as follows:

25 1. General. Business income and capital shall be apportioned to the
26 state by the apportionment factor determined pursuant to this section.
27 The apportionment factor is a fraction, determined by including only
28 those receipts, net income, net gains, and other items described in this

1 section that are included in the computation of the taxpayer's business
2 income (determined without regard to the modification provided in
3 subparagraph nineteen of paragraph (a) of subdivision nine of section
4 two hundred eight of this article) for the taxable year. The numerator
5 of the apportionment fraction shall be equal to the sum of all the
6 amounts required to be included in the numerator pursuant to the
7 provisions of this section and the denominator of the apportionment
8 fraction shall be equal to the sum of all the amounts required to be
9 included in the denominator pursuant to the provisions of this section.

10 § 22. Paragraph (c) of subdivision 2 of section 210-A of the tax law,
11 as added by section 16 of part A of chapter 59 of the laws of 2014, is
12 amended to read as follows:

13 (c) Receipts from sales of tangible personal property and electricity
14 that are traded as commodities, as [described] the term "commodity" is
15 defined in section 475 of the internal revenue code, are included in the
16 apportionment fraction in accordance with clause (I) of subparagraph two
17 of paragraph (a) of subdivision five of this section.

18 § 23. The opening paragraph and paragraph 1 of paragraph (a) of subdi-
19 vision 5 of section 210-A of the tax law, as added by section 16 of part
20 A of chapter 59 of the laws of 2014, are amended to read as follows:

21 A financial instrument is a "qualified financial instrument" if it is
22 eligible or required to be marked to market under section 475 or section
23 1256 of the internal revenue code, provided that loans secured by real
24 property shall not be qualified financial instruments. A financial
25 instrument is a "nonqualified financial instrument" if it is not a qual-
26 ified financial instrument.

27 (1) Fixed percentage method for qualified financial instruments. In
28 determining the inclusion of receipts and net gains from qualified

1 financial instruments in the apportionment fraction, taxpayers may elect
2 to use the fixed percentage method described in this subparagraph for
3 qualified financial instruments. The election is irrevocable, applies to
4 all qualified financial instruments, and must be made on an annual basis
5 on the taxpayer's original, timely filed return. If the taxpayer elects
6 the fixed percentage method, then all income, gain or loss, including
7 marked to market net gains as defined in clause (J) of subparagraph two
8 of this paragraph, from qualified financial instruments constitutes
9 business income, gain or loss. If the taxpayer does not elect to use the
10 fixed percentage method, then receipts and net gains are included in the
11 apportionment fraction in accordance with the customer sourcing method
12 described in subparagraph two of this paragraph. Under the fixed
13 percentage method, eight percent of all net income (not less than zero)
14 from qualified financial instruments is included in the numerator of the
15 apportionment fraction. All net income (not less than zero) from quali-
16 fied financial instruments is included in the denominator of the appor-
17 tionment fraction.

18 § 24. Subclause (iv) of clause (A) of subparagraph 2 of paragraph (a)
19 of subdivision 5 of section 210-A of the tax law, as added by section 16
20 of part A of chapter 59 of the laws of 2014, is amended to read as
21 follows:

22 (iv) Net gains (not less than zero) from sales of loans not secured by
23 real property are included in the numerator of the apportionment frac-
24 tion as provided in this subclause. The amount of net gains from the
25 sale of loans not secured by real property included in the numerator of
26 the apportionment fraction is determined by multiplying the net gains by
27 a fraction, the numerator of which is the amount of gross proceeds from
28 sales of loans not secured by real property to purchasers located within

1 the state and the denominator of which is the amount of gross [receipts]
2 proceeds from sales of loans not secured by real property to purchasers
3 located within and without the state. Gross proceeds shall be determined
4 after the deduction of any cost incurred to acquire the loans but shall
5 not be less than zero. Net gains (not less than zero) from sales of
6 loans not secured by real property are included in the denominator of
7 the apportionment fraction.

8 § 25. Clause (A) of subparagraph 2 of paragraph (a) of subdivision 5
9 of section 210-A of the tax law is amended by adding a new subclause (v)
10 to read as follows:

11 (v) For purposes of this subdivision, a loan is secured by real prop-
12 erty if fifty percent or more of the value of the collateral used to
13 secure the loan, when valued at fair market value as of the time the
14 loan was entered into, consists of real property.

15 § 26. Subparagraph 2 of paragraph (a) of subdivision 5 of section
16 210-A of the tax law is amended by adding a new clause (J) to read as
17 follows:

18 (J) Marked to market net gains. (i) For purposes of this clause,
19 "marked to market" mean that a financial instrument is, under section
20 475 or section 1256 of the internal revenue code, treated by the taxpay-
21 er as sold for its fair market value on the last business day of the
22 taxpayer's taxable year. "Marked to market gain or loss" means the gain
23 or loss recognized by the taxpayer under section 475 or section 1256 of
24 the internal revenue code because the financial instrument is treated as
25 sold for its fair market value on the last business day of the taxable
26 year.

27 (ii) The amount of marked to market net gains (not less than zero)
28 from each type of financial instrument that is marked to market included

1 in the numerator of the apportionment fraction is determined by multi-
2 plying the marked to market net gains (but not less than zero) from such
3 type of the financial instrument by a fraction, the numerator of which
4 is the numerator of the apportionment fraction for the net gains from
5 that type of financial instrument determined under the applicable clause
6 of this subparagraph and the denominator of which is the denominator of
7 the apportionment fraction for the net gains for that type of financial
8 instrument determined under the applicable clause of this subparagraph.
9 Marked to market net gains (not less than zero) from financial instru-
10 ments for which the numerator of the apportionment fraction is deter-
11 mined under the immediately preceding sentence are included in the
12 denominator of the apportionment fraction.

13 (iii) If the type of financial instrument that is marked to market is
14 not otherwise sourced by the taxpayer under this subparagraph, or if the
15 taxpayer has a net loss from the sales of that type of financial instru-
16 ment under the applicable clause of this subparagraph, the amount of
17 marked to market net gains (not less than zero) from that type of finan-
18 cial instrument included in the numerator of the apportionment fraction
19 is determined by multiplying the marked to market net gains (but not
20 less than zero) from that type of financial instrument by a fraction,
21 the numerator of which is the sum of the amount of receipts included in
22 the numerator of the apportionment fraction under clauses (A), (B), (C),
23 (D), (E), (F), (G), (H) or (I) of this subparagraph and subclause (ii)
24 of this clause, and the denominator of which is the sum of the amount of
25 reciepts included in the denominator of the apportionment fraction under
26 clauses (A), (B), (C), (D), (E), (F), (G), (H) or (I) and subclause (ii)
27 of this clause. Marked to market net gains (not less than zero) for
28 which the amount to be included in the numerator of the apportionment

1 fraction is determined under the immediately preceding sentence are
2 included in the denominator of the apportionment fraction.

3 § 27. Paragraph (e) of subdivision 5 of section 210-A of the tax law,
4 as added by section 16 of part A of chapter 59 of the laws of 2014, is
5 amended to read as follows:

6 (e) For purposes of this subdivision, a taxpayer shall use the follow-
7 ing hierarchy to determine the commercial domicile of a business entity,
8 based on the information known to the taxpayer or information that would
9 be known upon reasonable inquiry: (i) [the location of the treasury
10 function of the business entity; (ii)] the seat of management and
11 control of the business entity; and [(iii)] (ii) the billing address of
12 the business entity in the taxpayer's records. The taxpayer must exer-
13 cise due diligence before rejecting [a] the first method in this hierar-
14 chy and proceeding to the next method.

15 § 28. Section 210-A of the tax law is amended by adding a new subdivi-
16 sion 6-a to read as follows:

17 6-a. Receipts from the operation of vessels. Receipts from the opera-
18 tion of vessels are included in the numerator of the apportionment frac-
19 tion as follows. The amount of receipts from the operation of vessels
20 included in the numerator of the apportionment fraction is determined by
21 multiplying the amount of such receipts by a fraction, the numerator of
22 which is the aggregate number of working days of the vessels owned or
23 leased by the taxpayer in territorial waters of the state during the
24 period covered by the taxpayer's report and the denominator of which is
25 the aggregate number of working days of all vessels owned or leased by
26 the taxpayer during such period.

27 § 29. The opening paragraph of clause (A) of subparagraph 1 of para-
28 graph (b) of subdivision 7 of section 210-A of the tax law, as added by

1 section 16 of part A of chapter 59 of the laws of 2014, is amended to
2 read as follows:

3 The portion of receipts of a taxpayer from aviation services (other
4 than services described in paragraph (a) of this subdivision, but
5 including the receipts of a qualified air freight forwarder) to be
6 included in the numerator of the apportionment fraction shall be deter-
7 mined by multiplying its receipts from such aviation services by a
8 percentage which is equal to the arithmetic average of the following
9 three percentages:

10 § 30. Paragraph (b) of subdivision 7 of section 210-A of the tax law
11 is amended by adding a new subparagraph 3 to read as follows:

12 (3) A corporation is a qualified air freight forwarder with respect to
13 another corporation:

14 (A) if it owns or controls either directly or indirectly all of the
15 capital stock of such other corporation, or if all of its capital stock
16 is owned or controlled either directly or indirectly by such other
17 corporation, or if all of the capital stock of both corporations is
18 owned or controlled either directly or indirectly by the same interests,

19 (B) if it is principally engaged in the business of air freight
20 forwarding, and

21 (C) if its air freight forwarding business is carried on principally
22 with the airline or airlines operated by such other corporation.

23 § 31. Subparagraph (i) of paragraph (b) and paragraph (d) of subdivi-
24 sion 1 of section 210-B of the tax law, as added by section 17 of part A
25 of chapter 59 of the laws of 2014, are amended to read as follows:

26 (i) A credit shall be allowed under this subdivision with respect to
27 tangible personal property and other tangible property, including build-
28 ings and structural components of buildings, which are: depreciable

1 pursuant to section one hundred sixty-seven of the internal revenue
2 code, have a useful life of four years or more, are acquired by purchase
3 as defined in section one hundred seventy-nine (d) of the internal
4 revenue code, have a situs in this state and are (A) principally used by
5 the taxpayer in the production of goods by manufacturing, processing,
6 assembling, refining, mining, extracting, farming, agriculture, horti-
7 culture, floriculture, viticulture or commercial fishing, (B) industrial
8 waste treatment facilities or air pollution control facilities, used in
9 the taxpayer's trade or business, (C) research and development property,
10 or (D) principally used in the ordinary course of the taxpayer's trade
11 or business as a broker or dealer in connection with the purchase or
12 sale (which shall include but not be limited to the issuance, entering
13 into, assumption, offset, assignment, termination, or transfer) of
14 stocks, bonds or other securities as defined in section four hundred
15 seventy-five (c)(2) of the Internal Revenue Code, or of commodities as
16 defined in section four hundred seventy-five (e) of the Internal Revenue
17 Code, (E) principally used in the ordinary course of the taxpayer's
18 trade or business of providing investment advisory services for a regu-
19 lated investment company as defined in section eight hundred fifty-one
20 of the Internal Revenue Code, or lending, loan arrangement or loan orig-
21 ination services to customers in connection with the purchase or sale
22 (which shall include but not be limited to the issuance, entering into,
23 assumption, offset, assignment, termination, or transfer) of securities
24 as defined in section four hundred seventy-five (c)(2) of the Internal
25 Revenue Code, (F) [originally] principally used in the ordinary course
26 of the taxpayer's business as an exchange registered as a national secu-
27 rities exchange within the meaning of sections 3(a)(1) and 6(a) of the
28 Securities Exchange Act of 1934 or a board of trade as defined in

1 [section 1410(a)(1) of the New York Not-for-Profit Corporation Law]
2 subparagraph one of paragraph (a) of section fourteen hundred ten of the
3 not-for-profit corporation law or as an entity that is wholly owned by
4 one or more such national securities exchanges or boards of trade and
5 that provides automation or technical services thereto, or (G) princi-
6 pally used as a qualified film production facility including qualified
7 film production facilities having a situs in an empire zone designated
8 as such pursuant to article eighteen-B of the general municipal law,
9 where the taxpayer is providing three or more services to any qualified
10 film production company using the facility, including such services as a
11 studio lighting grid, lighting and grip equipment, multi-line phone
12 service, broadband information technology access, industrial scale elec-
13 trical capacity, food services, security services, and heating, venti-
14 lation and air conditioning. For purposes of clauses (D), (E) and (F) of
15 this subparagraph, property purchased by a taxpayer affiliated with a
16 regulated broker, dealer, registered investment advisor, national secu-
17 rities exchange or board of trade, is allowed a credit under this subdivi-
18 vision if the property is used by its affiliated regulated broker, deal-
19 er, registered investment advisor, national securities exchange or board
20 of trade in accordance with this subdivision. For purposes of determin-
21 ing if the property is principally used in qualifying uses, the uses by
22 the taxpayer described in clauses (D) and (E) of this subparagraph may
23 be aggregated. In addition, the uses by the taxpayer, its affiliated
24 regulated broker, dealer and registered investment advisor under either
25 or both of those clauses may be aggregated. Provided, however, a taxpay-
26 er shall not be allowed the credit provided by clauses (D), (E) and (F)
27 of this subparagraph unless the property is first placed in service
28 before October first, two thousand fifteen and (i) eighty percent or

1 more of the employees performing the administrative and support func-
2 tions resulting from or related to the qualifying uses of such equipment
3 are located in this state or (ii) the average number of employees that
4 perform the administrative and support functions resulting from or
5 related to the qualifying uses of such equipment and are located in this
6 state during the taxable year for which the credit is claimed is equal
7 to or greater than ninety-five percent of the average number of employ-
8 ees that perform these functions and are located in this state during
9 the thirty-six months immediately preceding the year for which the cred-
10 it is claimed, or (iii) the number of employees located in this state
11 during the taxable year for which the credit is claimed is equal to or
12 greater than ninety percent of the number of employees located in this
13 state on December thirty-first, nineteen hundred ninety-eight or, if the
14 taxpayer was not a calendar year taxpayer in nineteen hundred ninety-
15 eight, the last day of its first taxable year ending after December
16 thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes
17 subject to tax in this state after the taxable year beginning in nine-
18 teen hundred ninety-eight, then the taxpayer is not required to satisfy
19 the employment test provided in the preceding sentence of this subpara-
20 graph for its first taxable year. For purposes of clause (iii) of this
21 subparagraph the employment test will be based on the number of employ-
22 ees located in this state on the last day of the first taxable year the
23 taxpayer is subject to tax in this state. If the uses of the property
24 must be aggregated to determine whether the property is principally used
25 in qualifying uses, then either each affiliate using the property must
26 satisfy this employment test or this employment test must be satisfied
27 through the aggregation of the employees of the taxpayer, its affiliated
28 regulated broker, dealer, and registered investment adviser using the

1 property. For purposes of this subdivision, the term "goods" shall not
2 include electricity.

3 (d) Except as otherwise provided in this paragraph, the credit allowed
4 under this subdivision for any taxable year shall not reduce the tax due
5 for such year to less than the [higher of the amounts prescribed in
6 paragraphs (c) and] fixed dollar minimum amount prescribed in paragraph
7 (d) of subdivision one of [this] section two hundred ten of this
8 article. However, if the amount of credit allowable under this subdivi-
9 sion for any taxable year reduces the tax to such amount or if the
10 taxpayer otherwise pays tax based on the fixed dollar minimum amount,
11 any amount of credit allowed for a taxable year commencing prior to
12 January first, nineteen hundred eighty-seven and not deductible in such
13 taxable year may be carried over to the following year or years and may
14 be deducted from the taxpayer's tax for such year or years but in no
15 event shall such credit be carried over to taxable years commencing on
16 or after January first, two thousand two, and any amount of credit
17 allowed for a taxable year commencing on or after January first, nine-
18 teen hundred eighty-seven and not deductible in such year may be carried
19 over to the fifteen taxable years next following such taxable year and
20 may be deducted from the taxpayer's tax for such year or years. In lieu
21 of such carryover, any such taxpayer which qualifies as a new business
22 under paragraph [(j)] (f) of this subdivision may elect to treat the
23 amount of such carryover as an overpayment of tax to be credited or
24 refunded in accordance with the provisions of section ten hundred eight-
25 y-six of this chapter, provided, however, the provisions of subsection
26 (c) of section ten hundred eighty-eight of this chapter notwithstanding,
27 no interest shall be paid thereon.

1 § 32. Subdivision 27 of section 210-B of the tax law, as added by
2 section 17 of part A of chapter 59 of the laws of 2014, is amended to
3 read as follows:

4 27. Credits of New York S corporations. (a) General. Notwithstanding
5 the provisions of this section, no carryover of credit allowable in a
6 New York C year shall be deducted from the tax otherwise due under this
7 article in a New York S year, and no credit allowable in a New York S
8 year, or carryover of such credit, shall be deducted from the tax
9 imposed by this article. However, a New York S year shall be treated as
10 a taxable year for purposes of determining the number of taxable years
11 to which a credit may be carried over under this section. Notwithstand-
12 ing the first sentence of this subdivision, however, the credit for the
13 special additional mortgage recording tax shall be allowed as provided
14 in subdivision [fifteen] nine of this section, and the carryover of any
15 such credit shall be determined without regard to whether the credit is
16 carried from a New York C year to a New York S year or vice-versa.

17 § 33. Subdivision 1, subparagraphs (i) and (ii) of paragraph (d) and
18 paragraphs (d-1) and (e) of subdivision 4, and subdivision 7 of section
19 210-C of the tax law, as added by section 18 of part A of chapter 59 of
20 the laws of 2014, are amended to read as follows:

21 1. Tax. (a) The tax on a combined report shall be the highest of (i)
22 the combined business income base multiplied by the tax rate specified
23 in paragraph (a) of subdivision one of section two hundred ten of this
24 article; (ii) the combined capital base multiplied by the tax rate spec-
25 ified in paragraph (b) of subdivision one of section two hundred ten of
26 this article, but not exceeding the limitation provided for in that
27 paragraph (b); or (iii) the fixed dollar minimum that is attributable to
28 the designated agent of the combined group. In addition, the tax on a

1 combined report shall include the fixed dollar minimum tax specified in
2 paragraph (d) of subdivision one of section two hundred ten of this
3 article for each member of the combined group, other than the designated
4 agent, that is a taxpayer.

5 (b) The combined business income base is the amount of the combined
6 business income of the combined group that is apportioned to the state,
7 reduced by any prior net operating loss conversion subtraction and any
8 net operating loss deduction for the combined group. The combined capi-
9 tal base is the amount of the combined capital of the combined group
10 that is apportioned to the state.

11 (i) A net operating loss deduction is allowed in computing the
12 combined business income base. Such deduction may reduce the tax on the
13 combined business income base to the higher of the tax on the combined
14 capital base or the fixed dollar minimum amount that is attributable to
15 the designated agent of the combined group. A combined net operating
16 loss deduction is equal to the amount of combined net operating loss or
17 losses from one or more taxable years that are carried forward or
18 carried back to a particular [income] taxable year. A combined net oper-
19 ating loss is the combined business loss incurred in a particular taxa-
20 ble year multiplied by the combined apportionment factor for that year
21 determined as provided in subdivision five of this section.

22 (ii) The combined net operating loss deduction and combined net oper-
23 ating loss are also subject to the provisions contained in clauses one
24 through [six] seven of subparagraph (ix) of paragraph (a) of subdivision
25 one of section two hundred ten of this article.

26 (d-1) A prior net operating loss conversion subtraction is allowed in
27 computing the combined business income base, as provided in subparagraph
28 (viii) of paragraph (a) of subdivision one of section two hundred ten of

1 this article. Such subtraction may reduce the tax on the combined busi-
2 ness income base to the higher of the tax on the combined capital base
3 or the fixed dollar minimum amount that is attributable to the desig-
4 nated agent of the combined group.

5 (e) Any election made pursuant to paragraph (b) of subdivision six,
6 [and] paragraphs (b) and (c) of subdivision six-a of section two hundred
7 eight, and item (IV) of subclause two of clause (B) of subparagraph
8 (viii) and clause seven of subparagraph (ix) of paragraph (a) of subdivi-
9 vision one of section two hundred ten of this article shall apply to all
10 members of the combined group.

11 7. Designated agent. Each combined group shall have one designated
12 agent for the combined group, which shall be a taxpayer. [The designated
13 agent is the parent corporation of the combined group. If there is no
14 such parent corporation, or the parent corporation is not a taxpayer,
15 then another member of the combined group that is a taxpayer may be
16 appointed as the designated agent.] Only the designated agent may act on
17 behalf of the members of the combined group for matters relating to the
18 combined report.

19 § 34. Paragraph 1 of subdivision (c) of section 40 of the tax law, as
20 added by section 4 of part A of chapter 68 of the laws of 2013, is
21 amended to read as follows:

22 (1) ascertaining the percentage that the average value of the busi-
23 ness's real and tangible personal property, whether owned or rented to
24 it, in the tax-free NY area in which the business was located during the
25 period covered by the taxpayer's report or return bears to the average
26 value of the business's real and tangible personal property, whether
27 owned or rented to it, within the state during such period; provided
28 that the term "value of the business's real and tangible personal prop-

1 erty" shall have the same meaning as such term has in [subparagraph one
2 of] paragraph (a) of subdivision [three] two of section [two hundred
3 ten] two hundred nine-B of this chapter; and

4 § 35. Clause (ii) of subparagraph (B) of paragraph 2 of subdivision
5 (d) of section 40 of the tax law, as added by section 4 of part A of
6 chapter 68 of the laws of 2013, is amended to read as follows:

7 (ii) For purposes of article nine-A of this chapter, the term "part-
8 ner's income from the partnership" means partnership items of income,
9 gain, loss and deduction, and New York modifications thereto, entering
10 into [entire net] business income [or minimum taxable income] and the
11 term "partner's entire income" means [entire net] business income [or
12 minimum taxable income], allocated within the state. For purposes of
13 article twenty-two of this chapter, the term "partner's income from the
14 partnership" means partnership items of income, gain, loss and
15 deduction, and New York modifications thereto, entering into New York
16 adjusted gross income, and the term "partner's entire income" means New
17 York adjusted gross income.

18 § 36. Subparagraph (C) of paragraph 2 of subdivision (d) of section 40
19 of the tax law, as added by section 4 of part A of chapter 68 of the
20 laws of 2013, is amended to read as follows:

21 (C) (i) Where the taxpayer is a shareholder of a New York S corpo-
22 ration that is a business located in a tax-free NY area, the sharehold-
23 er's tax factor shall be that portion of the amount determined in para-
24 graph one of this subdivision that is attributable to the income of the
25 S corporation. Such attribution shall be made in accordance with the
26 ratio of the shareholder's income from the S corporation allocated with-
27 in the state, entering into New York adjusted gross income, to the
28 shareholder's New York adjusted gross income, or in accordance with such

1 other methods as the commissioner may prescribe as providing an appor-
2 tionment that reasonably reflects the portion of the shareholder's tax
3 attributable to the income of such business. The income of the S corpo-
4 ration allocated within the state shall be determined by multiplying the
5 income of the S corporation by [the] a business allocation factor
6 [computed under paragraph (a) of subdivision three of section two
7 hundred ten of this article without regard to subparagraph ten of such
8 paragraph (a)] that shall be determined in clause (ii) of this subpara-
9 graph. In no event may the ratio so determined exceed 1.0.

10 (ii) The business allocation factor for purposes of this subparagraph
11 shall be computed by adding together the property factor specified in
12 subclause (I) of this clause, the wage factor specified in subclause
13 (II) of this clause and the apportionment factor determined under
14 section two hundred ten-A of this chapter and dividing by three.

15 (I) The property factor shall be determined by ascertaining the
16 percentage that the average value of the business's real and tangible
17 personal property, whether owned or rented to it, within the state
18 during the period covered by the taxpayer's report or return bears to
19 the average value of the business's real and tangible personal property,
20 whether owned or rented to it, within and without the state during such
21 period; provided that the term "value of the business's real and tangi-
22 ble personal property" shall have the same meaning as such term has in
23 paragraph (a) of subdivision two of section two hundred nine-B of this
24 chapter.

25 (II) The wage factor shall be determined by ascertaining the percent-
26 age that the total wages, salaries and other personal service compen-
27 sation, similarly computed, during such period of employees, except
28 general executive officers, employed at the business's location or

1 locations within the state, bears to the total wages, salaries and other
2 personal service compensation, similarly computed, during such period,
3 of all the business's employees within and without the state, except
4 general executive officers.

5 § 37. Subparagraph (B) of paragraph 3 of subdivision (d) of section 40
6 of the tax law, as added by section 4 of part A of chapter 68 of the
7 laws of 2013, is amended to read as follows:

8 (B) The term "income of the business located in a tax-free NY area"
9 means [entire net] business income [or minimum taxable income] calcu-
10 lated as if the taxpayer was filing separately and the term "combined
11 group's income" means [entire net] business income [or minimum taxable
12 income] as shown on the combined report, allocated within the state.

13 § 38. Paragraph 1 of subdivision (e) of section 40 of the tax law, as
14 added by section 4 of part A of chapter 68 of the laws of 2013, is
15 amended to read as follows:

16 (1) Article 9-A: section [210] 210-B, subdivision [47] 41.

17 § 39. Paragraph 1 of subsection (i) of section 660 of the tax law, as
18 amended by section 74 of part A of chapter 59 of the laws of 2014, is
19 amended to read as follows:

20 (1) Notwithstanding the provisions in subsection (a) of this section,
21 in the case of an eligible S corporation for which the election under
22 subsection (a) of this section is not in effect for the current taxable
23 year, the shareholders of an eligible S corporation are deemed to have
24 made that election effective for the eligible S corporation's entire
25 current taxable year, if the eligible S corporation's investment income
26 for the current taxable year is more than fifty percent of its federal
27 gross income for such year. In determining whether an eligible S [corpo-
28 ration's investment income] corporation is deemed to have made that

1 election, the [investment] income of a qualified subchapter S subsidiary
2 owned directly or indirectly by the eligible S corporation shall be
3 included with the income of the eligible S corporation.

4 § 40. This act shall take effect immediately and shall be deemed to be
5 in full force and effect on the same date as part A of chapter 59 of the
6 laws of 2014.

7 PART U

8 Section 1. Paragraph 33 of subdivision (a) of section 1115 of the tax
9 law, as added by section 99 of part A of chapter 389 of the laws of
10 1997, is amended to read as follows:

11 (33) Wine or wine product, and the bottles, corks, caps, and labels
12 used to package such wine or wine product, furnished by the official
13 agent of a farm winery, winery, wholesaler, or importer at a wine tast-
14 ing held in accordance with [section eighty of] the alcoholic beverage
15 control law to a customer or prospective customer who consumes such wine
16 at such wine tasting.

17 § 2. Section 1118 of the tax law is amended by adding a new subdivi-
18 sion (13) to read as follows:

19 (13) In respect to the use of the following items at a tasting held by
20 a licensed brewery, farm brewery, cider producer, farm cidery, distil-
21 lery or farm distillery in accordance with the alcoholic beverage
22 control law: (i) the alcoholic beverage or beverages authorized by the
23 alcoholic beverage control law to be furnished at no charge to a custom-
24 er or prospective customer at such tasting for consumption at such tast-
25 ing; and (ii) bottles, corks, caps and labels used to package such alco-
26 holic beverages.

1 § 3. This act shall take effect immediately, provided, however,
2 section two of this act shall take effect June 1, 2015 and shall apply
3 in accordance with the transition provisions of section 1106 and 1217 of
4 the tax law.

5 PART V

6 Section 1. Paragraph 22 of subdivision (b) of section 1101 of the tax
7 law, as amended by chapter 651 of the laws of 1999, is amended to read
8 as follows:

9 (22) (A) "Prepaid telephone calling service" means the right to exclu-
10 sively purchase telecommunication services, that must be paid for in
11 advance and enable the origination of one or more intrastate, interstate
12 or international telephone calls using an access number (such as a toll
13 free network access number) and/or authorization code, whether manually
14 or electronically dialed, for which payment to a vendor must be made in
15 advance, whether or not that right is represented by the transfer by the
16 vendor to the purchaser of an item of tangible personal property. Such
17 term includes a prepaid mobile calling service. In no event shall a
18 credit card constitute a prepaid telephone calling service. If the sale
19 or recharge of a prepaid telephone calling service does not take place
20 at the vendor's place of business, it shall be conclusively determined
21 to take place at the purchaser's shipping address or, if there is no
22 item shipped, at the purchaser's billing address or the location associ-
23 ated with the purchaser's mobile telephone number, or, if the vendor
24 does not have the address or the location associated with the customer's
25 mobile telephone number, at such address, as approved by the commission-

1 er, that reasonably reflects the customer's location at the time of the
2 sale or recharge.

3 (B) "Prepaid mobile calling service" means the right to use a commer-
4 cial mobile radio service, whether or not sold with other property or
5 services, that must be paid for in advance and is sold in predetermined
6 units or dollars that decline with use in a known amount, whether or not
7 that right is represented by or includes the transfer to the purchaser
8 of an item of tangible personal property.

9 § 2. This act shall take effect immediately.

10 PART W

11 Section 1. The section heading and subdivisions 1, 2, 3, 4, 6, 7 and 9
12 of section 875 of the general municipal law, as added by section 2 of
13 part J of chapter 59 of the laws of 2013, are amended to read as
14 follows:

15 Special provisions applicable to state [sales and compensating use]
16 taxes and certain types of facilities. 1. For purposes of this section:
17 "state sales and use taxes" means sales and compensating use taxes and
18 fees imposed by article twenty-eight or twenty-eight-A of the tax law
19 but excluding such taxes imposed in a city by section eleven hundred
20 seven or eleven hundred eight of such article twenty-eight. "State
21 taxes" means any or all of the following: state sales and use taxes, any
22 mortgage recording tax imposed under section two hundred fifty-three of
23 the tax law, any state real estate transfer tax imposed by article thir-
24 ty-one of the tax law. "IDA" means an industrial development agency
25 established by this article or an industrial development authority
26 created by the public authorities law. "Commissioner" means the commis-

1 sioner of taxation and finance. "ABO" means the authorities budget
2 office established by section four of the public authorities law.

3 2. An IDA shall keep records of the amount of state and local sales
4 and use tax exemption benefits and any other state tax exemption bene-
5 fits provided to each project and each agent or project operator and
6 shall make such records available to the commissioner upon request. Such
7 IDA shall also, within thirty days of providing financial assistance to
8 a project that includes any amount of state [sales and use] tax
9 exemption benefits, report to the commissioner the amount of such bene-
10 fits for such project, the project to which they are being provided,
11 together with such other information and such specificity and detail as
12 the commissioner may prescribe. This report may be made in conjunction
13 with the statement required by subdivision nine of section eight hundred
14 seventy-four of this title or it may be made as a separate report, at
15 the discretion of the commissioner. An IDA that fails to make such
16 records available to the commissioner or to file such reports shall be
17 prohibited from providing any state [sales and use] tax exemption bene-
18 fits for any project unless and until such IDA comes into compliance
19 with all such requirements.

20 3. (a) An IDA shall include within its resolutions and project docu-
21 ments establishing any project or appointing an agent or project opera-
22 tor for any project the terms and conditions in this subdivision, and
23 every agent, project operator or other person or entity that shall enjoy
24 any state [sales and use] tax exemption benefits provided by an IDA
25 shall agree to such terms as a condition precedent to receiving or bene-
26 fitting from any such state [sales and use exemptions] tax exemption
27 benefits.

1 (b) The IDA shall recover, recapture, receive, or otherwise obtain
2 from an agent, project operator or other person or entity any state
3 [sales and use exemptions] tax exemption benefits taken or purported to
4 be taken by any such person to which the person is not entitled or which
5 are in excess of the amounts authorized or, as to state sales and use
6 taxes, which are for property or services not authorized or taken in
7 cases where such agent or project operator, or other person or entity
8 failed to comply with a material term or condition to use property or
9 services in the manner required by the person's agreement with the IDA.
10 Such agent or project operator, or other person or entity shall cooper-
11 ate with the IDA in its efforts to recover, recapture, receive, or
12 otherwise obtain any such state [sales and use] tax exemptions benefits
13 and shall promptly pay over any such amounts to the IDA that it
14 requests. The failure to pay over such amounts to the IDA shall be
15 grounds for the commissioner to assess and determine state [sales and
16 use] taxes due from the person under [article twenty-eight of] the tax
17 law, together with any relevant penalties and interest due on such
18 amounts.

19 (c) If an IDA recovers, recaptures, receives, or otherwise obtains,
20 any amount of state [sales and use] tax exemption benefits from an
21 agent, project operator or other person or entity, the IDA shall, within
22 thirty days of coming into possession of such amount, remit it to the
23 commissioner, together with such information and report that the commis-
24 sioner deems necessary to administer payment over of such amount. An
25 IDA shall join the commissioner as a party in any action or proceeding
26 that the IDA commences to recover, recapture, obtain, or otherwise seek
27 the return of, any state [sales and use] tax exemption benefits from an
28 agent, project operator or other person or entity.

1 (d) An IDA shall prepare an annual compliance report detailing its
2 terms and conditions described in paragraph (a) of this subdivision and
3 its activities and efforts to recover, recapture, receive, or otherwise
4 obtain any state [sales and use exemptions] tax exemption benefits
5 described in paragraph (b) of this subdivision, together with such other
6 information as the commissioner and the commissioner of economic devel-
7 opment may require. The report required by this subdivision shall be
8 filed with the commissioner, the director of the division of the budget,
9 the commissioner of economic development, the state comptroller, the
10 governing body of the municipality for whose benefit the agency was
11 created, and may be included with the annual financial statement
12 required by paragraph (b) of subdivision one of section eight hundred
13 fifty-nine of this title. Such report required by this subdivision shall
14 be filed regardless of whether the IDA is required to file such finan-
15 cial statement described by such paragraph (b) of subdivision one of
16 section eight hundred fifty-nine. The failure to file or substantially
17 complete the report required by this subdivision shall be deemed to be
18 the failure to file or substantially complete the statement required by
19 such paragraph (b) of subdivision one of such section eight hundred
20 fifty-nine, and the consequences shall be the same as provided in para-
21 graph (e) of subdivision one of such section eight hundred fifty-nine.

22 (e) This subdivision shall apply to any amounts of state [sales and
23 use] tax exemption benefits that an IDA recovers, recaptures, receives,
24 or otherwise obtains, regardless of whether the IDA or the agent,
25 project operator or other person or entity characterizes such benefits
26 recovered, recaptured, received, or otherwise obtained, as a penalty or
27 liquidated or contract damages or otherwise. The provisions of this
28 subdivision shall also apply to any interest or penalty that the IDA

1 imposes on any such amounts or that are imposed on such amounts by oper-
2 ation of law or by judicial order or otherwise. Any such amounts or
3 payments that an IDA recovers, recaptures, receives, or otherwise
4 obtains, together with any interest or penalties thereon, shall be
5 deemed to be state sales and use taxes, mortgage recording tax, or real
6 estate transfer tax, as the case may be, and the IDA shall receive any
7 such amounts or payments, whether as a result of court action or other-
8 wise, as trustee for and on account of the state.

9 4. The commissioner shall deposit and dispose of any amount of any
10 payments or moneys received from or paid over by an IDA or from or by
11 any person or entity, or received pursuant to an action or proceeding
12 commenced by an IDA, together with any interest or penalties thereon,
13 pursuant to subdivision three of this section, as state sales and use
14 taxes in accord with the provisions of article twenty-eight of the tax
15 law, or as mortgage recording tax imposed under section two hundred
16 fifty-three of the tax law or real estate transfer tax imposed under
17 article thirty-one of the tax law, as the case may be. The amount of
18 any such payments or moneys in respect of sales or use taxes, together
19 with any interest or penalties thereon, shall be attributed to the taxes
20 imposed by sections eleven hundred five and eleven hundred ten, on the
21 one hand, and section eleven hundred nine of the tax law, on the other
22 hand, or to any like taxes or fees imposed by such article, based on the
23 proportion that the rates of such taxes or fees bear to each other,
24 unless there is evidence to show that only one or the other of such
25 taxes or fees was imposed or received or paid over.

26 6. The commissioner is hereby authorized to audit the records,
27 actions, and proceedings of an IDA and of its agents and project opera-
28 tors to ensure that the IDA and its agents and project operators comply

1 with all the requirements of this section. In addition, the commission-
2 er is hereby authorized to audit IDA projects and IDA agents and project
3 operators with regard to the requirements and restrictions of this title
4 and title eleven or fifteen of article eight of the public authorities
5 law to ensure that job targets, investment targets, construction, and
6 expenditures described in subdivision five-a of this section, and any
7 exemptions from any state taxes or from local sales and compensating use
8 taxes administered by the commissioner comply with the details of the
9 project and the application as approved by the department of economic
10 development under such subdivision five-a. In addition, the department
11 of economic development, the ABO, or another person or entity may report
12 to the commissioner that an agent or project operator has not met any
13 such targets or goals or otherwise complied with any such provisions. If
14 the commissioner finds that any such job targets, investment targets,
15 construction, expenditures, or tax exemption provisions or other condi-
16 tions or provisions have not been met or complied with, the commissioner
17 shall determine the amount of any exemption from state taxes that the
18 agent or project operator claimed and such agent or project operator
19 shall pay such amounts as tax. If the commissioner finds that the agent
20 or project operator has partially met such targets, goals, or condi-
21 tions, the commissioner may determine the degree of compliance to deter-
22 mine the amount of such tax exemptions claimed that the agent or project
23 operator must pay as tax. In making such compliance determination, the
24 commissioner may consider the number of years or other period of time in
25 which such agent or project operator met the targets, goals, or condi-
26 tions, as compared to the total years or other period of time of the
27 project, the percentage of compliance with regard to the number of jobs
28 created as compared to the job targets, the severity of failure to

1 comply with tax exemption limitations based on the number of dollars by
2 which the agent or project operator exceeded the allowed amount of tax
3 exemptions approved, and such other factors as the commissioner deems
4 reasonable and pertinent. The commissioner shall be authorized to
5 assess or otherwise bill the agent or project operator for any such
6 amounts that the commissioner determined the agent or project operator
7 must pay as tax, in the manner that the commissioner would assess or
8 bill for the tax from which such exemptions were claimed. Any informa-
9 tion the commissioner finds in the course of any such audit may be used
10 by the commissioner to assess and determine state and local taxes of the
11 IDA's agent or project operator.

12 7. In addition to any other reporting or filing requirements an IDA
13 has under this article or other law, an IDA shall [also] maintain a
14 public internet web site and report and make available on [the internet]
15 such web site, without charge, copies of its resolutions and agreements
16 appointing an agent or project operator or otherwise related to any
17 project it establishes. In addition, every IDA shall post on such web
18 site the following information and shall timely update all such informa-
19 tion so that it remains current and accurate within thirty days of any
20 change:

21 (a) the name and title of each member and officer of the IDA,

22 (b) public notice of every meeting to be held by the IDA, as required
23 by subdivision five-c of this section;

24 (c) the agenda of every such meeting to be held, at least ten days
25 prior to the commencement of the meeting;

26 (d) minutes of every meeting the IDA holds, together with the details
27 of every vote each member of the IDA casts at any meeting; and

1 (e) a description of every project established by the IDA, together
2 with a description of any state or local tax exemption benefits the IDA
3 intends to provide or extend in duration, or has provided or extended,
4 with respect to the project, including what the exemption applies to,
5 the type of tax exempted or to be exempted and the duration and annual
6 and total dollar value of each such exemption.

7 It shall also provide, without charge, copies of all such reports and
8 information to a person who asks for [it] any of them in writing or in
9 person. The IDA may, at the request of its agent or project operator
10 delete from any such copies posted on the internet or provided to a
11 person described in the prior sentence portions of its records that are
12 specifically exempted from disclosure under article six of the public
13 officers law. If the ABO finds, on its own, or after recommendation by
14 the department of economic development, the commissioner, or any other
15 person or entity, that an IDA has failed to comply with the requirements
16 of this section, the ABO shall advise the IDA of its findings, and the
17 IDA shall have thirty days to come into compliance. If the IDA fails to
18 do so, the IDA shall not be able to establish any project or provide any
19 financial assistance in the nature of exemptions from any state taxes;
20 and the ABO shall notify the department of economic development and the
21 commissioner, and the department of economic development shall not
22 approve any application from the IDA for any state tax exemptions.

23 9. To the extent that a provision of this section conflicts with a
24 provision of any other section of this article or with a provision of
25 title eleven or fifteen of article eight of the public authorities law,
26 the provisions of this section shall control.

27 § 2. Section 875 of the general municipal law is amended by adding
28 three new subdivisions 5-a, 5-b, and 5-c, to read as follows:

1 5-a. In addition to any other requirement of this article or other
2 law: Every IDA and its members and officers shall comply with the
3 applicable provisions of the public officers law, including among other
4 things the open meetings law and the freedom of information law, the
5 applicable provisions of the public authorities law, and this title. If
6 the ABO or any other person or entity finds that an IDA or its member or
7 officer has failed to comply with an applicable provision of the public
8 officers law or of the public authorities law, or with this title, the
9 ABO or such other person or entity shall notify the department of
10 economic development of such non-compliance. The department of economic
11 development shall not approve any project or benefits for a project
12 unless and until the IDA and its member or officer corrects or causes to
13 be corrected such non-compliance and the ABO has certified that such
14 compliance has been achieved; and such IDA shall, among other things,
15 not provide or extend in duration any financial assistance consisting of
16 exemption from any state tax to any project. Such an IDA that has been
17 found not to be in compliance shall be required to correct any such
18 non-compliance and demonstrate its compliance to the satisfaction of the
19 ABO, before any such state tax exemption benefit shall be valid.

20 5-b. In addition to any other requirement of this article or other
21 law: (a) An IDA shall be required to apply for and obtain prior
22 approval from the department of economic development before the IDA can
23 provide financial assistance consisting of any exemption from state
24 taxes with respect to a project, or before it can increase or extend in
25 duration any such financial assistance. The IDA shall submit its appli-
26 cation to the department of economic development using a form prescribed
27 by the department of economic development in consultation with the ABO.
28 Such application shall include the types and amounts of financial

1 assistance proposed to be offered; IDA's target for the number of full-
2 time equivalent jobs to be created in each year of such project; the
3 IDA's target for investments in each year of such project; a schedule of
4 construction, if any; and a plan of expenditures by the agent or project
5 operator. Such application shall also include copies of the IDA's notice
6 of public meeting regarding the project, minutes of the meeting's
7 proceedings, details of votes taken at the meeting, and such other docu-
8 ments and other information as the department of economic development or
9 the ABO may require.

10 (b) If the IDA submits a complete application in processible form,
11 together with any such required documents and other information, the
12 department of economic development shall approve or deny such applica-
13 tion within forty-five days. If the department of economic development
14 does not act on such application within forty-five days of receiving it,
15 such application shall be deemed approved. An application shall not be
16 complete and in processible form unless it includes, among other things,
17 a construction schedule, and specific job creation and investment
18 targets for each year that the IDA's proposed project would be in
19 effect. Notwithstanding the foregoing or other law, the department of
20 economic development shall not approve any project that provides finan-
21 cial assistance consisting substantially only of exemptions from state
22 taxes.

23 (c) In considering such an IDA application, the department of economic
24 development shall not approve financial assistance consisting of any
25 exemption from state taxes unless the department of economic development
26 concludes that such assistance shall not provide the project or the
27 IDA's agent or project operator with a competitive advantage over an
28 existing business in a similar industry in that area.

1 (d) No financial assistance consisting of an exemption from any state
2 taxes shall be increased or extended in duration with respect to a
3 project or to an agent or project operator that has benefitted from any
4 such assistance in the past unless the IDA receives the prior approval
5 of the department of economic development in the manner described in
6 this subdivision.

7 5-c. In addition to any other requirement of this article or other
8 law, and notwithstanding any other law, an IDA shall not establish a
9 project or provide financial assistance with respect to a project, or
10 provide additional financial assistance with respect to an existing
11 project, without first having received from every applicant, agent, and
12 project operator related to the project and from every person required
13 to collect tax, as defined in subdivision one of section eleven hundred
14 thirty-one of the tax law, with respect to every such applicant, agent
15 or project operator, a tax clearance under section one hundred seventy-
16 one-w of the tax law.

17 § 3. Section 862 of the general municipal law is amended by adding a
18 new subdivision 3 to read as follows:

19 (3) The provisions of this section shall also apply to the industrial
20 development authority created by title eleven of article eight of the
21 public authorities law with the same force and effect as if the
22 provisions of this section had been incorporated in full into such title
23 eleven and expressly referred to the provisions of such title and to
24 such authority, with such changes to this section as are necessary to
25 refer to the provisions of such title eleven and to such authority
26 created by such title.

27 § 4. Section 4 of the public authorities law, as added by chapter 506
28 of the laws of 2009, is amended to read as follows:

1 § 4. Establishment of the independent authorities budget office. There
2 is hereby established the independent authorities budget office as an
3 independent entity within the department of state, which shall have and
4 exercise the powers and duties provided by this title and by section
5 eight hundred seventy-five and related sections of the general municipal
6 law.

7 § 5. The tax law is amended by adding a new section 171-w to read as
8 follows:

9 § 171-w. Enforcement of delinquent tax liabilities through tax clear-
10 ances. (1) For the purposes of this section, the term "tax liabilities"
11 shall mean any tax, surcharge, or fee administered by the commissioner,
12 or any penalty or interest owed by an individual or entity. The term
13 "past-due tax liabilities" means any unpaid tax liabilities that have
14 become fixed and final such that the taxpayer no longer has any right to
15 administrative or judicial review. The term "government entity" means
16 the state of New York, or any of its agencies, political subdivisions,
17 instrumentalities, public corporations (including a public corporation
18 created pursuant to agreement or compact with another state or Canada),
19 or combination thereof.

20 (2) The commissioner, or his or her designee, shall cooperate with any
21 government entity that is required by law or has elected to require tax
22 clearances to establish procedures by which the department shall receive
23 a tax clearance request and transmit such tax clearance to the govern-
24 ment entity, and any other procedures deemed necessary to carry out the
25 provisions of this section. These procedures shall, to the extent prac-
26 ticable, require secure electronic communication between the department
27 and the requesting government entity for the transmission of tax clear-
28 ance requests to the department and transmission of tax clearances to

1 the requesting entity. Notwithstanding any other law to the contrary, a
2 government entity shall be authorized to share any applicant data or
3 information with the department that is necessary to ensure the proper
4 matching of the applicant to the tax records maintained by the depart-
5 ment.

6 (3) Upon receipt of a tax clearance request, the department shall
7 examine its records to determine whether the subject of the tax clear-
8 ance request has past-due tax liabilities equal to or in excess of the
9 dollar threshold applicable for such tax clearance request or, where no
10 threshold has been established by law or otherwise, equal to or in
11 excess of five hundred dollars. When a tax clearance request so
12 requires, the department shall also determine whether (a) the subject of
13 such request has complied with applicable tax return filing requirements
14 for each of the past three years; and/or (b) whether a subject of such
15 request that is an individual or entity that is a person required to
16 register pursuant to section one thousand one hundred thirty-four of
17 this chapter is registered pursuant to such section. The department
18 shall deny a tax clearance if it determines that the subject of a tax
19 clearance request has past-due tax liabilities equal to or in excess of
20 the applicable threshold or, when the tax clearance request so requires,
21 has not complied with applicable return filing and/or registration
22 requirements.

23 (4) If a tax clearance is denied, the government entity that requested
24 the clearance shall provide notice to the applicant to contact the
25 department. Such notice shall be made by first class mail with a certif-
26 icate of mailing and a copy of such notice also shall be provided to the
27 department. When the applicant contacts the department, the department
28 shall inform the applicant of the basis for the denial of the tax clear-

1 ance and shall also inform the applicant (a) that a tax clearance denied
2 due to past-due tax liabilities may be issued once the taxpayer fully
3 satisfies past-due tax liabilities or makes payment arrangements satis-
4 factory to the commissioner; (b) that a tax clearance denied due to
5 failure to file tax returns may be issued once the applicant has satis-
6 fied the applicable return filing requirements; (c) that a tax clearance
7 denied for failure to register pursuant to section one thousand one
8 hundred thirty-four of this chapter may be issued once the applicant has
9 registered pursuant to such section; and (d) the grounds for challenging
10 the denial of a tax clearance listed in subdivision five of this
11 section.

12 (5) (a) Notwithstanding any other provision of law, and except as
13 specifically provided herein, an applicant denied a tax clearance shall
14 have no right to commence a court action or proceeding or seek any other
15 legal recourse against the department or the government entity related
16 to the denial of a tax clearance by the department.

17 (b) An applicant seeking to challenge the denial of a tax clearance
18 must protest to the department or the division of tax appeals no later
19 than sixty days from the date of the notification to the applicant that
20 the tax clearance was denied. An applicant may challenge a department
21 finding of past-due tax liabilities only on the grounds that (i) the
22 individual or entity denied the tax clearance is not the individual or
23 entity with the past-due tax liabilities at issue; (ii) the past-due tax
24 liabilities were satisfied; (iii) the applicant's wages are being
25 garnished for the payment of child support or combined child and spousal
26 support pursuant to an income execution issued pursuant to section five
27 thousand two hundred forty-one or five thousand two hundred forty-two of
28 the civil practice laws and rules or another state's income withholding

1 order as authorized under part five of article five-B of the family
2 court act, or garnished by the department for the payment of the past-
3 due tax liabilities at issue; or (iv) the applicant is making child
4 support payments or combined child and spousal support payments pursuant
5 to a satisfactory payment arrangement under section one hundred eleven-b
6 of the social services law with a support collection unit or otherwise
7 making periodic payments in accordance with section four hundred forty
8 of the family court act. An applicant may challenge a department finding
9 of failure to comply with tax return filing requirements only on the
10 grounds that all required tax returns have been filed for each of the
11 past three years.

12 (c) Nothing in this subdivision is intended to limit any applicant
13 from seeking relief from joint and several liability pursuant to section
14 six hundred fifty-four of this chapter, to the extent that he or she is
15 eligible pursuant to that section, or establishing to the department
16 that the enforcement of the underlying tax liabilities has been stayed
17 by the filing of a petition pursuant to the Bankruptcy Code of 1978
18 (Title Eleven of the United States Code).

19 (6) Notwithstanding any other provision of law, the department may
20 exchange with a government entity any data or information that, in the
21 discretion of the commissioner, is necessary for the implementation of a
22 tax clearance requirement. However, no government entity may re-disclose
23 this information to any other entity or person, other than for the
24 purpose of informing the applicant that a required tax clearance has
25 been denied, unless otherwise permitted by law.

26 (7) Except as otherwise provided in this section, the activities to
27 collect past-due tax liabilities undertaken by the department pursuant
28 to this section shall not in any way limit, restrict or impair the

1 department from exercising any other authority to collect or enforce tax
2 liabilities under any other applicable provision of law.

3 (8) Except as otherwise provided in this section, the provisions of
4 this section are not applicable to the tax clearance required by section
5 one hundred seventy-one-v of this article.

6 § 6. This act shall take effect immediately and shall apply to (a) any
7 project established or any agent or project operator appointed, on or
8 after the date this act shall have become a law and any financial
9 assistance provided thereto, (b) any amendment or revision involving
10 additional financial assistance, funds or benefits made on or after the
11 date this act shall have become a law to any project established, agent
12 or project operator appointed, or financial assistance provided, prior
13 to that date, and (c) any state sales and compensating use tax or other
14 state tax exemption benefits and any state sales and compensating use
15 taxes or other taxes recovered, recaptured, received, or otherwise
16 obtained by an industrial development agency established by the general
17 municipal law or an industrial development authority created by title 11
18 or title 15 of article 8 of the public authorities law on or after such
19 date.

20 PART X

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

23 (e) When used in this article for the purposes of the taxes imposed
24 under subdivisions (a) through (f) of section eleven hundred five of
25 this article and by section eleven hundred ten of this article, the
26 following terms shall mean:

1 (1) Marketplace provider. A person who, pursuant to an agreement with
2 a marketplace seller, facilitates a sale, occupancy, or admission by
3 such marketplace seller. A person "facilitates a sale, occupancy, or
4 admission" for purposes of this paragraph when the person meets both of
5 the following conditions: (i) such person, or an affiliated person,
6 collects the receipts, rent, or amusement charge paid by a customer,
7 occupant or patron to a marketplace seller; and (ii) such person
8 performs either of the following activities: (A) provides the forum in
9 which, or by means of which, the sale takes place or the offer of occu-
10 pancy or admission is accepted, including a shop, store, or booth, or an
11 internet website, catalog, or a similar forum; or (B) arranges for the
12 exchange of information or messages between the customer, occupant, or
13 patron, as the case may be, and the marketplace seller. A person who
14 voluntarily registers to collect tax as a marketplace provider under
15 section eleven hundred thirty-four of this article shall also qualify as
16 a marketplace provider. For purposes of this paragraph, two persons are
17 affiliated if one person has an ownership interest of more than five
18 percent, whether direct or indirect, in the other, or where an ownership
19 interest of more than five percent, whether direct or indirect, is held
20 in each of such persons by another person or by a group of other persons
21 which are affiliated persons with respect to each other.

22 (2) Marketplace seller. Any person, whether or not such person is
23 required to register to collect tax under section eleven hundred thir-
24 ty-four of this article, who (i) has an agreement with a marketplace
25 provider under which the marketplace provider will facilitate sales,
26 occupancies or admissions for such person within the meaning of para-
27 graph one of this subdivision; and (ii) satisfies at least one of the
28 following conditions: (A) sells tangible personal property or the

1 services described in subdivisions (a), (b) and (c) of section eleven
2 hundred five of this article; (B) operates a restaurant, tavern or other
3 establishment, or acts as a caterer, who sells food and drink or makes
4 other charges taxable under subdivision (d) of such section eleven
5 hundred five of this article; (C) is an operator of a hotel; or (D) is a
6 recipient as defined by paragraph eleven of subdivision (d) of this
7 section.

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

10 (1) "Persons required to collect tax" or "person required to collect
11 any tax imposed by this article" shall include: every vendor of tangible
12 personal property or services; every recipient of amusement charges;
13 [and] every operator of a hotel, and every marketplace provider with
14 respect to sales, occupancies, or admissions facilitated by it as
15 described in paragraph one of subdivision (e) of section eleven hundred
16 one of this article. Said terms shall also include any officer, direc-
17 tor or employee of a corporation or of a dissolved corporation, any
18 employee of a partnership, any employee or manager of a limited liabil-
19 ity company, or any employee of an individual proprietorship who as such
20 officer, director, employee or manager is under a duty to act for such
21 corporation, partnership, limited liability company or individual
22 proprietorship in complying with any requirement of this article; and
23 any member of a partnership or limited liability company. Provided,
24 however, that any person who is a vendor solely by reason of clause (D)
25 or (E) of subparagraph (i) of paragraph (8) of subdivision (b) of
26 section eleven hundred one shall not be a "person required to collect
27 any tax imposed by this article" until twenty days after the date by

1 which such person is required to file a certificate of registration
2 pursuant to section eleven hundred thirty-four.

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

5 (1)(1) A marketplace provider: (i) shall comply with all the
6 provisions of this article and article twenty-nine of this chapter and
7 of any regulations adopted pursuant thereto, and to all the requirements
8 and obligations thereof, including the right to accept a certificate or
9 other documentation from a customer substantiating an exemption or
10 exclusion from tax, and have all the duties, benefits and entitlements
11 of a person required to collect tax under this article and pursuant to
12 the authority of such article twenty-nine with respect to such sale,
13 occupancy, or admission, and such tax required to be collected, as if
14 such marketplace provider were the vendor, operator, or recipient with
15 respect to such sale, occupancy, or admission, including the right to
16 receive the refund authorized by subdivision (e) of this section and the
17 credit allowed by subdivision (f) of section eleven hundred thirty-seven
18 of this part; and (ii) shall keep such records and information and coop-
19 erate with the commissioner to ensure the proper collection and remit-
20 tance of tax imposed, collected or required to be collected under this
21 article and such article twenty-nine.

22 (2) A marketplace seller is not a person required to collect tax for
23 purposes of this section in regard to a particular sale, occupancy, or
24 admission subject to tax under subdivisions (a) through (e) or paragraph
25 one of subdivision (f) of section eleven hundred five of this article
26 if, in regard to such sale, occupancy or admission: (i) the marketplace
27 seller can show that such sale, occupancy, or admission was facilitated,
28 as described in paragraph one of subdivision (e) of section eleven

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

23 (3) The commissioner may, in his or her discretion: (i) develop stand-
24 ard language, or approve language developed by a marketplace provider,
25 in which the marketplace provider obligates itself to collect the tax on
26 behalf of all the marketplace sellers for whom the marketplace provider
27 facilitates sales, occupancies, or admissions, as described in paragraph
28 one of subdivision (e) of section eleven hundred one of this article;

1 and (ii) provide by regulation or otherwise that the inclusion of such
2 language in the marketplace provider's agreement with a marketplace
3 seller that is publicly available will have the same effect as a market-
4 place seller's acceptance of a certificate of collection from such
5 marketplace provider under subparagraph two of this paragraph.

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

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

16 § 5. This act shall take effect March 1, 2016, and shall apply in
17 accordance with the transition provisions in sections 1106 and 1217 of
18 the tax law.

19 PART Y

20 Section 1. The tax law is amended by adding a new section 1118-A to
21 read as follows:

22 § 1118-A. Limitations on tax avoidance strategies. Notwithstanding
23 the provisions of this article or other law to the contrary:

24 (a) The exclusion in subdivision two of section eleven hundred eigh-
25 teen of this part for property or services purchased by a nonresident of
26 this state shall not apply when a person (other than an individual)

1 brings such property or service into this state for use here, unless
2 such person has been doing business outside this state for at least six
3 months prior to the date such person brought such property or service
4 into this state.

5 (b) A single member limited liability company and the member of that
6 limited liability company shall be deemed to be one person, and, among
7 other things, a purchase or sale by one shall be deemed to be the
8 purchase or sale by the other and neither of them can make a purchase
9 for resale to the other.

10 (c) A lease of any tangible personal property between related entities
11 shall be subject to the provisions of subdivision (i) of section eleven
12 hundred eleven of this article, including the provisions, among others,
13 relating to leases entered into outside this state where the property
14 subject to the lease is then brought into this state, as if such subdivi-
15 vision (i) referred to the lease described in this subdivision, with
16 such changes as are necessary to make such provisions apply to this
17 subdivision; provided that any payments due under such a lease under
18 this subdivision shall be due at the inception of the lease regardless
19 of the length of the term of such lease, including any option to renew
20 or similar provision, or combination of them; and provided further that,
21 if the commissioner finds that the sum of all such payments due under
22 such lease do not reflect the true value or cost of the property subject
23 to such lease, the commissioner shall be authorized to estimate such
24 true value or cost from such information as may be available, including
25 by means of external indices, and assess tax due under this subdivision
26 based on such estimate. For purposes of this subdivision:

1 (1) "lease" means and includes a lease, rental agreement, or right to
2 use or other agreement in the nature of a lease, rental agreement, or
3 right to use;

4 (2) "related entities" means two or more persons that bear a relation-
5 ship to each other as described in subparagraphs (ii) through (vi) of
6 paragraph (b) of subdivision three of section five hundred four of this
7 chapter.

8 § 2. Subdivision (q) of section 1111 of the tax law, as added by
9 section 3 of subpart B of part S of chapter 57 of the laws of 2010, is
10 amended to read as follows:

11 (q) (1) The exclusions from the definition of retail sale in subpara-
12 graph (iv) of paragraph four of subdivision (b) of section eleven
13 hundred one of this article shall not apply to transfers, distributions,
14 or contributions of [an aircraft or vessel] tangible personal property,
15 except where, in the case of the exclusion in subclause (I) of clause
16 (A) of such subparagraph (iv), the two corporations to be merged or
17 consolidated are not affiliated persons with respect to each other. For
18 purposes of this subdivision, corporations are affiliated persons with
19 respect to each other where (i) more than five percent of their combined
20 shares are owned by members of the same family, as defined by paragraph
21 four of subsection (c) of section two hundred sixty-seven of the inter-
22 nal revenue code of nineteen hundred eighty-six; (ii) one of the corpo-
23 rations has an ownership interest of more than five percent, whether
24 direct or indirect, in the other; or (iii) another person or a group of
25 other persons that are affiliated persons with respect to each other
26 hold an ownership interest of more than five percent, whether direct or
27 indirect, in each of the corporations.

1 (2) Notwithstanding any contrary provision of law, in relation to any
2 transfer, distribution, or contribution of [an aircraft or vessel]
3 tangible personal property that qualifies as a retail sale as a result
4 of paragraph one of this subdivision, the sales tax imposed by subdivi-
5 sion (a) of section eleven hundred five of this part shall be computed
6 based on the price at which the seller purchased the tangible personal
7 property, provided that where the seller or purchaser affirmatively
8 shows that the seller owned the property for six months prior to making
9 the transfer, distribution or contribution covered by paragraph one of
10 this subdivision, such [aircraft or vessel] tangible personal property
11 shall be taxed on the basis of the current market value of the [aircraft
12 or vessel] tangible personal property at the time of that transfer,
13 distribution, or contribution. For the purposes of the prior sentence,
14 "current market value" shall not exceed the cost of the [aircraft or
15 vessel] tangible personal property. See subdivision (b) of this section
16 for a similar rule on the computation of any compensating use tax due
17 under section eleven hundred ten of this part on such transfers,
18 distributions, or contributions.

19 (3) A purchaser of [an aircraft or vessel] tangible personal property
20 covered by paragraph one of this subdivision will be entitled to a
21 refund or credit against the sales or compensating use tax due as a
22 result of a transfer, distribution, or contribution of such [aircraft or
23 vessel] tangible personal property in the amount of any sales or use tax
24 paid to this state or any other state on the seller's purchase or use of
25 the [aircraft or vessel] tangible personal property so transferred,
26 distributed or contributed, but not to exceed the tax due on the trans-
27 fer, distribution, or contribution of the [aircraft or vessel] tangible
28 personal property or on the purchaser's use in the state of the

1 [aircraft or vessel] tangible personal property so transferred, distrib-
2 uted or contributed. An application for a refund or credit under this
3 subdivision must be filed and shall be in such form as the commissioner
4 may prescribe. Where an application for credit has been filed, the
5 applicant may immediately take such credit on the return which is due
6 coincident with or immediately subsequent to the time the application
7 for credit is filed. However, the taking of the credit on the return
8 shall be deemed to be part of the application for credit. Provided that
9 the commissioner may, in his or her discretion and notwithstanding any
10 other law, waive the application requirement for any or all classes of
11 persons where the amount of the credit or refund is equal to the amount
12 of the tax due from the purchaser. The provisions of subdivisions (a),
13 (b), and (c) of section eleven hundred thirty-nine of this article shall
14 apply to applications for refund or credit under this subdivision. No
15 interest shall be allowed or paid on any refund made or credit allowed
16 under this subdivision. If a refund is granted or a credit allowed under
17 this paragraph, the seller or purchaser shall not be eligible for a
18 refund or credit pursuant to subdivision seven of section eleven hundred
19 eighteen of this article with regard to the same purchase or use.

20 § 3. This act shall take effect immediately and shall apply in accord-
21 ance with applicable transitional provisions of sections 1106 and 1217
22 of the tax law.

23

PART Z

24 Section 1. Subdivision (ee) of section 1115 of the tax law, as added
25 by chapter 306 of the laws of 2005, is amended to read as follows:

1 ~~(ee) The following shall be exempt from tax under this article: (1)~~
2 ~~Receipts from the retail sale of, and consideration given or contracted~~
3 ~~to be given for, or for the use of, residential solar energy systems~~
4 ~~equipment and [of] the service of installing such systems [shall be~~
5 ~~exempt from tax under this article]. For the purposes of this subdivi-~~
6 ~~sion, "residential solar energy systems equipment" shall mean an~~
7 ~~arrangement or combination of components installed in a residence that~~
8 ~~utilizes solar radiation to produce energy designed to provide heating,~~
9 ~~cooling, hot water and/or electricity. Such arrangement or components~~
10 ~~shall not include equipment that is part of a non-solar energy system or~~
11 ~~which uses any sort of recreational facility or equipment as a storage~~
12 ~~medium.~~

13 ~~(2) Receipts from the sale of electricity by a person primarily~~
14 ~~engaged in the sale of solar energy system equipment and/or electricity~~
15 ~~generated by such equipment pursuant to a written agreement under which~~
16 ~~such electricity is generated by residential solar energy system equip-~~
17 ~~ment that is: (A) owned by a person other than the purchaser of such~~
18 ~~electricity; (B) installed on residential property of the purchaser of~~
19 ~~such electricity; and (C) used to provide heating, cooling, hot water or~~
20 ~~electricity to such property.~~

21 § 2. Subdivision (ii) of section 1115 of the tax law, as amended by
22 chapter 13 of the laws of 2013, is amended to read as follows:

23 (ii) ~~The following shall be exempt from tax under this article: (1)~~
24 ~~Receipts from the retail sale of, and consideration given or contracted~~
25 ~~to be given for, or for the use of, commercial solar energy systems~~
26 ~~equipment and [of] the service of installing such systems [shall be~~
27 ~~exempt from taxes imposed by sections eleven hundred five and eleven~~
28 ~~hundred ten of this article]. For the purposes of this subdivision,~~

1 "commercial solar energy systems equipment" shall mean an arrangement or
2 combination of components installed upon non-residential premises that
3 utilize solar radiation to produce energy designed to provide heating,
4 cooling, hot water and/or electricity. Such arrangement or components
5 shall not include equipment that is part of a non-solar energy system.

6 (2) Receipts from the sale of electricity by a person primarily
7 engaged in the sale of solar energy system equipment and/or electricity
8 generated by such equipment pursuant to a written agreement under which
9 the electricity is generated by commercial solar energy system equipment
10 that is: (A) owned by a person other than the purchaser of such elec-
11 tricity; (B) installed on the non-residential premises of the purchaser
12 of such electricity; and (C) used to provide heating, cooling, hot water
13 or electricity to such premises.

14 § 3. Paragraphs 1 and 4 of subdivision (a) of section 1210 of the tax
15 law, paragraph 1 as amended by chapter 13 of the laws of 2012, and para-
16 graph 4 as amended by chapter 200 of the laws of 2009, are amended to
17 read as follows:

18 (1) Either, all of the taxes described in article twenty-eight of this
19 chapter, at the same uniform rate, as to which taxes all provisions of
20 the local laws, ordinances or resolutions imposing such taxes shall be
21 identical, except as to rate and except as otherwise provided, with the
22 corresponding provisions in such article twenty-eight, including the
23 definition and exemption provisions of such article, so far as the
24 provisions of such article twenty-eight can be made applicable to the
25 taxes imposed by such city or county and with such limitations and
26 special provisions as are set forth in this article. The taxes author-
27 ized under this subdivision may not be imposed by a city or county
28 unless the local law, ordinance or resolution imposes such taxes so as

1 to include all portions and all types of receipts, charges or rents,
2 subject to state tax under sections eleven hundred five and eleven
3 hundred ten of this chapter, except as otherwise provided. (i) Any local
4 law, ordinance or resolution enacted by any city of less than one
5 million or by any county or school district, imposing the taxes author-
6 ized by this subdivision, shall, notwithstanding any provision of law to
7 the contrary, exclude from the operation of such local taxes all sales
8 of tangible personal property for use or consumption directly and
9 predominantly in the production of tangible personal property, gas,
10 electricity, refrigeration or steam, for sale, by manufacturing, proc-
11 essing, generating, assembly, refining, mining or extracting; and all
12 sales of tangible personal property for use or consumption predominantly
13 either in the production of tangible personal property, for sale, by
14 farming or in a commercial horse boarding operation, or in both; and,
15 unless such city, county or school district elects otherwise, shall omit
16 the provision for credit or refund contained in clause six of subdivi-
17 sion (a) or subdivision (d) of section eleven hundred nineteen of this
18 chapter. (ii) Any local law, ordinance or resolution enacted by any
19 city, county or school district, imposing the taxes authorized by this
20 subdivision, shall omit the residential solar energy systems equipment
21 and electricity exemption provided for in subdivision (ee), the commer-
22 cial solar energy systems equipment and electricity exemption provided
23 for in subdivision (ii) and the clothing and footwear exemption provided
24 for in paragraph thirty of subdivision (a) of section eleven hundred
25 fifteen of this chapter, unless such city, county or school district
26 elects otherwise as to either such residential solar energy systems
27 equipment and electricity exemption, such commercial solar energy

1 systems equipment and electricity exemption or such clothing and foot-
2 wear exemption.

3 (4) Notwithstanding any other provision of law to the contrary, any
4 local law enacted by any city of one million or more that imposes the
5 taxes authorized by this subdivision (i) may omit the exception provided
6 in subparagraph (ii) of paragraph three of subdivision (c) of section
7 eleven hundred five of this chapter for receipts from laundering, dry-
8 cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining;
9 (ii) may impose the tax described in paragraph six of subdivision (c) of
10 section eleven hundred five of this chapter at a rate in addition to the
11 rate prescribed by this section not to exceed two percent in multiples
12 of one-half of one percent; (iii) shall provide that the tax described
13 in paragraph six of subdivision (c) of section eleven hundred five of
14 this chapter does not apply to facilities owned and operated by the city
15 or an agency or instrumentality of the city or a public corporation the
16 majority of whose members are appointed by the chief executive officer
17 of the city or the legislative body of the city or both of them; (iv)
18 shall not include any tax on receipts from, or the use of, the services
19 described in paragraph seven of subdivision (c) of section eleven
20 hundred five of this chapter; (v) shall provide that, for purposes of
21 the tax described in subdivision (e) of section eleven hundred five of
22 this chapter, "permanent resident" means any occupant of any room or
23 rooms in a hotel for at least one hundred eighty consecutive days with
24 regard to the period of such occupancy; (vi) may omit the exception
25 provided in paragraph one of subdivision (f) of section eleven hundred
26 five of this chapter for charges to a patron for admission to, or use
27 of, facilities for sporting activities in which the patron is to be a
28 participant, such as bowling alleys and swimming pools; (vii) may

1 provide the clothing and footwear exemption in paragraph thirty of
2 subdivision (a) of section eleven hundred fifteen of this chapter, and,
3 notwithstanding any provision of subdivision (d) of this section to the
4 contrary, any local law providing for such exemption or repealing such
5 exemption, may go into effect on any one of the following dates: March
6 first, June first, September first or December first; (viii) shall omit
7 the exemption provided in paragraph forty-one of subdivision (a) of
8 section eleven hundred fifteen of this chapter; (ix) shall omit the
9 exemption provided in subdivision (c) of section eleven hundred fifteen
10 of this chapter insofar as it applies to fuel, gas, electricity, refrigeration and steam, and gas, electric, refrigeration and steam service of
11 whatever nature for use or consumption directly and exclusively in the
12 production of gas, electricity, refrigeration or steam; (x) shall omit,
13 unless such city elects otherwise, the provision for refund or credit
14 contained in clause six of subdivision (a) or in subdivision (d) of
15 section eleven hundred nineteen of this chapter; [and] (xi) shall
16 provide that section eleven hundred five-C of this chapter does not
17 apply to such taxes, and shall tax receipts from every sale, other than
18 sales for resale, of gas service or electric service of whatever nature,
19 including the transportation, transmission or distribution of gas or
20 electricity, even if sold separately, at the rate set forth in clause
21 one of subparagraph (i) of the opening paragraph of this section; (xii)
22 shall omit, unless such city elects otherwise, the exemption for resi-
23 dential solar energy systems equipment and electricity provided in
24 subdivision (ee) of section eleven hundred fifteen of this chapter; and
25 (xiii) shall omit, unless such city elects otherwise, the exemption for
26 commercial solar energy systems equipment and electricity provided in
27 subdivision (ii) of section eleven hundred fifteen of this chapter. Any
28

1 reference in this chapter or in any local law, ordinance or resolution
2 enacted pursuant to the authority of this article to former subdivisions
3 (n) or (p) of this section shall be deemed to be a reference to clauses
4 (xii) or (xiii) of this paragraph, respectively, and any such local law,
5 ordinance or resolution that provides the exemptions provided in such
6 former subdivisions (n) and/or (p) shall be deemed instead to provide
7 the exemptions provided in clauses (xii) and/or (xiii) of this
8 paragraph.

9 § 4. Paragraph 1 and subparagraph (i) of paragraph 3 of subdivision
10 (b) of section 1210 of the tax law, paragraph 1 as amended by section 36
11 of part S-1 of chapter 57 of the laws of 2009, and subparagraph (i) of
12 paragraph 3 as amended by section 3 of part B of chapter 35 of the laws
13 of 2006, are amended to read as follows:

14 (1) Or, one or more of the taxes described in subdivisions (b), (d),
15 (e) and (f) of section eleven hundred five of this chapter, at the same
16 uniform rate, including the transitional provisions in section eleven
17 hundred six of this chapter covering such taxes, but not the taxes
18 described in subdivisions (a) and (c) of section eleven hundred five of
19 this chapter. Provided, further, that where the tax described in subdivi-
20 sion (b) of section eleven hundred five of this chapter is imposed,
21 the compensating use taxes described in clauses (E), (G) and (H) of
22 subdivision (a) of section eleven hundred ten of this chapter shall also
23 be imposed. Provided, further, that where the taxes described in subdivi-
24 sion (b) of section eleven hundred five are imposed, such taxes shall
25 omit: (A) the provision for refund or credit contained in subdivision
26 (d) of section eleven hundred nineteen of this chapter with respect to
27 such taxes described in such subdivision (b) of section eleven hundred
28 five unless such city or county elects to provide such provision or, if

1 so elected, to repeal such provision; (B) the exemption provided in
2 paragraph two of subdivision (ee) of section eleven hundred fifteen of
3 this chapter unless such county or city elects otherwise; and (C) the
4 exemption provided in paragraph two of subdivision (ii) of section elev-
5 en hundred fifteen of this chapter, unless such county or city elects
6 otherwise.

7 (i) Notwithstanding any other provision of law to the contrary but not
8 with respect to cities subject to the provisions of section eleven
9 hundred eight of this chapter, any city or county, except a county whol-
10 ly contained within a city, may provide that the tax imposed, pursuant
11 to this subdivision, by such city or county on the sale, other than for
12 resale, of propane (except when sold in containers of less than one
13 hundred pounds), natural gas, electricity, steam and gas, electric and
14 steam services of whatever nature used for residential purposes and on
15 the use of gas or electricity used for residential purposes may be
16 imposed at a lower rate than the uniform local rate imposed pursuant to
17 the opening paragraph of this section, as long as such rate is one of
18 the rates authorized by such paragraph or such sale or use may be
19 exempted from such taxes. Provided, however, such lower rate must apply
20 to all such energy sources and services and at the same rate and no such
21 exemption, other than the exemption provided for in subdivision (ee) of
22 section eleven hundred fifteen of this chapter, if such exemption is
23 elected by such city or county, may be enacted unless such exemption
24 applies to all such energy sources and services.

25 § 4-a. Subdivision (d) of section 1210 of the tax law, as amended by
26 section 37 of part S-1 of chapter 57 of the laws of 2009, is amended to
27 read as follows:

1 (d) A local law, ordinance or resolution imposing any tax pursuant to
2 this section, increasing or decreasing the rate of such tax, repealing
3 or suspending such tax, exempting from such tax the energy sources and
4 services described in paragraph three of subdivision (a) or of subdivi-
5 sion (b) of this section or changing the rate of tax imposed on such
6 energy sources and services or providing for the credit or refund
7 described in clause six of subdivision (a) of section eleven hundred
8 nineteen of this chapter, or electing or repealing the exemption for
9 residential solar equipment and electricity in subdivision (ee) of
10 section eleven hundred fifteen of this article, or the exemption for
11 commercial solar equipment and electricity in subdivision (ii) of
12 section eleven hundred fifteen of this article must go into effect only
13 on one of the following dates: March first, June first, September first
14 or December first; provided, that a local law, ordinance or resolution
15 providing for the exemption described in paragraph thirty of subdivision
16 (a) of section eleven hundred fifteen of this chapter or repealing any
17 such exemption or a local law, ordinance or resolution providing for a
18 refund or credit described in subdivision (d) of section eleven hundred
19 nineteen of this chapter or repealing such provision so provided must go
20 into effect only on March first. No such local law, ordinance or resol-
21 ution shall be effective unless a certified copy of such law, ordinance
22 or resolution is mailed by registered or certified mail to the commis-
23 sioner at the commissioner's office in Albany at least ninety days prior
24 to the date it is to become effective. However, the commissioner may
25 waive and reduce such ninety-day minimum notice requirement to a mailing
26 of such certified copy by registered or certified mail within a period
27 of not less than thirty days prior to such effective date if the commis-
28 sioner deems such action to be consistent with the commissioner's duties

1 under section twelve hundred fifty of this article and the commissioner
2 acts by resolution. Where the restriction provided for in section twelve
3 hundred twenty-three of this article as to the effective date of a tax
4 and the notice requirement provided for therein are applicable and have
5 not been waived, the restriction and notice requirement in section
6 twelve hundred twenty-three of this article shall also apply.

7 § 5. Subdivisions (n) and (p) of section 1210 of the tax law are
8 REPEALED.

9 § 6. Subdivision (a) of section 1212 of the tax law, as amended by
10 section 40 of part S-1 of chapter 57 of the laws of 2009, is amended to
11 read as follows:

12 (a) Any school district which is coterminous with, partly within or
13 wholly within a city having a population of less than one hundred twen-
14 ty-five thousand, is hereby authorized and empowered, by majority vote
15 of the whole number of its school authorities, to impose for school
16 district purposes, within the territorial limits of such school district
17 and without discrimination between residents and nonresidents thereof,
18 the taxes described in subdivision (b) of section eleven hundred five
19 (but excluding the tax on prepaid telephone calling services) and the
20 taxes described in clauses (E) and (H) of subdivision (a) of section
21 eleven hundred ten, including the transitional provisions in subdivision
22 (b) of section eleven hundred six of this chapter, so far as such
23 provisions can be made applicable to the taxes imposed by such school
24 district and with such limitations and special provisions as are set
25 forth in this article, such taxes to be imposed at the rate of one-half,
26 one, one and one-half, two, two and one-half or three percent which rate
27 shall be uniform for all portions and all types of receipts and uses
28 subject to such taxes. In respect to such taxes, all provisions of the

1 resolution imposing them, except as to rate and except as otherwise
2 provided herein, shall be identical with the corresponding provisions in
3 such article twenty-eight of this chapter, including the applicable
4 definition and exemption provisions of such article, so far as the
5 provisions of such article twenty-eight of this chapter can be made
6 applicable to the taxes imposed by such school district and with such
7 limitations and special provisions as are set forth in this article. The
8 taxes described in subdivision (b) of section eleven hundred five (but
9 excluding the tax on prepaid telephone calling service) and clauses (E)
10 and (H) of subdivision (a) of section eleven hundred ten, including the
11 transitional provision in subdivision (b) of such section eleven hundred
12 six of this chapter, may not be imposed by such school district unless
13 the resolution imposes such taxes so as to include all portions and all
14 types of receipts and uses subject to tax under such subdivision (but
15 excluding the tax on prepaid telephone calling service) and clauses.
16 Provided, however, that, where a school district imposes such taxes,
17 such taxes shall omit the provision for refund or credit contained in
18 subdivision (d) of section eleven hundred nineteen of this chapter with
19 respect to such taxes described in such subdivision (b) of section elev-
20 en hundred five unless such school district elects to provide such
21 provision or, if so elected, to repeal such provision, and shall omit
22 the exemption provided in paragraph two of either subdivision (ee) or
23 subdivision (ii) of section eleven hundred fifteen of this chapter
24 unless such school district elects otherwise.

25 § 7. Section 1224 of the tax law is amended by adding a new subdivi-
26 sion (c-1) to read as follows:

27 (c-1) Notwithstanding any other provision of law: (1) Where a county
28 containing one or more cities with a population of less than one million

1 has elected the exemption for residential solar energy systems equipment
2 and electricity provided in subdivision (ee) of section eleven hundred
3 fifteen of this chapter, the exemption for commercial solar energy
4 systems equipment and electricity provided in subdivision (ii) of such
5 section eleven hundred fifteen, or both such exemptions, a city within
6 such county shall have the prior right to impose tax on such exempt
7 equipment and/or electricity to the extent of one half of the maximum
8 rates authorized under subdivision (a) of section twelve hundred ten of
9 this article;

10 (2) Where a city of less than one million has elected the exemption
11 for residential solar energy systems equipment and electricity provided
12 in subdivision (ee) of section eleven hundred fifteen of this chapter,
13 the exemption for commercial solar energy systems equipment and elec-
14 tricity provided in subdivision (ii) of such section eleven hundred
15 fifteen, or both such exemptions, the county in which such city is
16 located shall have the prior right to impose tax on such exempt equip-
17 ment and/or electricity to the extent of one half of the maximum rates
18 authorized under subdivision (a) of section twelve hundred ten of this
19 article.

20 § 8. This act shall take effect December 1, 2015 and shall apply in
21 accordance with the applicable transitional provisions in sections 1106
22 and 1217 of the tax law.

23 PART AA

24 Section 1. Subdivision (f) of section 301-c of the tax law, as amended
25 by section 23 of part K of chapter 61 of the laws of 2011, is amended to
26 read as follows:

1 (f) Motor fuel and highway diesel motor fuel used for farm production.
2 No more than one thousand five hundred gallons of motor fuel and no more
3 than four thousand five hundred gallons of highway diesel motor fuel
4 purchased in this state in a thirty-day period or a greater amount which
5 has been given prior clearance by the commissioner, by a consumer for
6 use or consumption directly and exclusively in the production for sale
7 of tangible personal property by farming, but only if all of such motor
8 fuel or highway diesel motor fuel is delivered on the farm site and is
9 consumed other than on the public highways of this state (except for the
10 use of the public highway to reach adjacent farmlands). This reimburse-
11 ment to such purchaser who used such motor fuel or highway diesel motor
12 fuel in the manner specified in this subdivision may be claimed only
13 where, (i) the tax imposed pursuant to this article has been paid with
14 respect to such motor fuel or highway diesel motor fuel and the entire
15 amount of such tax has been absorbed by such purchaser, and (ii) such
16 purchaser possesses documentary proof satisfactory to the commissioner
17 evidencing the absorption by it of the entire amount of the tax imposed
18 pursuant to this article. Provided, however, that the commissioner shall
19 require such documentary proof to qualify for any reimbursement of tax
20 provided by this subdivision as the commissioner deems appropriate. The
21 commissioner is hereby empowered to make such provisions as deemed
22 necessary to define the procedures for granting prior clearance for
23 purchases of more than one thousand five hundred gallons of motor fuel
24 or four thousand five hundred gallons of highway diesel motor fuel in a
25 thirty-day period.

26 § 2. This act shall take effect immediately.

1 Section 1. Subsection (b) of section 952 of the tax law, as amended by
2 section 2 of part X of chapter 59 of the laws of 2014, is amended to
3 read as follows:

4 (b) Computation of tax. The tax imposed by this section shall be
5 computed on the deceased resident's New York taxable estate as follows:
6 [In the case of decedents dying on or after April 1, 2014 and before
7 April 1, 2015]

8 If the New York taxable estate is:	The tax is:
9 Not over \$500,000	3.06% of taxable estate
10 Over \$500,000 but not over \$1,000,000	\$15,300 plus 5.0% of excess over
11	\$500,000
12 Over \$1,000,000 but not over \$1,500,000	\$40,300 plus 5.5% of excess over
13	\$1,000,000
14 Over \$1,500,000 but not over \$2,100,000	\$67,800 plus 6.5% of excess over
15	\$1,500,000
16 Over \$2,100,000 but not over \$2,600,000	\$106,800 plus 8.0% of excess
17	over \$2,100,000
18 Over \$2,600,000 but not over \$3,100,000	\$146,800 plus 8.8% of excess over
19	\$2,600,000
20 Over \$3,100,000 but not over \$3,600,000	\$190,800 plus 9.6% of excess over
21	\$3,100,000
22 Over \$3,600,000 but not over \$4,100,000	\$238,800 plus 10.4% of excess
23	over \$3,600,000
24 Over \$4,100,000 but not over \$5,100,000	\$290,800 plus 11.2% of excess
25	over \$4,100,000
26 Over \$5,100,000 but not over \$6,100,000	\$402,800 plus 12.0% of excess
27	over \$5,100,000
28 Over \$6,100,000 but not over \$7,100,000	\$522,800 plus 12.8% of excess

1 over \$6,100,000
2 Over \$7,100,000 but not over \$8,100,000 \$650,800 plus 13.6% of excess
3 over \$7,100,000
4 Over \$8,100,000 but not over \$9,100,000 \$786,800 plus 14.4% of excess
5 over \$8,100,000
6 Over \$9,100,000 but not over \$930,800 plus 15.2% of excess over
7 \$10,100,000 \$9,100,000
8 Over \$10,100,000 \$1,082,800 plus 16.0% of excess
9 over \$10,100,000

10 § 2. Paragraph 3 of subsection (a) of section 954 of the tax law, as
11 added by section 3 of part X of chapter 59 of the laws of 2014, is
12 amended to read as follows:

13 (3) Increased by the amount of any taxable gift under section 2503 of
14 the internal revenue code not otherwise included in the decedent's
15 federal gross estate, made during the three year period ending on the
16 decedent's date of death, but not including any gift made: [(1)] (A)
17 when the decedent was not a resident of New York state; [(2)] or (B)
18 before April first, two thousand fourteen[; or (3)]. Provided, however
19 that this paragraph shall not apply to the estate of a decedent dying
20 on or after January first, two thousand nineteen.

21 § 3. Subsection (b) of section 960 of the tax law, as amended by
22 section 5 of part X of chapter 59 of the laws of 2014, is amended to
23 read as follows:

24 (b) Computation of tax.--The tax imposed under subsection (a) shall be
25 the same as the tax that would be due, if the decedent had died a resi-
26 dent, under subsection (a) of section nine hundred fifty-two, except
27 that for purposes of computing the tax under subsection (b) of section
28 nine hundred fifty-two, "New York taxable estate" shall not include the

1 value of, or any deduction allowable under the Internal Revenue Code
2 related to, any intangible personal property otherwise includible in the
3 deceased individual's New York gross estate, and shall not include the
4 amount of any gift unless such gift consists of real or tangible
5 personal property having an actual situs in New York state or intangible
6 personal property employed in a business, trade or profession carried on
7 in this state.

8 § 4. This act shall take effect immediately and shall be deemed to
9 have been in full force and effect on and after April 1, 2014.

10 PART CC

11 Section 1. Section 282 of the tax law is amended by adding a new
12 subdivision 27 to read as follows:

13 27. "Wholesaler of motor fuel" means any person, firm, association or
14 corporation who or which is not a distributor of motor fuel, and makes a
15 sale of motor fuel in this state other than a retail sale not in bulk.
16 For the purposes of this article when used with respect to motor fuel, a
17 "retail sale not in bulk" means the making or offering to make any sale
18 of motor fuel to a consumer of such fuel which is delivered directly
19 into a motor vehicle for use in the operation of such vehicle. A "retail
20 sale in bulk" means the making or offering to make any sale of motor
21 fuel to a consumer which is other than a "retail sale not in bulk".

22 § 2. The tax law is amended by adding a new section 283-d to read as
23 follows:

24 § 283-d. Registration of wholesalers of motor fuel. (a) Registration
25 required. Each wholesaler of motor fuel must be registered with the
26 department under this section. No wholesaler of motor fuel shall make a

1 sale of motor fuel in this state other than a retail sale not in bulk
2 unless such wholesaler is so registered. The department, upon the
3 application of a person, shall register such person as a wholesaler of
4 motor fuel except that the commissioner may refuse to register an appli-
5 cant for any of the grounds specified in subdivision two or five of
6 section two hundred eighty-three of this article or in subdivision (c)
7 of this section. The application shall be in such form and contain such
8 information as the commissioner shall prescribe. All of the provisions
9 of subdivisions two, four, five, six, seven, eight, nine and ten of
10 section two hundred eighty-three of this article relating to registra-
11 tion of distributors shall be applicable to the registration of whole-
12 salers of motor fuel under this section with the same force and effect
13 as if the language of such subdivisions had been incorporated in full in
14 this section and had expressly referred to the registration of whole-
15 salers of motor fuel, with such modification as may be necessary in
16 order to adapt the language of such provisions to the provisions of this
17 section, provided, specifically, that the term "distributor" shall be
18 read as "wholesaler of motor fuel." Provided, however, that if the
19 commissioner is satisfied that the requirements of such provisions for
20 registration are not necessary in order to protect tax revenues, the
21 commissioner may limit or modify such requirements with respect to any
22 person not required to be registered as a distributor of motor fuel.

23 (b) Bond or other security. The commissioner may require a wholesaler
24 of motor fuel seeking a registration to file with the department a bond
25 issued by a surety company approved by the superintendent of financial
26 services as to solvency and responsibility and authorized to transact
27 business in this state or other security acceptable to the commissioner,
28 in such amount as the commissioner may fix to secure the performance by

1 such wholesaler of motor fuel of the duties and responsibilities
2 required (i) pursuant to this article and (ii) pursuant to articles
3 twenty-eight and twenty-nine of this chapter with respect to motor fuel.
4 The commissioner may require that such a bond or other security be filed
5 before a wholesaler of motor fuel is registered, and the amount thereof
6 may be increased at any time when in the commissioner's judgment the
7 same is necessary. If securities are deposited as security under this
8 subdivision, such securities shall be kept in the joint custody of the
9 comptroller and the commissioner and may be sold by the commissioner if
10 it becomes necessary so to do in order to recover against such whole-
11 saler of motor fuel but no such sale shall be had until after such
12 wholesaler of motor fuel shall have had opportunity to litigate the
13 validity of the liability if it elects to do so. Upon any such sale the
14 surplus, if any, above the sums due shall be returned to such wholesaler
15 of motor fuel. The department, when authorized by the wholesaler of
16 motor fuel, shall furnish information regarding the registration of the
17 wholesaler of motor fuel and any other information which the wholesaler
18 of motor fuel authorizes it to disclose.

19 (c) Refusal to register. For the purposes of determining whether to
20 refuse an application for registration under this section, the refer-
21 ences in subdivision two of section two hundred eighty-three of this
22 article to employees or shareholders under a duty to file a return under
23 or pursuant to the authority of this article or pay the taxes imposed by
24 or pursuant to the authority of this article on behalf of the applicant
25 or another person shall be deemed to also include an employee under a
26 duty to file a return or pay taxes under or pursuant to the authority of
27 this article on behalf of such applicant or other person. In addition to
28 the grounds specified in section two hundred eighty-three of this arti-

1 cle, the commissioner may refuse to register an applicant where the
2 commissioner ascertains that the applicant, an officer, director or
3 partner of the applicant, a shareholder directly or indirectly owning
4 more than ten percent of the number of shares of stock of such applicant
5 (where such applicant is a corporation) entitling the holder thereof to
6 vote for the election of directors or trustees, or an employee or share-
7 holder of such applicant who, as such employee or shareholder is under a
8 duty to file a return under or pursuant to the authority of this article
9 or to pay the taxes imposed by or pursuant to the authority of this
10 article on behalf of the applicant; (1) has committed any of the acts or
11 omissions which are, or was convicted as, specified in subdivision (d)
12 of this section within the preceding five years; or (2) was an officer,
13 director or partner of another person, or who directly or indirectly
14 owned more than ten percent of the shares of stock of another person
15 (where such other person is a corporation) entitling the holder thereof
16 to vote for the election of directors or trustees, or who was an employ-
17 ee or shareholder of another person under a duty to file a return under
18 or pursuant to the authority of this article or pay the taxes imposed by
19 or pursuant to the authority of this article on behalf of such other
20 person at the time such other person committed any of the acts or omis-
21 sions which are, or was convicted as, specified in subdivision (d) of
22 this section within the preceding five years.

23 (d) Cancellation or suspension of registration. The grounds for a
24 cancellation or suspension of a registration under this section as a
25 wholesaler of motor fuel are the same as those grounds specified in
26 section two hundred eighty-three of this article and, in addition to
27 such grounds, the following grounds relating to this article shall
28 apply:

1 (1) A registration as a wholesaler of motor fuel may be cancelled or
2 suspended if the commissioner determines that a registrant or an offi-
3 cer, director or partner of the registrant, a shareholder directly or
4 indirectly owning more than ten percent of the number of shares of stock
5 of such registrant (where such registrant is a corporation) entitling
6 the holder thereof to vote for the election of directors or trustees, or
7 an employee or shareholder of such registrant under a duty to file a
8 return under or pursuant to the authority of this article or to pay the
9 taxes imposed by or pursuant to the authority of this article on behalf
10 of the registrant

11 (A) fails to file or maintain in full force and effect a bond or other
12 security when required pursuant to subdivision (b) of this section or
13 when the amount thereof is increased,

14 (B) fails to comply with any of the provisions of this article or any
15 rule or regulation adopted pursuant to this article by the commissioner,

16 (C) knowingly aids and abets another person in violating any of the
17 provisions of this article or any rule or regulation adopted pursuant to
18 this article by the commissioner,

19 (D) transfers its registration as a wholesaler of motor fuel without
20 the prior written approval of the commissioner,

21 (E) with respect to a wholesaler of motor fuel which is a corporation,
22 has been dissolved pursuant to section two hundred three-a and subdivi-
23 sion (d) of section three hundred ten of this chapter,

24 (F) commits fraud or deceit in his, her or its operations as a whole-
25 saler of motor fuel or has committed fraud or deceit in procuring his,
26 her or its registration,

1 (G) has impersonated any person represented to be a wholesaler of
2 motor fuel under this article but not in fact registered as a wholesaler
3 of motor fuel, or

4 (H) has knowingly aided and abetted the distribution of motor fuel, by
5 any person which such registrant or such other person knows has not been
6 registered by the commissioner as required under this article.

7 (2) A registration as a wholesaler of motor fuel may be cancelled or
8 suspended if the commissioner determines that a registrant or an offi-
9 cer, director or partner of the registrant, a shareholder directly or
10 indirectly owning more than ten percent of the number of shares of stock
11 of such registrant (where such registrant is a corporation) entitling
12 the holder thereof to vote for the election of directors or trustees, or
13 an employee or shareholder of such registrant under a duty to file a
14 return under or pursuant to the authority of this article or to pay the
15 taxes imposed by or pursuant to the authority of this article on behalf
16 of the registrant, was an officer, director or partner of another person
17 or was a shareholder directly or indirectly owning more than ten percent
18 of the number of shares of stock of another person (where such other
19 person is a corporation) entitling the holder thereof to vote for the
20 election of directors or trustees, or was an employee or shareholder of
21 another person under a duty to file a return under or pursuant to the
22 authority of this article or to pay the taxes imposed by or pursuant to
23 the authority of this article on behalf of such other person at the time
24 such other person committed any of the acts specified in paragraph one
25 of this subdivision within the preceding five years.

26 (e) Cancellation or suspension of registration prior to a hearing.
27 The grounds for cancelling or suspending a registration as a wholesaler
28 of motor fuel prior to a hearing shall be the same as those specified in

1 subdivision five of section two hundred eighty-three of this article
2 and, in addition to such grounds, the following grounds relating to this
3 article shall apply:

4 (1) the failure to file a return within ten days of the date
5 prescribed for filing a return under this article if the registrant
6 shall have failed to file such return within ten days after the date the
7 demand therefor is sent by registered or certified mail to the address
8 of the wholesaler of motor fuel given in its application, or an address
9 substituted therefor as provided in subdivision five of section two
10 hundred eighty-three of this article,

11 (2) the failure to continue to maintain in full force and effect at
12 all times the bond or other security required to be filed pursuant to
13 subdivision (b) of this section, provided, however, that if a surety
14 bond is cancelled prior to expiration, the commissioner may after
15 considering all the relevant circumstances make such other arrangements,
16 and may require the filing of such other bond or other security as it
17 deems appropriate,

18 (3) the transfer of a registration as a wholesaler of motor fuel with-
19 out the prior written approval of the commissioner, or

20 (4) with respect to a wholesaler of motor fuel which is a corporation,
21 the dissolution or annulment of such corporation pursuant to section
22 three hundred ten of this chapter.

23 § 3. Section 287 of the tax law is amended by adding a new subdivision
24 3 to read as follows:

25 3. Every wholesaler of motor fuel shall, on or before the twentieth
26 day of each month, file with the department a return, on forms
27 prescribed by the commissioner stating the number of gallons of motor
28 fuel purchased and sold by such wholesaler in the state during the

1 preceding calendar month. For each purchase and sale, the date, number
2 of gallons of motor fuel purchased or sold, and the name of the seller
3 or purchaser shall be set forth on the return. Such returns shall
4 contain such further information as the commissioner shall require. The
5 fact that a wholesaler's name is signed to a filed return shall be prima
6 facie evidence for all purposes that the return was actually signed by
7 such wholesaler of motor fuel.

8 § 4. Section 1102 of the tax law is amended by adding a new subdivi-
9 sion (f) to read as follows:

10 (f) Every wholesaler of motor fuel, as such term is defined by subdi-
11 vision twenty-seven of section two hundred eighty-two of this chapter,
12 shall pay or be entitled to a credit or refund of the tax imposed by
13 this section on gallons of motor fuel under the circumstances set forth
14 in paragraph three of subdivision (e) of section eleven hundred eleven
15 of this article.

16 § 5. Subdivision (e) of section 1111 of the tax law is amended by
17 adding a new paragraph 3 to read as follows:

18 (3) When a wholesaler of motor fuel sells motor fuel in a region, as
19 defined in paragraph one of this subdivision, different from the region
20 in which such motor fuel was purchased:

21 (i) if the region in which it sells the motor fuel has a higher
22 prepaid rate as set forth in this subdivision than the region in which
23 the wholesaler purchased the motor fuel in, the wholesaler shall pay to
24 the department the difference in the rates for the gallonage sold.

25 (ii) if the region in which it sells the motor fuel has a lower
26 prepaid rate as set forth in this subdivision than the region in which
27 the wholesaler purchased the motor fuel, the wholesaler shall be enti-

1 tled to a credit or refund for the difference in the rates for the
2 gallorage sold.

3 § 6. The tax law is amended by adding a new section 1812-g to read as
4 follows:

5 § 1812-g. Person not registered as a wholesaler of motor fuel. Any
6 person who, while not registered as a wholesaler of motor fuel pursuant
7 to the provisions of article twelve-A of this chapter, makes a sale of
8 motor fuel in this state other than a retail sale not in bulk, shall be
9 guilty of a class E felony.

10 § 7. This act shall take effect September 1, 2015.

11 PART DD

12 Section 1. Section 2 of part Q of chapter 59 of the laws of 2013,
13 amending the tax law relating to serving an income execution with
14 respect to individual tax debtors without filing a warrant, is amended
15 to read as follows:

16 § 2. This act shall take effect immediately [and shall expire and be
17 deemed repealed on and after April 1, 2015].

18 § 2. This act shall take effect immediately.

19 PART EE

20 Section 1. Subdivision 1 of section 171-v of the tax law, as added by
21 section 1 of part P of chapter 59 of the laws of 2013, is amended to
22 read as follows:

23 (1) The commissioner shall enter into a written agreement with the
24 commissioner of motor vehicles, which shall set forth the procedures for

1 the two departments to cooperate in a program to improve tax collection
2 through the suspension of drivers' licenses of taxpayers with past-due
3 tax liabilities equal to or in excess of [ten] five thousand dollars.
4 For the purposes of this section, the term "tax liabilities" shall mean
5 any tax, surcharge, or fee administered by the commissioner, or any
6 penalty or interest due on these amounts owed by an individual with a
7 New York driver's license, the term "driver's license" means any license
8 issued by the department of motor vehicles, except for a commercial
9 driver's license as defined in section five hundred one-a of the vehicle
10 and traffic law, and the term "past-due tax liabilities" means any tax
11 liability or liabilities which have become fixed and final such that the
12 taxpayer no longer has any right to administrative or judicial review.

13 § 2. This act shall take effect immediately; provided, however, that
14 the department of taxation and finance and the department of motor vehi-
15 cles shall have up to two months after this act shall have become a law
16 to execute any amendment to the written agreement and implement the
17 necessary procedures as described in section one of this act.

18 PART FF

19 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter 266
20 of the laws of 1986, amending the civil practice law and rules and other
21 laws relating to malpractice and professional medical conduct, as
22 amended by section 18 of part B of chapter 60 of the laws of 2014, is
23 amended to read as follows:

24 (a) The superintendent of [insurance] financial services and the
25 commissioner of health or their designee shall, from funds available in
26 the hospital excess liability pool created pursuant to subdivision 5 of

1 this section, purchase a policy or policies for excess insurance cover-
2 age, as authorized by paragraph 1 of subsection (e) of section 5502 of
3 the insurance law; or from an insurer, other than an insurer described
4 in section 5502 of the insurance law, duly authorized to write such
5 coverage and actually writing medical malpractice insurance in this
6 state; or shall purchase equivalent excess coverage in a form previously
7 approved by the superintendent of [insurance] financial services for
8 purposes of providing equivalent excess coverage in accordance with
9 section 19 of chapter 294 of the laws of 1985, for medical or dental
10 malpractice occurrences between July 1, 1986 and June 30, 1987, between
11 July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989,
12 between July 1, 1989 and June 30, 1990, between July 1, 1990 and June
13 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992
14 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July
15 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996,
16 between July 1, 1996 and June 30, 1997, between July 1, 1997 and June
17 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999
18 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July
19 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003,
20 between July 1, 2003 and June 30, 2004, between July 1, 2004 and June
21 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006
22 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July
23 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010,
24 between July 1, 2010 and June 30, 2011, between July 1, 2011 and June
25 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013
26 and June 30, 2014, [and] between July 1, 2014 and June 30, 2015, and
27 between July 1, 2015 and June 30, 2016 or reimburse the hospital where
28 the hospital purchases equivalent excess coverage as defined in subpara-

1 graph (i) of paragraph (a) of subdivision 1-a of this section for
2 medical or dental malpractice occurrences between July 1, 1987 and June
3 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
4 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
5 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
6 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
7 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
8 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
9 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
10 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
11 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
12 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
13 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
14 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
15 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
16 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
17 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, [and]
18 between July 1, 2014 and June 30, 2015, and between July 1, 2015 and
19 June 30, 2016 for physicians or dentists certified as eligible for each
20 such period or periods pursuant to subdivision 2 of this section by a
21 general hospital licensed pursuant to article 28 of the public health
22 law; provided that no single insurer shall write more than fifty percent
23 of the total excess premium for a given policy year; and provided,
24 however, that such eligible physicians or dentists must have in force an
25 individual policy, from an insurer licensed in this state of primary
26 malpractice insurance coverage in amounts of no less than one million
27 three hundred thousand dollars for each claimant and three million nine
28 hundred thousand dollars for all claimants under that policy during the

1 period of such excess coverage for such occurrences or be endorsed as
2 additional insureds under a hospital professional liability policy which
3 is offered through a voluntary attending physician ("channeling")
4 program previously permitted by the superintendent of [insurance] finan-
5 cial services during the period of such excess coverage for such occur-
6 rences; and provided that such eligible physicians or dentists have
7 received tax clearances from the department of taxation and finance
8 pursuant to section 171-w of the tax law. During such period, such
9 policy for excess coverage or such equivalent excess coverage shall,
10 when combined with the physician's or dentist's primary malpractice
11 insurance coverage or coverage provided through a voluntary attending
12 physician ("channeling") program, total an aggregate level of two
13 million three hundred thousand dollars for each claimant and six million
14 nine hundred thousand dollars for all claimants from all such policies
15 with respect to occurrences in each of such years provided, however, if
16 the cost of primary malpractice insurance coverage in excess of one
17 million dollars, but below the excess medical malpractice insurance
18 coverage provided pursuant to this act, exceeds the rate of nine percent
19 per annum, then the required level of primary malpractice insurance
20 coverage in excess of one million dollars for each claimant shall be in
21 an amount of not less than the dollar amount of such coverage available
22 at nine percent per annum; the required level of such coverage for all
23 claimants under that policy shall be in an amount not less than three
24 times the dollar amount of coverage for each claimant; and excess cover-
25 age, when combined with such primary malpractice insurance coverage,
26 shall increase the aggregate level for each claimant by one million
27 dollars and three million dollars for all claimants; and provided
28 further, that, with respect to policies of primary medical malpractice

1 coverage that include occurrences between April 1, 2002 and June 30,
2 2002, such requirement that coverage be in amounts no less than one
3 million three hundred thousand dollars for each claimant and three
4 million nine hundred thousand dollars for all claimants for such occur-
5 rences shall be effective April 1, 2002.

6 § 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
7 amending the civil practice law and rules and other laws relating to
8 malpractice and professional medical conduct, as amended by section 19
9 of part B of chapter 60 of the laws of 2014, is amended to read as
10 follows:

11 (3) (a) The superintendent of [insurance] financial services shall
12 determine and certify to each general hospital and to the commissioner
13 of health the cost of excess malpractice insurance for medical or dental
14 malpractice occurrences between July 1, 1986 and June 30, 1987, between
15 July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990,
16 between July 1, 1990 and June 30, 1991, between July 1, 1991 and June
17 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993
18 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July
19 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997,
20 between July 1, 1997 and June 30, 1998, between July 1, 1998 and June
21 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000
22 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July
23 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004,
24 between July 1, 2004 and June 30, 2005, between July 1, 2005 and June
25 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007
26 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July
27 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011,
28 between July 1, 2011 and June 30, 2012, between July 1, 2012 and June

1 30, 2013, and between July 1, 2013 and June 30, 2014, [and] between July
2 1, 2014 and June 30, 2015, and between July 1, 2015 and June 30, 2016
3 allocable to each general hospital for physicians or dentists certified
4 as eligible for purchase of a policy for excess insurance coverage by
5 such general hospital in accordance with subdivision 2 of this section,
6 and may amend such determination and certification as necessary.

7 (b) The superintendent of [insurance] financial services shall deter-
8 mine and certify to each general hospital and to the commissioner of
9 health the cost of excess malpractice insurance or equivalent excess
10 coverage for medical or dental malpractice occurrences between July 1,
11 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between
12 July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991,
13 between July 1, 1991 and June 30, 1992, between July 1, 1992 and June
14 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994
15 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July
16 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998,
17 between July 1, 1998 and June 30, 1999, between July 1, 1999 and June
18 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001
19 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July
20 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005,
21 between July 1, 2005 and June 30, 2006, between July 1, 2006 and June
22 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008
23 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July
24 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012,
25 between July 1, 2012 and June 30, 2013, between July 1, 2013 and June
26 30, 2014, [and] between July 1, 2014 and June 30, 2015, and between July
27 1, 2015 and June 30, 2016 allocable to each general hospital for physi-
28 cians or dentists certified as eligible for purchase of a policy for

1 excess insurance coverage or equivalent excess coverage by such general
2 hospital in accordance with subdivision 2 of this section, and may amend
3 such determination and certification as necessary. The superintendent of
4 [insurance] financial services shall determine and certify to each
5 general hospital and to the commissioner of health the ratable share of
6 such cost allocable to the period July 1, 1987 to December 31, 1987, to
7 the period January 1, 1988 to June 30, 1988, to the period July 1, 1988
8 to December 31, 1988, to the period January 1, 1989 to June 30, 1989, to
9 the period July 1, 1989 to December 31, 1989, to the period January 1,
10 1990 to June 30, 1990, to the period July 1, 1990 to December 31, 1990,
11 to the period January 1, 1991 to June 30, 1991, to the period July 1,
12 1991 to December 31, 1991, to the period January 1, 1992 to June 30,
13 1992, to the period July 1, 1992 to December 31, 1992, to the period
14 January 1, 1993 to June 30, 1993, to the period July 1, 1993 to December
15 31, 1993, to the period January 1, 1994 to June 30, 1994, to the period
16 July 1, 1994 to December 31, 1994, to the period January 1, 1995 to June
17 30, 1995, to the period July 1, 1995 to December 31, 1995, to the period
18 January 1, 1996 to June 30, 1996, to the period July 1, 1996 to December
19 31, 1996, to the period January 1, 1997 to June 30, 1997, to the period
20 July 1, 1997 to December 31, 1997, to the period January 1, 1998 to June
21 30, 1998, to the period July 1, 1998 to December 31, 1998, to the period
22 January 1, 1999 to June 30, 1999, to the period July 1, 1999 to December
23 31, 1999, to the period January 1, 2000 to June 30, 2000, to the period
24 July 1, 2000 to December 31, 2000, to the period January 1, 2001 to June
25 30, 2001, to the period July 1, 2001 to June 30, 2002, to the period
26 July 1, 2002 to June 30, 2003, to the period July 1, 2003 to June 30,
27 2004, to the period July 1, 2004 to June 30, 2005, to the period July 1,
28 2005 and June 30, 2006, to the period July 1, 2006 and June 30, 2007, to

1 the period July 1, 2007 and June 30, 2008, to the period July 1, 2008
2 and June 30, 2009, to the period July 1, 2009 and June 30, 2010, to the
3 period July 1, 2010 and June 30, 2011, to the period July 1, 2011 and
4 June 30, 2012, to the period July 1, 2012 and June 30, 2013, to the
5 period July 1, 2013 and June 30, 2014, [and] to the period July 1, 2014
6 and June 30, 2015, and to the period July 1, 2015 and June 30, 2016.

7 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
8 18 of chapter 266 of the laws of 1986, amending the civil practice law
9 and rules and other laws relating to malpractice and professional
10 medical conduct, as amended by section 20 of part B of chapter 60 of the
11 laws of 2014, are amended to read as follows:

12 (a) To the extent funds available to the hospital excess liability
13 pool pursuant to subdivision 5 of this section as amended, and pursuant
14 to section 6 of part J of chapter 63 of the laws of 2001, as may from
15 time to time be amended, which amended this subdivision, are insuffi-
16 cient to meet the costs of excess insurance coverage or equivalent
17 excess coverage for coverage periods during the period July 1, 1992 to
18 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
19 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
20 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
21 during the period July 1, 1997 to June 30, 1998, during the period July
22 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
23 2000, during the period July 1, 2000 to June 30, 2001, during the period
24 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
25 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
26 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
27 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
28 during the period July 1, 2006 to June 30, 2007, during the period July

1 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
2 2009, during the period July 1, 2009 to June 30, 2010, during the period
3 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
4 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
5 period July 1, 2013 to June 30, 2014, [and] during the period July 1,
6 2014 to June 30, 2015, and during the period July 1, 2015 and June 30,
7 2016 allocated or reallocated in accordance with paragraph (a) of subdi-
8 vision 4-a of this section to rates of payment applicable to state
9 governmental agencies, each physician or dentist for whom a policy for
10 excess insurance coverage or equivalent excess coverage is purchased for
11 such period shall be responsible for payment to the provider of excess
12 insurance coverage or equivalent excess coverage of an allocable share
13 of such insufficiency, based on the ratio of the total cost of such
14 coverage for such physician to the sum of the total cost of such cover-
15 age for all physicians applied to such insufficiency.

16 (b) Each provider of excess insurance coverage or equivalent excess
17 coverage covering the period July 1, 1992 to June 30, 1993, or covering
18 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
19 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
20 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
21 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
22 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
23 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
24 the period July 1, 2001 to October 29, 2001, or covering the period
25 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
26 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
27 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
28 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to

1 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
2 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
3 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
4 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
5 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
6 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
7 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016
8 shall notify a covered physician or dentist by mail, mailed to the
9 address shown on the last application for excess insurance coverage or
10 equivalent excess coverage, of the amount due to such provider from such
11 physician or dentist for such coverage period determined in accordance
12 with paragraph (a) of this subdivision. Such amount shall be due from
13 such physician or dentist to such provider of excess insurance coverage
14 or equivalent excess coverage in a time and manner determined by the
15 superintendent of [insurance] financial services.

16 (c) If a physician or dentist liable for payment of a portion of the
17 costs of excess insurance coverage or equivalent excess coverage cover-
18 ing the period July 1, 1992 to June 30, 1993, or covering the period
19 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
20 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
21 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
22 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
23 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
24 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
25 od July 1, 2001 to October 29, 2001, or covering the period April 1,
26 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
27 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
28 the period July 1, 2004 to June 30, 2005, or covering the period July 1,

1 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
2 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
3 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
4 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
5 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
6 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
7 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
8 2015, or covering the period July 1, 2015 to June 30, 2016 determined in
9 accordance with paragraph (a) of this subdivision fails, refuses or
10 neglects to make payment to the provider of excess insurance coverage or
11 equivalent excess coverage in such time and manner as determined by the
12 superintendent of [insurance] financial services pursuant to paragraph
13 (b) of this subdivision, excess insurance coverage or equivalent excess
14 coverage purchased for such physician or dentist in accordance with this
15 section for such coverage period shall be cancelled and shall be null
16 and void as of the first day on or after the commencement of a policy
17 period where the liability for payment pursuant to this subdivision has
18 not been met.

19 (d) Each provider of excess insurance coverage or equivalent excess
20 coverage shall notify the superintendent of [insurance] financial
21 services and the commissioner of health or their designee of each physi-
22 cian and dentist eligible for purchase of a policy for excess insurance
23 coverage or equivalent excess coverage covering the period July 1, 1992
24 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994,
25 or covering the period July 1, 1994 to June 30, 1995, or covering the
26 period July 1, 1995 to June 30, 1996, or covering the period July 1,
27 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30,
28 1998, or covering the period July 1, 1998 to June 30, 1999, or covering

1 the period July 1, 1999 to June 30, 2000, or covering the period July 1,
2 2000 to June 30, 2001, or covering the period July 1, 2001 to October
3 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or
4 covering the period July 1, 2002 to June 30, 2003, or covering the peri-
5 od July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to
6 June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or
7 covering the period July 1, 2006 to June 30, 2007, or covering the peri-
8 od July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to
9 June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or
10 covering the period July 1, 2010 to June 30, 2011, or covering the peri-
11 od July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to
12 June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or
13 covering the period July 1, 2014 to June 30, 2015, or covering the peri-
14 od July 1, 2015 to June 30, 2016 that has made payment to such provider
15 of excess insurance coverage or equivalent excess coverage in accordance
16 with paragraph (b) of this subdivision and of each physician and dentist
17 who has failed, refused or neglected to make such payment.

18 (e) A provider of excess insurance coverage or equivalent excess
19 coverage shall refund to the hospital excess liability pool any amount
20 allocable to the period July 1, 1992 to June 30, 1993, and to the period
21 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
22 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
23 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
24 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
25 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
26 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
27 and to the period April 1, 2002 to June 30, 2002, and to the period July
28 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,

1 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
2 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
3 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
4 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
5 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
6 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
7 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
8 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
9 2015 to June 30, 2016 received from the hospital excess liability pool
10 for purchase of excess insurance coverage or equivalent excess coverage
11 covering the period July 1, 1992 to June 30, 1993, and covering the
12 period July 1, 1993 to June 30, 1994, and covering the period July 1,
13 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30,
14 1996, and covering the period July 1, 1996 to June 30, 1997, and cover-
15 ing the period July 1, 1997 to June 30, 1998, and covering the period
16 July 1, 1998 to June 30, 1999, and covering the period July 1, 1999 to
17 June 30, 2000, and covering the period July 1, 2000 to June 30, 2001,
18 and covering the period July 1, 2001 to October 29, 2001, and covering
19 the period April 1, 2002 to June 30, 2002, and covering the period July
20 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June
21 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and
22 covering the period July 1, 2005 to June 30, 2006, and covering the
23 period July 1, 2006 to June 30, 2007, and covering the period July 1,
24 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30,
25 2009, and covering the period July 1, 2009 to June 30, 2010, and cover-
26 ing the period July 1, 2010 to June 30, 2011, and covering the period
27 July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to
28 June 30, 2013, and covering the period July 1, 2013 to June 30, 2014,

1 and covering the period July 1, 2014 to June 30, 2015, and covering the
2 period July 1, 2015 to June 30, 2016 for a physician or dentist where
3 such excess insurance coverage or equivalent excess coverage is
4 cancelled in accordance with paragraph (c) of this subdivision.

5 § 4. Section 40 of chapter 266 of the laws of 1986, amending the civil
6 practice law and rules and other laws relating to malpractice and
7 professional medical conduct, as amended by section 21 of part B of
8 chapter 60 of the laws of 2014, is amended to read as follows:

9 § 40. The superintendent of [insurance] financial services shall
10 establish rates for policies providing coverage for physicians and
11 surgeons medical malpractice for the periods commencing July 1, 1985 and
12 ending June 30, [2015] 2016; provided, however, that notwithstanding any
13 other provision of law, the superintendent shall not establish or
14 approve any increase in rates for the period commencing July 1, 2009 and
15 ending June 30, 2010. The superintendent shall direct insurers to estab-
16 lish segregated accounts for premiums, payments, reserves and investment
17 income attributable to such premium periods and shall require periodic
18 reports by the insurers regarding claims and expenses attributable to
19 such periods to monitor whether such accounts will be sufficient to meet
20 incurred claims and expenses. On or after July 1, 1989, the superinten-
21 dent shall impose a surcharge on premiums to satisfy a projected defi-
22 ciency that is attributable to the premium levels established pursuant
23 to this section for such periods; provided, however, that such annual
24 surcharge shall not exceed eight percent of the established rate until
25 July 1, [2015] 2016, at which time and thereafter such surcharge shall
26 not exceed twenty-five percent of the approved adequate rate, and that
27 such annual surcharges shall continue for such period of time as shall
28 be sufficient to satisfy such deficiency. The superintendent shall not

1 impose such surcharge during the period commencing July 1, 2009 and
2 ending June 30, 2010. On and after July 1, 1989, the surcharge
3 prescribed by this section shall be retained by insurers to the extent
4 that they insured physicians and surgeons during the July 1, 1985
5 through June 30, [2015] 2016 policy periods; in the event and to the
6 extent physicians and surgeons were insured by another insurer during
7 such periods, all or a pro rata share of the surcharge, as the case may
8 be, shall be remitted to such other insurer in accordance with rules and
9 regulations to be promulgated by the superintendent. Surcharges
10 collected from physicians and surgeons who were not insured during such
11 policy periods shall be apportioned among all insurers in proportion to
12 the premium written by each insurer during such policy periods; if a
13 physician or surgeon was insured by an insurer subject to rates estab-
14 lished by the superintendent during such policy periods, and at any time
15 thereafter a hospital, health maintenance organization, employer or
16 institution is responsible for responding in damages for liability aris-
17 ing out of such physician's or surgeon's practice of medicine, such
18 responsible entity shall also remit to such prior insurer the equivalent
19 amount that would then be collected as a surcharge if the physician or
20 surgeon had continued to remain insured by such prior insurer. In the
21 event any insurer that provided coverage during such policy periods is
22 in liquidation, the property/casualty insurance security fund shall
23 receive the portion of surcharges to which the insurer in liquidation
24 would have been entitled. The surcharges authorized herein shall be
25 deemed to be income earned for the purposes of section 2303 of the
26 insurance law. The superintendent, in establishing adequate rates and
27 in determining any projected deficiency pursuant to the requirements of
28 this section and the insurance law, shall give substantial weight,

1 determined in his discretion and judgment, to the prospective antic-
2 ipated effect of any regulations promulgated and laws enacted and the
3 public benefit of stabilizing malpractice rates and minimizing rate
4 level fluctuation during the period of time necessary for the develop-
5 ment of more reliable statistical experience as to the efficacy of such
6 laws and regulations affecting medical, dental or podiatric malpractice
7 enacted or promulgated in 1985, 1986, by this act and at any other time.
8 Notwithstanding any provision of the insurance law, rates already estab-
9 lished and to be established by the superintendent pursuant to this
10 section are deemed adequate if such rates would be adequate when taken
11 together with the maximum authorized annual surcharges to be imposed for
12 a reasonable period of time whether or not any such annual surcharge has
13 been actually imposed as of the establishment of such rates.

14 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of
15 chapter 63 of the laws of 2001, amending chapter 20 of the laws of 2001
16 amending the military law and other laws relating to making appropri-
17 ations for the support of government, as amended by section 22 of part B
18 of chapter 60 of the laws of 2014, are amended to read as follows:

19 § 5. The superintendent of [insurance] financial services and the
20 commissioner of health shall determine, no later than June 15, 2002,
21 June 15, 2003, June 15, 2004, June 15, 2005, June 15, 2006, June 15,
22 2007, June 15, 2008, June 15, 2009, June 15, 2010, June 15, 2011, June
23 15, 2012, June 15, 2013, June 15, 2014, [and] June 15, 2015, and June
24 15, 2016 the amount of funds available in the hospital excess liability
25 pool, created pursuant to section 18 of chapter 266 of the laws of 1986,
26 and whether such funds are sufficient for purposes of purchasing excess
27 insurance coverage for eligible participating physicians and dentists
28 during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June

1 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
2 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
3 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30,
4 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30,
5 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30,
6 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,
7 2015, or July 1, 2015 to June 30, 2016, as applicable.

8 (a) This section shall be effective only upon a determination, pursu-
9 ant to section five of this act, by the superintendent of [insurance]
10 financial services and the commissioner of health, and a certification
11 of such determination to the state director of the budget, the chair of
12 the senate committee on finance and the chair of the assembly committee
13 on ways and means, that the amount of funds in the hospital excess
14 liability pool, created pursuant to section 18 of chapter 266 of the
15 laws of 1986, is insufficient for purposes of purchasing excess insur-
16 ance coverage for eligible participating physicians and dentists during
17 the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
18 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
19 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
20 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30,
21 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30,
22 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30,
23 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,
24 2015, or July 1, 2015 to June 30, 2016, as applicable.

25 (e) The commissioner of health shall transfer for deposit to the
26 hospital excess liability pool created pursuant to section 18 of chapter
27 266 of the laws of 1986 such amounts as directed by the superintendent
28 of [insurance] financial services for the purchase of excess liability

1 insurance coverage for eligible participating physicians and dentists
2 for the policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to
3 June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June
4 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
5 2007, as applicable, and the cost of administering the hospital excess
6 liability pool for such applicable policy year, pursuant to the program
7 established in chapter 266 of the laws of 1986, as amended, no later
8 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
9 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
10 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, [and] June
11 15, 2015, and June 15, 2016, as applicable.

12 § 6. Notwithstanding any law, rule or regulation to the contrary, only
13 physicians or dentists who were eligible, and for whom the superinten-
14 dent of financial services and the commissioner of health, or their
15 designee, purchased, with funds available in the hospital excess liabil-
16 ity pool, a full or partial policy for excess coverage or equivalent
17 excess coverage for the coverage period ending the thirtieth of June,
18 two thousand fifteen, shall be eligible to apply for such coverage for
19 the coverage period beginning the first of July, two thousand fifteen;
20 provided, however, if the total number of physicians or dentists for
21 whom such excess coverage or equivalent excess coverage was purchased
22 for the policy year ending the thirtieth of June, two thousand fifteen
23 exceeds the total number of physicians or dentists certified as eligible
24 for the coverage period beginning the first of July, two thousand
25 fifteen, then the general hospitals may certify additional eligible
26 physicians or dentists in a number equal to such general hospital's
27 proportional share of the total number of physicians or dentists for
28 whom excess coverage or equivalent excess coverage was purchased with

1 funds available in the hospital excess liability pool as of the thirti-
2 eth of June, two thousand fifteen, as applied to the difference between
3 the number of eligible physicians or dentists for whom a policy for
4 excess coverage or equivalent excess coverage was purchased for the
5 coverage period ending the thirtieth of June, two thousand fifteen and
6 the number of such eligible physicians or dentists who have applied for
7 excess coverage or equivalent excess for the coverage period beginning
8 the first of July, two thousand fifteen.

9 § 7. The tax law is amended by adding a new section 171-w to read as
10 follows:

11 § 171-w. Enforcement of delinquent tax liabilities through tax clear-
12 ances. (1) For the purposes of this section, the term "tax liabilities"
13 shall mean any tax, surcharge, or fee administered by the commissioner,
14 or any penalty or interest owed by an individual or entity. The term
15 "past-due tax liabilities" means any unpaid tax liabilities that have
16 become fixed and final such that the taxpayer no longer has any right to
17 administrative or judicial review. The term "government entity" means
18 the state of New York, or any of its agencies, political subdivisions,
19 instrumentalities, public corporations (including a public corporation
20 created pursuant to agreement or compact with another state or Canada),
21 or combination thereof.

22 (2) The commissioner, or his or her designee, shall cooperate with any
23 government entity that is required by law or has elected to require tax
24 clearances to establish procedures by which the department shall receive
25 a tax clearance request and transmit such tax clearance to the govern-
26 ment entity, and any other procedures deemed necessary to carry out the
27 provisions of this section. These procedures shall, to the extent prac-
28 ticable, require secure electronic communication between the department

1 and the requesting government entity for the transmission of tax clear-
2 ance requests to the department and transmission of tax clearances to
3 the requesting entity. Notwithstanding any other law to the contrary, a
4 government entity shall be authorized to share any applicant data or
5 information with the department that is necessary to ensure the proper
6 matching of the applicant to the tax records maintained by the depart-
7 ment.

8 (3) Upon receipt of a tax clearance request, the department shall
9 examine its records to determine whether the subject of the tax clear-
10 ance request has past-due tax liabilities equal to or in excess of the
11 dollar threshold applicable for such tax clearance request or, where no
12 threshold has been established by law or otherwise, equal to or in
13 excess of five hundred dollars. When a tax clearance request so
14 requires, the department shall also determine whether (i) the subject of
15 such request has complied with applicable tax return filing requirements
16 for each of the past three years; and/or (ii) whether a subject of such
17 request that is an individual or entity that is a person required to
18 register pursuant to section one thousand one hundred thirty-four of
19 this chapter is registered pursuant to such section. The department
20 shall deny a tax clearance if it determines that the subject of a tax
21 clearance request has past-due tax liabilities equal to or in excess of
22 the applicable threshold or, when the tax clearance request so requires,
23 has not complied with applicable return filing and/or registration
24 requirements.

25 (4) If a tax clearance is denied, the government entity that requested
26 the clearance shall provide notice to the applicant to contact the
27 department. Such notice shall be made by first class mail with a certif-
28 icate of mailing and a copy of such notice also shall be provided to the

1 department. When the applicant contacts the department, the department
2 shall inform the applicant of the basis for the denial of the tax clear-
3 ance and shall also inform the applicant: (i) that a tax clearance
4 denied due to past-due tax liabilities may be issued once the taxpayer
5 fully satisfies past-due tax liabilities or makes payment arrangements
6 satisfactory to the commissioner; (ii) that a tax clearance denied due
7 to failure to file tax returns may be issued once the applicant has
8 satisfied the applicable return filing requirements; (iii) that a tax
9 clearance denied for failure to register pursuant to section one thou-
10 sand one hundred thirty-four of this chapter may be issued once the
11 applicant has registered pursuant to such section; and (iv) the grounds
12 for challenging the denial of a tax clearance listed in subdivision five
13 of this section.

14 (5) (a) Notwithstanding any other provision of law, and except as
15 specifically provided herein, an applicant denied a tax clearance shall
16 have no right to commence a court action or proceeding or seek any other
17 legal recourse against the department or the government entity related
18 to the denial of a tax clearance by the department.

19 (b) An applicant seeking to challenge the denial of a tax clearance
20 must protest to the department or the division of tax appeals no later
21 than sixty days from the date of the notification to the applicant that
22 the tax clearance was denied. An applicant may challenge a department
23 finding of past-due tax liabilities only on the grounds that: (i) the
24 individual or entity denied the tax clearance is not the individual or
25 entity with the past-due tax liabilities at issue; (ii) the past-due tax
26 liabilities were satisfied; (iii) the applicant's wages are being
27 garnished for the payment of child support or combined child and spousal
28 support pursuant to an income execution issued pursuant to section five

1 thousand two hundred forty-one or five thousand two hundred forty-two of
2 the civil practice law and rules or another state's income withholding
3 order as authorized under part five of article five-B of the family
4 court act, or garnished by the department for the payment of the past-
5 due tax liabilities at issue; or (iv) the applicant is making child
6 support payments or combined child and spousal support payments pursuant
7 to a satisfactory payment arrangement under section one hundred eleven-b
8 of the social services law with a support collection unit or otherwise
9 making periodic payments in accordance with section four hundred forty
10 of the family court act. An applicant may challenge a department finding
11 of failure to comply with tax return filing requirements only on the
12 grounds that all required tax returns have been filed for each of the
13 past three years.

14 (c) Nothing in this subdivision is intended to limit any applicant
15 from seeking relief from joint and several liability pursuant to section
16 six hundred fifty-four of this chapter, to the extent that he or she is
17 eligible pursuant to that section, or establishing to the department
18 that the enforcement of the underlying tax liabilities has been stayed
19 by the filing of a petition pursuant to the Bankruptcy Code of 1978
20 (Title Eleven of the United States Code).

21 (6) Notwithstanding any other provision of law, the department may
22 exchange with a government entity any data or information that, in the
23 discretion of the commissioner, is necessary for the implementation of a
24 tax clearance requirement. However, no government entity may re-disclose
25 this information to any other entity or person, other than for the
26 purpose of informing the applicant that a required tax clearance has
27 been denied, unless otherwise permitted by law.

1 (7) Except as otherwise provided in this section, the activities to
2 collect past-due tax liabilities undertaken by the department pursuant
3 to this section shall not in any way limit, restrict or impair the
4 department from exercising any other authority to collect or enforce tax
5 liabilities under any other applicable provision of law.

6 (8) Except as otherwise provided in this section, the provisions of
7 this section are not applicable to the tax clearance required by section
8 one hundred seventy-one-v of this article.

9 § 8. This act shall take effect immediately.

10 PART GG

11 Section 1. The public authorities law is amended by adding a new
12 section 2858 to read as follows:

13 § 2858. Clearance of past-due tax liabilities for state or local
14 authority grant applicants. 1. As used in this section:

15 a. "Applicant" means any applicant, agent or affiliated person of
16 either of them that makes an application for a grant.

17 b. "Grant" means any state monies awarded by a state or local authori-
18 ty to an applicant for any state or local public purpose.

19 c. "Local authority" means (i) a public authority or public benefit
20 corporation created by or existing under this chapter or any other law
21 of the state of New York that has the power to make grants or loan funds
22 of state monies and whose members do not hold a civil office of the
23 state, and whose members either are not appointed by the governor or are
24 appointed by the governor specifically upon the recommendation of the
25 local government or governments; (ii) a not-for-profit corporation
26 affiliated with, sponsored by, or created by a county, city, town or

1 village government; (iii) a land bank corporation created pursuant to
2 article sixteen of the not-for-profit corporation law, including subsid-
3 aries and affiliates of such local authority; or (iv) housing authori-
4 ties created pursuant to the public housing law.

5 d. "Past-due tax liabilities" means a past-due legally enforceable
6 debt within the meaning of subdivision one of section one hundred seven-
7 ty-one-w of the tax law in an amount that is equal to five hundred
8 dollars or more.

9 e. "State authority" means a public authority or public benefit corpo-
10 ration created by or existing under this chapter or any other law of the
11 state of New York that has the power to make grants or loan funds of
12 state monies and has one or more of its members appointed by the gover-
13 nor or who serve as member by virtue of holding a civil office of the
14 state, other than an interstate or international authority or public
15 benefit corporation, including subsidiaries and affiliates of such
16 public authority or public benefit corporation.

17 2. Notwithstanding any other provision of law, any state authority or
18 local authority that processes an application for a grant shall require,
19 as a condition to receive such grant, the receipt of a tax clearance
20 that such applicant has no past-due tax liabilities pursuant to section
21 one hundred seventy-one-w of the tax law.

22 3. The applicant shall be required to provide any information deemed
23 necessary by the state authority or the local authority and the depart-
24 ment of taxation and finance to efficiently and accurately provide a
25 clearance of no past-due tax liabilities, and the failure by the appli-
26 cant to provide such information shall render the application incom-
27 plete.

1 4. If the state authority or the local authority receives notification
2 that past-due tax liabilities are owed by the applicant, the state
3 authority or the local authority, as the case may be, shall deny the
4 grant application and shall notify the applicant to contact the depart-
5 ment of taxation and finance to resolve the past-due tax liabilities and
6 that no grant may be issued until the tax liabilities are resolved. Any
7 period of time that is determined according to the provisions of this
8 section or the tax law shall commence to run from the date of notifica-
9 tion to the applicant that the tax clearance was denied.

10 § 2. The tax law is amended by adding a new section 171-w to read as
11 follows:

12 § 171-w. Enforcement of delinquent tax liabilities through tax clear-
13 ances. (1) For the purposes of this section, the term "tax liabilities"
14 shall mean any tax, surcharge, or fee administered by the commissioner,
15 or any penalty or interest owed by an individual or entity. The term
16 "past-due tax liabilities" means any unpaid tax liabilities that have
17 become fixed and final such that the taxpayer no longer has any right to
18 administrative or judicial review. The term "government entity" means
19 the state of New York, or any of its agencies, political subdivisions,
20 instrumentalities, public corporations (including a public corporation
21 created pursuant to agreement or compact with another state or Canada),
22 or combination thereof.

23 (2) The commissioner, or his or her designee, shall cooperate with any
24 government entity that is required by law or has elected to require tax
25 clearances to establish procedures by which the department shall receive
26 a tax clearance request and transmit such tax clearance to the govern-
27 ment entity, and any other procedures deemed necessary to carry out the
28 provisions of this section. These procedures shall, to the extent prac-

1 licable, require secure electronic communication between the department
2 and the requesting government entity for the transmission of tax clear-
3 ance requests to the department and transmission of tax clearances to
4 the requesting entity. Notwithstanding any other law to the contrary, a
5 government entity shall be authorized to share any applicant data or
6 information with the department that is necessary to ensure the proper
7 matching of the applicant to the tax records maintained by the depart-
8 ment.

9 (3) Upon receipt of a tax clearance request, the department shall
10 examine its records to determine whether the subject of the tax clear-
11 ance request has past-due tax liabilities equal to or in excess of the
12 dollar threshold applicable for such tax clearance request or, where no
13 threshold has been established by law or otherwise, equal to or in
14 excess of five hundred dollars. When a tax clearance request so
15 requires, the department shall also determine whether (i) the subject of
16 such request has complied with applicable tax return filing requirements
17 for each of the past three years; and/or (ii) whether a subject of such
18 request that is an individual or entity that is a person required to
19 register pursuant to section one thousand one hundred thirty-four of
20 this chapter is registered pursuant to such section. The department
21 shall deny a tax clearance if it determines that the subject of a tax
22 clearance request has past-due tax liabilities equal to or in excess of
23 the applicable threshold or, when the tax clearance request so requires,
24 has not complied with applicable return filing and/or registration
25 requirements.

26 (4) If a tax clearance is denied, the government entity that requested
27 the clearance shall provide notice to the applicant to contact the
28 department. Such notice shall be made by first class mail with a Certif-

1 icate of Mailing and a copy of such notice also shall be provided to the
2 department. When the applicant contacts the department, the department
3 shall inform the applicant of the basis for the denial of the tax clear-
4 ance and shall also inform the applicant (i) that a tax clearance denied
5 due to past-due tax liabilities may be issued once the taxpayer fully
6 satisfies past-due tax liabilities or makes payment arrangements satis-
7 factory to the commissioner; (ii) that a tax clearance denied due to
8 failure to file tax returns may be issued once the applicant has satis-
9 fied the applicable return filing requirements; (iii) that a tax clear-
10 ance denied for failure to register pursuant to section one thousand one
11 hundred thirty-four of this chapter may be issued once the applicant has
12 registered pursuant to such section; and (iv) the grounds for challeng-
13 ing the denial of a tax clearance listed in subdivision five of this
14 section.

15 (5) (a) Notwithstanding any other provision of law, and except as
16 specifically provided herein, an applicant denied a tax clearance shall
17 have no right to commence a court action or proceeding or seek any other
18 legal recourse against the department or the government entity related
19 to the denial of a tax clearance by the department.

20 (b) An applicant seeking to challenge the denial of a tax clearance
21 must protest to the department or the division of tax appeals no later
22 than sixty days from the date of the notification to the applicant that
23 the tax clearance was denied. An applicant may challenge a department
24 finding of past-due tax liabilities only on the grounds that (i) the
25 individual or entity denied the tax clearance is not the individual or
26 entity with the past-due tax liabilities at issue; (ii) the past-due tax
27 liabilities were satisfied; (iii) the applicant's wages are being
28 garnished for the payment of child support or combined child and spousal

1 support pursuant to an income execution issued pursuant to section five
2 thousand two hundred forty-one or five thousand two hundred forty-two of
3 the civil practice law and rules or another state's income withholding
4 order as authorized under part five of article five-B of the family
5 court act, or garnished by the department for the payment of the past-
6 due tax liabilities at issue; or (iv) the applicant is making child
7 support payments or combined child and spousal support payments pursuant
8 to a satisfactory payment arrangement under section one hundred eleven-b
9 of the social services law with a support collection unit or otherwise
10 making periodic payments in accordance with section four hundred forty
11 of the family court act. An applicant may challenge a department finding
12 of failure to comply with tax return filing requirements only on the
13 grounds that all required tax returns have been filed for each of the
14 past three years.

15 (c) Nothing in this subdivision is intended to limit any applicant
16 from seeking relief from joint and several liability pursuant to section
17 six hundred fifty-four of this chapter, to the extent that he or she is
18 eligible pursuant to that section, or establishing to the department
19 that the enforcement of the underlying tax liabilities has been stayed
20 by the filing of a petition pursuant to the Bankruptcy Code of 1978
21 (Title Eleven of the United States Code).

22 (6) Notwithstanding any other provision of law, the department may
23 exchange with a government entity any data or information that, in the
24 discretion of the commissioner, is necessary for the implementation of a
25 tax clearance requirement. However, no government entity may re-disclose
26 this information to any other entity or person, other than for the
27 purpose of informing the applicant that a required tax clearance has
28 been denied, unless otherwise permitted by law.

1 (7) Except as otherwise provided in this section, the activities to
2 collect past-due tax liabilities undertaken by the department pursuant
3 to this section shall not in any way limit, restrict or impair the
4 department from exercising any other authority to collect or enforce tax
5 liabilities under any other applicable provision of law.

6 (8) Except as otherwise provided in this section, the provisions of
7 this section are not applicable to the tax clearance required by section
8 171-v of this article.

9 § 3. This act shall take effect immediately; provided, however, that
10 the department of taxation and finance and any state or local public
11 authority may work to execute the necessary procedures and technical
12 changes to support the tax clearance process as described in sections
13 one and two of this act before the effective date of this act.

14 PART HH

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

17 § 171-z. Reciprocal tax collection agreements with other claimant
18 states. (1) The commissioner shall have the authority to enter into
19 agreements with claimant states to collect and pay over to claimant
20 states, taxes owed to claimant states by New York taxpayers and to
21 certify and request that claimant states collect and pay over taxes owed
22 to New York by taxpayers residing in claimant states. For purposes of
23 this section, the term "claimant state" shall mean any other state in
24 the United States or the District of Columbia that allows the commis-
25 sioner, in cases where a taxpayer in another state owes taxes to New
26 York state, to certify and request that the other state collect and pay

1 such collected taxes to New York state; the term "taxes" shall mean any
2 amount of tax imposed under the laws of New York or a claimant state,
3 due and payable to New York or a claimant state, including additions to
4 tax for penalties and interest, that has become fixed and final such
5 that the taxpayer no longer has any right to administrative or judicial
6 review; the term "taxpayer" shall mean any individual, corporation,
7 partnership, limited liability partnership or company, partner, member,
8 manager, estate, trust, fiduciary or entity, who or which has been iden-
9 tified by New York or a claimant state under this section as owing taxes
10 to New York or a claimant state.

11 (2) The reciprocal tax collection agreements may include the following
12 provisions:

13 (a) Upon the request and certification of a claimant state to the
14 commissioner that a taxpayer owes taxes to such claimant state, the
15 commissioner may, pursuant to the authority under this section, collect
16 such taxes in the same manner that the commissioner can collect taxes
17 due and payable to New York state, and shall pay over such collected
18 amount to the claimant state in accordance with the provisions of this
19 section. The commissioner shall not collect such taxes unless the laws
20 of the claimant state (i) allow the commissioner, in cases where a
21 taxpayer owes taxes to New York state, to certify and request the claim-
22 ant state collect such taxes owed to New York state, and (ii) provide
23 for the payment of such collected amount to New York state.

24 (b) Such certification shall include (i) the full name and address of
25 the taxpayer; (ii) the taxpayer's social security number or federal
26 employer identification number; (iii) the amount of the tax for the
27 taxable period sought to be collected, including a detailed statement
28 for each taxable period showing tax, interest and penalty; (iv) a state-

1 ment whether the taxpayer filed a tax return with the claimant state for
2 such tax, and, if so, whether such tax return was filed under protest;
3 and (v) a statement that any administrative or judicial remedies, or
4 both, have been exhausted or have lapsed and the amount of tax is legal-
5 ly enforceable under the laws of the claimant state against the taxpay-
6 er.

7 (c) Upon receipt by the commissioner of the required certification,
8 the commissioner shall notify the taxpayer by first-class mail with
9 certificate of mailing to the taxpayer's last known address that the
10 commissioner has received a request from the claimant state to collect
11 taxes from the taxpayer, that the taxpayer has the right to protest the
12 collection of such taxes, that failure to file a protest in accordance
13 with paragraph (d) of this subdivision shall constitute a waiver of any
14 claim against New York state regarding the collection of such taxes and
15 that the amount, upon collection, will be paid over to the claimant
16 state. Sixty days after the date on which it is mailed, a notice under
17 this subdivision shall be final except only for such amounts as to which
18 the taxpayer has filed, as provided in paragraph (d) of this subdivi-
19 sion, a written protest with the commissioner.

20 (d) Any taxpayer notified in accordance with paragraph (c) of this
21 subdivision may, on or before the sixtieth day after the mailing of such
22 notice by the commissioner, protest the collection of all or a portion
23 of such taxes by filing with the claimant state and providing a copy to
24 the commissioner a written protest in which the taxpayer shall set forth
25 the grounds on which the protest is based. If a timely protest is filed,
26 the commissioner shall refrain from collecting such taxes and shall send
27 a copy of the protest to the claimant state for a determination of the
28 protest on its merits in accordance with the laws of the claimant state.

1 (e) The commissioner may enter into agreements with claimant states
2 that (i) relate to procedures and methods to be employed by a claimant
3 state with respect to the operation of this section; (ii) safeguard
4 against the disclosure or inappropriate use of any information that
5 identifies, directly or indirectly, a particular taxpayer obtained or
6 maintained pursuant to this section; (iii) establish a minimum threshold
7 for the amount of taxes owed by a taxpayer to a claimant state that
8 would trigger the operation of this section; (iv) provide that each
9 claimant state shall bear the costs that are incurred by it under such
10 reciprocal agreements; (v) set the commencement and termination date of
11 such reciprocal agreements; and (vi) provide that each claimant state
12 shall agree that, upon payment to a claimant state of an amount
13 collected under this section, the commissioner and the state of New York
14 shall be discharged of any obligation or liability to a taxpayer and a
15 claimant state with respect to the amounts collected from the taxpayer
16 and paid to the claimant state pursuant to this section. Any action for
17 refund of those amounts shall lie solely against the claimant state.

18 (3) For purposes of making payment of any taxes that are collected by
19 the commissioner on behalf of any claimant state under reciprocal agree-
20 ments, the office of the state comptroller, upon request by the commis-
21 sioner, is authorized to pay the amount collected from the reciprocal
22 tax collection revenue fund established pursuant to section
23 ninety-nine-w of the state finance law to which such taxes are credited.

24 (4) Notwithstanding other provisions of this chapter, the commissioner
25 is authorized to release to the claimant state any specific taxpayer
26 information necessary for purposes of implementing and administering an
27 agreement entered into between the claimant state and New York state
28 under this section.

1 § 2. The state finance law is amended by adding a new section 99-w to
2 read as follows:

3 § 99-w. Reciprocal tax collection revenue fund. 1. There is hereby
4 established in the joint custody of the state comptroller and the
5 commissioner of taxation and finance a special revenue fund known as the
6 "reciprocal tax collection revenue fund".

7 2. All monies received by the reciprocal tax collection revenue fund
8 pursuant to reciprocal tax collection agreements with other states
9 entered into pursuant to section one hundred seventy-one-z of the tax
10 law shall be deposited to the exclusive credit of such fund. Said monies
11 shall be kept separate and shall not be commingled with any other monies
12 in the custody of the comptroller or the commissioner of taxation and
13 finance.

14 3. The monies in said revenue fund shall be retained until the commis-
15 sioner of taxation and finance requests the state comptroller make a
16 payment of taxes collected by the commissioner of taxation and finance
17 on behalf of a claimant state under a reciprocal tax collection agree-
18 ment entered into pursuant to section one hundred seventy-one-z of the
19 tax law. The state comptroller shall be authorized to pay a claimant
20 state the amount collected from the reciprocal tax collection revenue
21 fund.

22 § 3. This act shall take effect immediately.

23 PART II

24 Section 1. The tax law is amended by adding a new section 178 to read
25 as follows:

1 § 178. Multi-agency information-sharing database. 1. The purpose of
2 this section is to provide a mechanism for information sharing between
3 the state agencies responsible for regulating various enforcement initi-
4 atives and to promote improved communication and cooperation between
5 agencies with respect to the enforcement of statutes, rules and regu-
6 lations. Under this section, these agencies shall share investigation
7 and enforcement data and create and maintain a cooperative information-
8 sharing database to ensure effective oversight and regulation of indi-
9 viduals and entities subject to regulatory jurisdiction, maximize agency
10 effectiveness and avoid unnecessary duplication of effort in general.
11 Use of the cooperative information-sharing database shall ensure effi-
12 cient use of the state's enforcement resources and effective strategic
13 planning of regulatory and enforcement efforts among member agencies.
14 The interagency group shall enter into a memorandum of agreement to
15 implement this section and shall include, among other things, provisions
16 on the assembly and dissemination of the agency data and the protection
17 of the confidentiality of the agency data shared.

18 2. Definitions. (a) "Agency data" means information originally
19 received, created, or held by a member agency regarding agency investi-
20 gation and audits, and agency enforcement actions, but does not include
21 any information received from federal agencies that is protected from
22 further disclosure by statute.

23 (b) "Cooperative information sharing database" means a shared system
24 developed, or data standards developed by the member agencies to make
25 data from each member agency accessible to all member agencies.

26 (c) "Interagency group" means the department of state, the workers'
27 compensation board, the department of labor and the department of taxa-
28 tion and finance.

1 (d) "Member agency" or "member agencies" means any executive agency of
2 the state, including the department of state, the workers' compensation
3 board, the department of labor and the department of taxation and
4 finance.

5 (e) "Shared data" means agency data submitted and held within the
6 confidential cooperative information-sharing database. A member agency
7 shall be allowed to submit agency data to the cooperative information
8 sharing database even though another law of this state may otherwise
9 specifically prohibit the sharing or disclosure of such agency data.
10 However, the department of taxation and finance shall be allowed to
11 share only taxpayer identification data and information concerning a
12 named group of not less than ten taxpayers that relate to income ranges,
13 size and type of business, and filing characteristics for the group of
14 taxpayers, provided that the information is arranged in such a manner
15 that the particulars for a specific taxpayer cannot be determined.

16 3. The member agencies shall cooperate with one another to share rele-
17 vant agency data for the purpose of conducting audits, examinations,
18 investigations, administrative enforcement proceedings, and/or civil
19 agency enforcement actions. A member agency, except as otherwise
20 provided in this chapter, shall preserve any privilege or confidentiali-
21 ty regarding agency data or shared data it receives from another member
22 agency pursuant to this chapter.

23 4. The interagency group shall develop and use the information-sharing
24 database and shall make the agency data from each member agency accessi-
25 ble to all member agencies. Use of the cooperative information-sharing
26 database shall ensure efficient use of the state's enforcement resources
27 and effective strategic planning of regulatory and enforcement efforts
28 among member agencies. The interagency group shall enter into a memoran-

1 dum of agreement to implement this section and such agreement shall
2 include, among other things, provisions on the assembly and dissem-
3 ination of the agency data and the protection of the confidentiality of
4 the agency data and the shared data.

5 5. Notwithstanding any provision of article six of the public officers
6 law, agency data, shared data and the information-sharing database and
7 its contents shall be confidential and shall not be publicly disclosed.

8 § 2. This act shall take effect immediately.

9 PART JJ

10 Section 1. The general obligations law is amended by adding a new
11 section 3-505 to read as follows:

12 § 3-505. Enforcement of delinquent tax liabilities through electronic
13 tax clearances for occupational, professional and business licenses.

14 1. As used in this section:

15 a. "Government entity" means the state of New York, or any of its
16 agencies, political subdivisions, instrumentalities, public corporations
17 (including a public corporation created pursuant to agreement or compact
18 with another state or Canada), or combination thereof, responsible for
19 determining whether a license shall be issued or renewed.

20 b. "Electronic license application" means any electronic data form
21 that must be completed by an applicant to obtain or renew a license, or
22 an electronic data process which is used by a government entity to proc-
23 ess information received from an applicant seeking to receive or renew a
24 license.

25 c. "Electronic tax clearance" means an electronic communication from
26 the department of taxation and finance indicating that an applicant

1 submitting an electronic license application had no past-due tax liabil-
2 ities, as that term is defined in subdivision one of section one hundred
3 seventy-one-w of the tax law, or that no conclusive match could be made.

4 d. "License" means any certificate, license, permit or grant of
5 permission required by law or agency regulation as a condition for the
6 lawful practice of any occupation, employment, trade, vocation, busi-
7 ness, or profession, including any registration required by law or agen-
8 cy regulation as a condition for such lawful practice. This shall
9 include, but is not limited to, any license or renewal granted to an
10 individual or entity by (i) the state education department as prescribed
11 under Title VII of the New York state education law, (ii) the department
12 of state, or (iii) the office of court administration. Provided, howev-
13 er, that "license" shall not, for the purposes of this section, include
14 any license or permit to own, possess, carry, or fire any explosive,
15 pistol, handgun, rifle, shotgun, other firearm or ammunition.

16 2. Notwithstanding any other provision of law, and when not already
17 required by another provision of law or regulation, any government enti-
18 ty shall elect to condition the issuance or renewal of a license on the
19 absence of past-due tax liabilities and to make such determination
20 through the receipt of an electronic tax clearance from the department
21 of taxation and finance as provided for in section one hundred seventy-
22 one-w of the tax law. Such a clearance shall be deemed a necessary and
23 lawful requirement for the receipt of the license or its renewal and
24 shall be read into any such licensing statute as an additional prerequi-
25 site along with other statutory or regulatory conditions for receiving
26 or renewing such a license.

27 3. Any applicant for a license subject to electronic tax clearance
28 shall be required to provide any information deemed necessary by the

1 government entity and the department of taxation and finance to effi-
2 ciently and accurately provide an electronic tax clearance, including
3 but not limited to, the applicant's social security number or employee
4 identification number or, if an entity, a list of responsible officers
5 and their social security numbers, and the failure by the applicant to
6 provide such information shall render the application incomplete.
7 Notwithstanding any law or regulation to the contrary, the exchange of
8 information between the department and the governmental entity, or their
9 agents, necessary for this tax clearance to be conducted shall consti-
10 tute an authorized exchange of information and shall not constitute an
11 unauthorized disclosure or a violation of any secrecy, confidentiality
12 or similar provision in law or regulation.

13 4. The electronic license application, or the instructions for such
14 application, shall clearly inform the applicant that an electronic tax
15 clearance will be performed and that, if the tax clearance is denied,
16 the applicant must contact the department of taxation and finance to
17 resolve any past-due tax liabilities before the application for a
18 license or renewal may be resubmitted.

19 5. If an electronic tax clearance is denied by the department of taxa-
20 tion and finance, the government entity shall deny issuance or renewal
21 of the requested license and shall notify the applicant to contact the
22 department of taxation and finance within sixty days of the issuance of
23 this notice to resolve the past-due tax liabilities and that no license
24 may be issued or renewed until the tax liabilities are resolved. Notice
25 shall be provided by first class mail with Certificate of Mailing to the
26 applicant's address provided with the application. Government entity
27 records of such a mailing shall constitute appropriate and sufficient

1 proof of delivery thereof and be admissible in any action or proceeding;
2 including but not limited, to the timeliness of an applicant's protest.

3 6. Any tax clearance or related communications shall be by secure
4 electronic communication between the department of taxation and finance
5 and the requesting government entity such that processing of the elec-
6 tronic application is not delayed if the electronic tax clearance is
7 received.

8 7. No fee shall be charged to the applicant for the purposes of
9 receiving an electronic tax clearance.

10 § 2. The tax law is amended by adding a new section 171-w to read as
11 follows:

12 § 171-w. Enforcement of delinquent tax liabilities through tax clear-
13 ances. (1) For the purposes of this section, the term "tax liabilities"
14 shall mean any tax, surcharge, or fee administered by the commissioner,
15 or any penalty or interest owed by an individual or entity. The term
16 "past-due tax liabilities" means any unpaid tax liabilities that have
17 become fixed and final such that the taxpayer no longer has any right to
18 administrative or judicial review. The term "government entity" means
19 the state of New York, or any of its agencies, political subdivisions,
20 instrumentalities, public corporations (including a public corporation
21 created pursuant to agreement or compact with another state or Canada),
22 or combination thereof.

23 (2) The commissioner, or his or her designee, shall cooperate with any
24 government entity that is required by law or has elected to require tax
25 clearances to establish procedures by which the department shall receive
26 a tax clearance request and transmit such tax clearance to the govern-
27 ment entity, and any other procedures deemed necessary to carry out the
28 provisions of this section. These procedures shall, to the extent prac-

1 licable, require secure electronic communication between the department
2 and the requesting government entity for the transmission of tax clear-
3 ance requests to the department and transmission of tax clearances to
4 the requesting entity. Notwithstanding any other law to the contrary, a
5 government entity shall be authorized to share any applicant data or
6 information with the department that is necessary to ensure the proper
7 matching of the applicant to the tax records maintained by the depart-
8 ment.

9 (3) Upon receipt of a tax clearance request, the department shall
10 examine its records to determine whether the subject of the tax clear-
11 ance request has past-due tax liabilities equal to or in excess of the
12 dollar threshold applicable for such tax clearance request or, where no
13 threshold has been established by law or otherwise, equal to or in
14 excess of five hundred dollars. When a tax clearance request so
15 requires, the department shall also determine whether (i) the subject of
16 such request has complied with applicable tax return filing requirements
17 for each of the past three years; and/or (ii) whether a subject of such
18 request that is an individual or entity that is a person required to
19 register pursuant to section one thousand one hundred thirty-four of
20 this chapter is registered pursuant to such section. The department
21 shall deny a tax clearance if it determines that the subject of a tax
22 clearance request has past-due tax liabilities equal to or in excess of
23 the applicable threshold or, when the tax clearance request so requires,
24 has not complied with applicable return filing and/or registration
25 requirements.

26 (4) If a tax clearance is denied, the government entity that requested
27 the clearance shall provide notice to the applicant to contact the
28 department. Such notice shall be made by first class mail with a Certif-

1 icate of Mailing and a copy of such notice also shall be provided to the
2 department. When the applicant contacts the department, the department
3 shall inform the applicant of the basis for the denial of the tax clear-
4 ance and shall also inform the applicant: (i) that a tax clearance
5 denied due to past-due tax liabilities may be issued once the taxpayer
6 fully satisfies past-due tax liabilities or makes payment arrangements
7 satisfactory to the commissioner; (ii) that a tax clearance denied due
8 to failure to file tax returns may be issued once the applicant has
9 satisfied the applicable return filing requirements; (iii) that a tax
10 clearance denied for failure to register pursuant to section one thou-
11 sand one hundred thirty-four of this chapter may be issued once the
12 applicant has registered pursuant to such section; and (iv) the grounds
13 for challenging the denial of a tax clearance listed in subdivision five
14 of this section.

15 (5) (a) Notwithstanding any other provision of law, and except as
16 specifically provided herein, an applicant denied a tax clearance shall
17 have no right to commence a court action or proceeding or seek any other
18 legal recourse against the department or the government entity related
19 to the denial of a tax clearance by the department.

20 (b) An applicant seeking to challenge the denial of a tax clearance
21 must protest to the department or the division of tax appeals no later
22 than sixty days from the date of the notification to the applicant that
23 the tax clearance was denied. An applicant may challenge a department
24 finding of past-due tax liabilities only on the grounds that: (i) the
25 individual or entity denied the tax clearance is not the individual or
26 entity with the past-due tax liabilities at issue; (ii) the past-due tax
27 liabilities were satisfied; (iii) the applicant's wages are being
28 garnished for the payment of child support or combined child and spousal

1 support pursuant to an income execution issued pursuant to section five
2 thousand two hundred forty-one or five thousand two hundred forty-two of
3 the civil practice law and rules or another state's income withholding
4 order as authorized under part five of article five-B of the family
5 court act, or garnished by the department for the payment of the past-
6 due tax liabilities at issue; or (iv) the applicant is making child
7 support payments or combined child and spousal support payments pursuant
8 to a satisfactory payment arrangement under section one hundred eleven-b
9 of the social services law with a support collection unit or otherwise
10 making periodic payments in accordance with section four hundred forty
11 of the family court act. An applicant may challenge a department finding
12 of failure to comply with tax return filing requirements only on the
13 grounds that all required tax returns have been filed for each of the
14 past three years.

15 (c) Nothing in this subdivision is intended to limit any applicant
16 from seeking relief from joint and several liability pursuant to section
17 six hundred fifty-four of this chapter, to the extent that he or she is
18 eligible pursuant to that section, or establishing to the department
19 that the enforcement of the underlying tax liabilities has been stayed
20 by the filing of a petition pursuant to the Bankruptcy Code of 1978
21 (Title Eleven of the United States Code).

22 (6) Notwithstanding any other provision of law, the department may
23 exchange with a government entity any data or information that, in the
24 discretion of the commissioner, is necessary for the implementation of a
25 tax clearance requirement. However, no government entity may re-disclose
26 this information to any other entity or person, other than for the
27 purpose of informing the applicant that a required tax clearance has
28 been denied, unless otherwise permitted by law.

1 (7) Except as otherwise provided in this section, the activities to
2 collect past-due tax liabilities undertaken by the department pursuant
3 to this section shall not in any way limit, restrict or impair the
4 department from exercising any other authority to collect or enforce tax
5 liabilities under any other applicable provision of law.

6 (8) Except as otherwise provided in this section, the provisions of
7 this section are not applicable to the tax clearance required by section
8 one hundred seventy-one-v of this article.

9 § 3. This act shall take effect June 1, 2015; provided, however, that
10 the department of taxation and finance and any government entity elect-
11 ing to receive an electronic tax clearance from the department of taxa-
12 tion and finance may work to execute the necessary procedures and tech-
13 nical changes to support the electronic tax clearance process as
14 described in sections one and two of this act before such date;
15 provided, further, that this effective date will not impact the adminis-
16 tration of any electronic tax clearance program authorized by another
17 provision of law.

18 PART KK

19 Section 1. Subdivision 4 of section 50 of the civil service law is
20 amended by adding a new closing paragraph to read as follows:

21 The department shall require a tax clearance from the department of
22 taxation and finance, as provided for in section one hundred seventy-
23 one-w of the tax law, for each applicant and shall refuse to examine an
24 applicant, or after examination to certify an eligible for whom a tax
25 clearance is denied by the department of taxation and finance. A municipi-
26 pal commission, subject to the approval of the governing board or body

1 of the city or county as the case may be, or a regional commission or
2 personnel officer, pursuant to governmental agreement, may elect to
3 require tax clearances for applicants and to refuse to examine an appli-
4 cant, or after examination to certify an eligible for whom a tax clear-
5 ance is denied by the department of taxation and finance. Provided,
6 however, that the department and municipal commissions shall not require
7 a tax clearance for (1) any current employee; or (2) a person who is
8 considered an applicant by reason of (a) a transfer pursuant to section
9 seventy of this chapter; or (b) a person who is on a preferred list
10 subject to section eighty-one of this chapter; or (c) a person whose
11 name is on an eligible list as defined in section fifty-six of this
12 article and who has successfully completed a promotion exam subject to
13 section fifty-two of this article. Where a tax clearance is required,
14 the application for examination, or the instructions for such applica-
15 tion, shall clearly inform the applicant that a tax clearance will be
16 performed and that, if the tax clearance is denied, the applicant must
17 contact the department of taxation and finance to resolve any past-due
18 tax liabilities or return filing compliance before the application for
19 examination may be resubmitted. Any applicant subject to tax clearance
20 shall be required to provide any information deemed necessary by the
21 department and the department of taxation and finance to efficiently and
22 accurately provide a tax clearance, and the failure by the applicant to
23 provide such information shall disqualify the applicant.

24 § 2. The tax law is amended by adding a new section 171-w to read as
25 follows:

26 § 171-w. Enforcement of delinquent tax liabilities through tax clear-
27 ances.

1 (1) For the purposes of this section, the term "tax liabilities" shall
2 mean any tax, surcharge, or fee administered by the commissioner, or any
3 penalty or interest owed by an individual or entity. The term "past-due
4 tax liabilities" means any unpaid tax liabilities that have become fixed
5 and final such that the taxpayer no longer has any right to administra-
6 tive or judicial review. The term "government entity" means the state of
7 New York, or any of its agencies, political subdivisions, instrumentali-
8 ties, public corporations (including a public corporation created pursu-
9 ant to agreement or compact with another state or Canada), or combina-
10 tion thereof.

11 (2) The commissioner, or his or her designee, shall cooperate with any
12 government entity that is required by law or has elected to require tax
13 clearances to establish procedures by which the department shall receive
14 a tax clearance request and transmit such tax clearance to the govern-
15 ment entity, and any other procedures deemed necessary to carry out the
16 provisions of this section. These procedures shall, to the extent prac-
17 ticable, require secure electronic communication between the department
18 and the requesting government entity for the transmission of tax clear-
19 ance requests to the department and transmission of tax clearances to
20 the requesting entity. Notwithstanding any other law to the contrary, a
21 government entity shall be authorized to share any applicant data or
22 information with the department that is necessary to ensure the proper
23 matching of the applicant to the tax records maintained by the depart-
24 ment.

25 (3) Upon receipt of a tax clearance request, the department shall
26 examine its records to determine whether the subject of the tax clear-
27 ance request has past-due tax liabilities equal to or in excess of the
28 dollar threshold applicable for such tax clearance request or, where no

1 threshold has been established by law or otherwise, equal to or in
2 excess of five hundred dollars. When a tax clearance request so
3 requires, the department shall also determine whether (i) the subject of
4 such request has complied with applicable tax return filing requirements
5 for each of the past three years; and/or (ii) whether a subject of such
6 request that is an individual or entity that is a person required to
7 register pursuant to section one thousand one hundred thirty-four of
8 this chapter is registered pursuant to such section. The department
9 shall deny a tax clearance if it determines that the subject of a tax
10 clearance request has past-due tax liabilities equal to or in excess of
11 the applicable threshold or, when the tax clearance request so requires,
12 has not complied with applicable return filing and/or registration
13 requirements.

14 (4) If a tax clearance is denied, the government entity that requested
15 the clearance shall provide notice to the applicant to contact the
16 department. Such notice shall be made by first class mail with a certif-
17 icate of mailing and a copy of such notice also shall be provided to the
18 department. When the applicant contacts the department, the department
19 shall inform the applicant of the basis for the denial of the tax clear-
20 ance and shall also inform the applicant (i) that a tax clearance denied
21 due to past-due tax liabilities may be issued once the taxpayer fully
22 satisfies past-due tax liabilities or makes payment arrangements satis-
23 factory to the commissioner; (ii) that a tax clearance denied due to
24 failure to file tax returns may be issued once the applicant has satis-
25 fied the applicable return filing requirements; (iii) that a tax clear-
26 ance denied for failure to register pursuant to section one thousand one
27 hundred thirty-four of this chapter may be issued once the applicant has
28 registered pursuant to such section; and (iv) the grounds for challeng-

1 ing the denial of a tax clearance listed in subdivision five of this
2 section.

3 (5) (a) Notwithstanding any other provision of law, and except as
4 specifically provided herein, an applicant denied a tax clearance shall
5 have no right to commence a court action or proceeding or seek any other
6 legal recourse against the department or the government entity related
7 to the denial of a tax clearance by the department.

8 (b) An applicant seeking to challenge the denial of a tax clearance
9 must protest to the department or the division of tax appeals no later
10 than sixty days from the date of the notification to the applicant that
11 the tax clearance was denied. An applicant may challenge a department
12 finding of past-due tax liabilities only on the grounds that (i) the
13 individual or entity denied the tax clearance is not the individual or
14 entity with the past-due tax liabilities at issue; (ii) the past-due tax
15 liabilities were satisfied; (iii) the applicant's wages are being
16 garnished for the payment of child support or combined child and spousal
17 support pursuant to an income execution issued pursuant to section five
18 thousand two hundred forty-one or five thousand two hundred forty-two of
19 the civil practice law and rules or another state's income withholding
20 order as authorized under part five of article five-B of the family
21 court act, or garnished by the department for the payment of the past-
22 due tax liabilities at issue; or (iv) the applicant is making child
23 support payments or combined child and spousal support payments pursuant
24 to a satisfactory payment arrangement under section one hundred eleven-b
25 of the social services law with a support collection unit or otherwise
26 making periodic payments in accordance with section four hundred forty
27 of the family court act. An applicant may challenge a department finding
28 of failure to comply with tax return filing requirements only on the

1 grounds that all required tax returns have been filed for each of the
2 past three years.

3 (c) Nothing in this subdivision is intended to limit any applicant
4 from seeking relief from joint and several liability pursuant to section
5 six hundred fifty-four of this chapter, to the extent that he or she is
6 eligible pursuant to that section, or establishing to the department
7 that the enforcement of the underlying tax liabilities has been stayed
8 by the filing of a petition pursuant to the Bankruptcy Code of 1978
9 (Title Eleven of the United States Code).

10 (6) Notwithstanding any other provision of law, the department may
11 exchange with a government entity any data or information that, in the
12 discretion of the commissioner, is necessary for the implementation of a
13 tax clearance requirement. However, no government entity may re-disclose
14 this information to any other entity or person, other than for the
15 purpose of informing the applicant that a required tax clearance has
16 been denied, unless otherwise permitted by law.

17 (7) Except as otherwise provided in this section, the activities to
18 collect past-due tax liabilities undertaken by the department pursuant
19 to this section shall not in any way limit, restrict or impair the
20 department from exercising any other authority to collect or enforce tax
21 liabilities under any other applicable provision of law.

22 (8) Except as otherwise provided in this section, the provisions of
23 this section are not applicable to the tax clearance required by section
24 one hundred seventy-one-v of this article.

25 § 3. This act shall take effect June 1, 2015; provided, however, that
26 the department of taxation and finance, the department of civil service,
27 any municipal commission, and any other government entity electing to
28 receive a tax clearance from the department of taxation and finance may

1 work to execute the necessary procedures and technical changes to
2 support the tax clearance process as described in sections one and two
3 of this act before that date; provided, further, that this effective
4 date will not impact the administration of any tax clearance program
5 authorized by another provision of law.

6 PART LL

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

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

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

7 § 2. This act shall take effect immediately.

8 PART MM

9 Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivi-
10 sion b of section 1612 of the tax law, as amended by section 1 of part
11 BB of chapter 59 of the laws of 2014, is amended to read as follows:

12 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of
13 this subparagraph, the track operator of a vendor track shall be eligi-
14 ble for a vendor's capital award of up to four percent of the total
15 revenue wagered at the vendor track after payout for prizes pursuant to
16 this chapter, which shall be used exclusively for capital project
17 investments to improve the facilities of the vendor track which promote
18 or encourage increased attendance at the video lottery gaming facility
19 including, but not limited to hotels, other lodging facilities, enter-
20 tainment facilities, retail facilities, dining facilities, events
21 arenas, parking garages and other improvements that enhance facility
22 amenities; provided that such capital investments shall be approved by
23 the division, in consultation with the state racing and wagering board,
24 and that such vendor track demonstrates that such capital expenditures
25 will increase patronage at such vendor track's facilities and increase
26 the amount of revenue generated to support state education programs. The

1 annual amount of such vendor's capital awards that a vendor track shall
2 be eligible to receive shall be limited to two million five hundred
3 thousand dollars, except for Aqueduct racetrack, for which there shall
4 be no vendor's capital awards. Except for tracks having less than one
5 thousand one hundred video gaming machines, and except for a vendor
6 track located west of State Route 14 from Sodus Point to the Pennsylva-
7 nia border within New York, each track operator shall be required to
8 co-invest an amount of capital expenditure equal to its cumulative
9 vendor's capital award. For all tracks, except for Aqueduct racetrack,
10 the amount of any vendor's capital award that is not used during any one
11 year period may be carried over into subsequent years ending before
12 April first, two thousand [fifteen] sixteen. Any amount attributable to
13 a capital expenditure approved prior to April first, two thousand
14 [fifteen] sixteen and completed before April first, two thousand [seven-
15 teen] eighteen; or approved prior to April first, two thousand [nine-
16 teen] twenty and completed before April first, two thousand [twenty-one]
17 twenty-two for a vendor track located west of State Route 14 from Sodus
18 Point to the Pennsylvania border within New York, shall be eligible to
19 receive the vendor's capital award. In the event that a vendor track's
20 capital expenditures, approved by the division prior to April first, two
21 thousand [fifteen] sixteen and completed prior to April first, two thou-
22 sand [seventeen] eighteen, exceed the vendor track's cumulative capital
23 award during the five year period ending April first, two thousand
24 [fifteen] sixteen, the vendor shall continue to receive the capital
25 award after April first, two thousand [fifteen] sixteen until such
26 approved capital expenditures are paid to the vendor track subject to
27 any required co-investment. In no event shall any vendor track that
28 receives a vendor fee pursuant to clause (F) or (G) of this subparagraph

1 be eligible for a vendor's capital award under this section. Any opera-
2 tor of a vendor track which has received a vendor's capital award,
3 choosing to divest the capital improvement toward which the award was
4 applied, prior to the full depreciation of the capital improvement in
5 accordance with generally accepted accounting principles, shall reim-
6 burse the state in amounts equal to the total of any such awards. Any
7 capital award not approved for a capital expenditure at a video lottery
8 gaming facility by April first, two thousand [fifteen] sixteen shall be
9 deposited into the state lottery fund for education aid; and
10 § 2. This act shall take effect immediately.

11 PART NN

12 Section 1. Paragraph (a) of subdivision 1 of section 1003 of the
13 racing, pari-mutuel wagering and breeding law, as amended by section 1
14 of part AA of chapter 59 of the laws of 2014, is amended to read as
15 follows:

16 (a) Any racing association or corporation or regional off-track
17 betting corporation, authorized to conduct pari-mutuel wagering under
18 this chapter, desiring to display the simulcast of horse races on which
19 pari-mutuel betting shall be permitted in the manner and subject to the
20 conditions provided for in this article may apply to the commission for
21 a license so to do. Applications for licenses shall be in such form as
22 may be prescribed by the commission and shall contain such information
23 or other material or evidence as the commission may require. No license
24 shall be issued by the commission authorizing the simulcast transmission
25 of thoroughbred races from a track located in Suffolk county. The fee
26 for such licenses shall be five hundred dollars per simulcast facility

1 and for account wagering licensees that do not operate either a simul-
2 cast facility that is open to the public within the state of New York or
3 a licensed racetrack within the state, twenty thousand dollars per year
4 payable by the licensee to the commission for deposit into the general
5 fund. Except as provided in this section, the commission shall not
6 approve any application to conduct simulcasting into individual or group
7 residences, homes or other areas for the purposes of or in connection
8 with pari-mutuel wagering. The commission may approve simulcasting into
9 residences, homes or other areas to be conducted jointly by one or more
10 regional off-track betting corporations and one or more of the follow-
11 ing: a franchised corporation, thoroughbred racing corporation or a
12 harness racing corporation or association; provided (i) the simulcasting
13 consists only of those races on which pari-mutuel betting is authorized
14 by this chapter at one or more simulcast facilities for each of the
15 contracting off-track betting corporations which shall include wagers
16 made in accordance with section one thousand fifteen, one thousand
17 sixteen and one thousand seventeen of this article; provided further
18 that the contract provisions or other simulcast arrangements for such
19 simulcast facility shall be no less favorable than those in effect on
20 January first, two thousand five; (ii) that each off-track betting
21 corporation having within its geographic boundaries such residences,
22 homes or other areas technically capable of receiving the simulcast
23 signal shall be a contracting party; (iii) the distribution of revenues
24 shall be subject to contractual agreement of the parties except that
25 statutory payments to non-contracting parties, if any, may not be
26 reduced; provided, however, that nothing herein to the contrary shall
27 prevent a track from televising its races on an irregular basis primari-
28 ly for promotional or marketing purposes as found by the commission. For

1 purposes of this paragraph, the provisions of section one thousand thir-
2 teen of this article shall not apply. Any agreement authorizing an
3 in-home simulcasting experiment commencing prior to May fifteenth, nine-
4 teen hundred ninety-five, may, and all its terms, be extended until June
5 thirtieth, two thousand [fifteen] sixteen; provided, however, that any
6 party to such agreement may elect to terminate such agreement upon
7 conveying written notice to all other parties of such agreement at least
8 forty-five days prior to the effective date of the termination, via
9 registered mail. Any party to an agreement receiving such notice of an
10 intent to terminate, may request the commission to mediate between the
11 parties new terms and conditions in a replacement agreement between the
12 parties as will permit continuation of an in-home experiment until June
13 thirtieth, two thousand [fifteen] sixteen; and (iv) no in-home simul-
14 casting in the thoroughbred special betting district shall occur without
15 the approval of the regional thoroughbred track.

16 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section
17 1007 of the racing, pari-mutuel wagering and breeding law, as amended by
18 section 2 of part AA of chapter 59 of the laws of 2014, is amended to
19 read as follows:

20 (iii) Of the sums retained by a receiving track located in Westchester
21 county on races received from a franchised corporation, for the period
22 commencing January first, two thousand eight and continuing through June
23 thirtieth, two thousand [fifteen] sixteen, the amount used exclusively
24 for purses to be awarded at races conducted by such receiving track
25 shall be computed as follows: of the sums so retained, two and one-half
26 percent of the total pools. Such amount shall be increased or decreased
27 in the amount of fifty percent of the difference in total commissions
28 determined by comparing the total commissions available after July twen-

1 ty-first, nineteen hundred ninety-five to the total commissions that
2 would have been available to such track prior to July twenty-first,
3 nineteen hundred ninety-five.

4 § 3. The opening paragraph of subdivision 1 of section 1014 of the
5 racing, pari-mutuel wagering and breeding law, as amended by section 3
6 of part AA of chapter 59 of the laws of 2014, is amended to read as
7 follows:

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

26 § 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering
27 and breeding law, as amended by section 4 of part AA of chapter 59 of
28 the laws of 2014, is amended to read as follows:

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

6 § 5. The opening paragraph of subdivision 1 of section 1016 of the
7 racing, pari-mutuel wagering and breeding law, as amended by section 5
8 of part AA of chapter 59 of the laws of 2014, is amended to read as
9 follows:

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

1 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel
2 wagering and breeding law, as amended by section 6 of part AA of chapter
3 59 of the laws of 2014, is amended to read as follows:

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

19 § 7. Section 32 of chapter 281 of the laws of 1994, amending the
20 racing, pari-mutuel wagering and breeding law and other laws relating
21 to simulcasting, as amended by section 7 of part AA of chapter 59 of the
22 laws of 2014, is amended to read as follows:

23 § 32. This act shall take effect immediately and the pari-mutuel tax
24 reductions in section six of this act shall expire and be deemed
25 repealed on July 1, [2015] 2016; provided, however, that nothing
26 contained herein shall be deemed to affect the application, qualifica-
27 tion, expiration, or repeal of any provision of law amended by any
28 section of this act, and such provisions shall be applied or qualified

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

6 § 8. Section 54 of chapter 346 of the laws of 1990, amending the
7 racing, pari-mutuel wagering and breeding law and other laws relating to
8 simulcasting and the imposition of certain taxes, as amended by section
9 8 of part AA of chapter 59 of the laws of 2014, is amended to read as
10 follows:

11 § 54. This act shall take effect immediately; provided, however,
12 sections three through twelve of this act shall take effect on January
13 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-
14 ing law, as added by section thirty-eight of this act, shall expire and
15 be deemed repealed on July 1, [2015] 2016; and section eighteen of this
16 act shall take effect on July 1, 2008 and sections fifty-one and fifty-
17 two of this act shall take effect as of the same date as chapter 772 of
18 the laws of 1989 took effect.

19 § 9. Paragraph (a) of subdivision 1 of section 238 of the racing,
20 pari-mutuel wagering and breeding law, as amended by section 9 of part
21 AA of chapter 59 of the laws of 2014, is amended to read as follows:

22 (a) The franchised corporation authorized under this chapter to
23 conduct pari-mutuel betting at a race meeting or races run thereat shall
24 distribute all sums deposited in any pari-mutuel pool to the holders of
25 winning tickets therein, provided such tickets be presented for payment
26 before April first of the year following the year of their purchase,
27 less an amount which shall be established and retained by such fran-
28 chised corporation of between twelve to seventeen per centum of the

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

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

22 § 10. This act shall take effect immediately.

23 PART OO

24 Section 1. Section 1602 of the tax law is amended by adding a new
25 subdivision 6 to read as follows:

1 6. "Video lottery gaming" means any lottery game played on a video
2 lottery terminal that issues electronic tickets, allows multiple players
3 to participate in the same game and determines winners to a material
4 degree upon the element of chance, notwithstanding that the skill of a
5 player may influence such player's chance of winning a game. Video
6 lottery gaming may include elements of player interaction after a player
7 receives an initial chance.

8 § 2. Subdivision 28 of section 225.00 of the penal law, as added by
9 chapter 174 of the laws of 2013, is amended to read as follows:

10 28. "Video lottery gaming" [means any lottery game played on a video
11 lottery terminal, which consists of multiple players competing for a
12 chance to win a random drawn prize pursuant to section sixteen hundred
13 seventeen-a and paragraph five of subdivision a of section sixteen
14 hundred twelve of the tax law, as amended and implemented] has the mean-
15 ing set forth in subdivision six of section sixteen hundred two of the
16 tax law.

17 § 3. This act shall take effect on the thirtieth day after it shall
18 have become a law.

19 PART PP

20 Section 1. Paragraph d of subdivision 1 of section 207 of the racing,
21 pari-mutuel wagering and breeding law, as added by chapter 457 of the
22 laws of 2012, is amended to read as follows:

23 d. The board, which shall become effective upon appointment of a
24 majority of public members, shall terminate [three] four years from its
25 date of creation. The board shall propose, no less than one hundred
26 eighty days prior to its termination, recommendations to the governor

1 and the state legislature representing a statutory plan for the prospec-
2 tive not-for-profit governing structure of The New York Racing Associ-
3 ation, Inc.

4 § 2. This act shall take effect June 18, 2015.

5 PART QQ

6 Section 1. Chapter 6 of title 11 of the administrative code of the
7 city of New York is amended by adding a new subchapter 3-A to read as
8 follows:

9 SUBCHAPTER 3-A

10 CORPORATE TAX OF 2015

11 Section 11-651 Applicability.

12 11-652 Definitions.

13 11-653 Imposition of tax; exemptions.

14 11-654 Computation of tax.

15 11-654.1 Net operating loss.

16 11-654.2 Receipts apportionment.

17 11-654.3 Combined reports.

18 11-655 Reports.

19 11-656 Payment and lien of tax.

20 11-657 Declaration of estimated tax.

21 11-658 Payments on account of estimated tax.

22 11-659 Collection of taxes.

23 11-660 Limitations of time.

24 § 11-651 Applicability. 1. Notwithstanding anything to the contrary
25 in this chapter, this subchapter shall apply to corporations for tax
26 years commencing on or after January first, two thousand fifteen, except

1 that it shall not apply to any corporation that (a) has an election in
2 effect under subsection (a) of section thirteen hundred sixty-two of the
3 internal revenue code of 1986, as amended, or (b) is a qualified
4 subchapter S subsidiary within the meaning of paragraph three of
5 subsection (b) of section thirteen hundred sixty-one of the internal
6 revenue code of 1986, as amended, in any tax year after such date.
7 Subchapters two and three of this chapter shall not apply to corpo-
8 rations to which this subchapter applies for tax years commencing on or
9 after January first, two thousand fifteen, except to the extent provided
10 in this subchapter and to the extent that the effect of the application
11 of subchapters two and three to tax years commencing prior to January
12 first, two thousand fifteen carries over to tax years commencing on or
13 after January first, two thousand fifteen.

14 2. Each reference in this code to subchapters two or three of this
15 chapter, or any of the provisions thereof, shall be deemed a reference
16 also to this subchapter, and any of the applicable provisions thereof,
17 where appropriate and with all necessary modifications.

18 § 11-652 Definitions. 1. (a) The term "corporation" includes (1) an
19 association within the meaning of paragraph three of subsection (a) of
20 section seventy-seven hundred one of the internal revenue code (includ-
21 ing, when applicable, a limited liability company), (2) a joint-stock
22 company or association, (3) a publicly traded partnership treated as a
23 corporation for purposes of the internal revenue code pursuant to
24 section seventy-seven hundred four thereof and (4) any business
25 conducted by a trustee or trustees wherein interest or ownership is
26 evidenced by certificate or other written instrument;

27 (b) (1) Notwithstanding paragraph (a) of this subdivision, an unincor-
28 porated organization that (i) is described in subparagraph one or three

1 of such paragraph (a) of this subdivision, (ii) was subject to the
2 provisions of chapter five of this title for its taxable year beginning
3 in nineteen hundred ninety-five, and (iii) made a one-time election not
4 to be treated as a corporation and, instead, to continue to be subject
5 to the provisions of chapter five of this title for its taxable years
6 beginning in nineteen hundred ninety-six and thereafter, shall continue
7 to be subject to the provisions of chapter five of this title for its
8 taxable years beginning in nineteen hundred ninety-six.

9 (2) An election under this paragraph shall continue to be in effect
10 until revoked by the unincorporated organization. An election under this
11 paragraph shall be revoked by the filing of a return under this subchap-
12 ter for the first taxable year with respect to which such revocation is
13 to be effective. Such return shall be filed on or before the due date
14 (determined with regard to extensions) for filing such return. In no
15 event shall such election or revocation be for a part of a taxable year.

16 (c) Notwithstanding paragraph (a) of this subdivision, a corporation
17 shall not include an entity classified as a partnership for federal
18 income tax purposes.

19 2. The term "subsidiary" means a corporation of which over fifty per
20 centum of the number of shares of stock entitling the holders thereof to
21 vote for the election of directors or trustees is owned by the taxpayer.

22 2-a. The term "taxpayer" means any corporation subject to tax under
23 this subchapter.

24 3. Intentionally omitted.

25 3-a. The term "stock" means an interest in a corporation that is
26 treated as equity for federal income tax purposes.

27 4. (a) The term "investment capital" means investments in stocks that
28 are held by the taxpayer for more than six consecutive months but are

1 not and have never been used by the taxpayer in the regular course of
2 business, or, if the taxpayer makes the election provided for in subpar-
3 agraph one of paragraph (a) of subdivision five of section 11-654.2 of
4 this subchapter, are not qualified financial instruments as described in
5 subdivision five of section 11-654.2 of this subchapter. Stock in a
6 corporation that is conducting a unitary business with the taxpayer,
7 stock in a corporation that is included in a combined report with the
8 taxpayer pursuant to the commonly owned group election in subdivision
9 three of section 11-654.3 of this subchapter, and stock issued by the
10 taxpayer shall not constitute investment capital. For purposes of this
11 subdivision, if the taxpayer owns or controls, directly or indirectly,
12 less than twenty percent of the voting power of the stock of a corpo-
13 ration, that corporation will be presumed to be conducting a business
14 that is not unitary with the business of the taxpayer.

15 (b) There shall be deducted from investment capital any liabilities
16 which are directly or indirectly attributable to investment capital. If
17 the amount of those liabilities exceeds the amount of investment capi-
18 tal, the amount of investment capital will be zero.

19 (c) Investment capital shall not include any such investments the
20 income from which is excluded from entire net income pursuant to the
21 provisions of paragraph (c-1) of subdivision eight of this section, and
22 that investment capital shall be computed without regard to liabilities
23 directly or indirectly attributable to such investments, but only if air
24 carriers organized in the United States and operating in the foreign
25 country or countries in which the taxpayer has its major base of oper-
26 ations and in which it is organized, resident or headquartered (if not
27 in the same country as its major base of operations) are not subject to
28 any tax based on or measured by capital imposed by such foreign country

1 or countries or any political subdivision thereof, or if taxed, are
2 provided an exemption, equivalent to that provided for herein, from any
3 tax based on or measured by capital imposed by such foreign country or
4 countries and from any such tax imposed by any political subdivision
5 thereof.

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

24 (e) When income or gain from a debt obligation or other security
25 cannot be allocated to the city using the business allocation percentage
26 as a result of the United States constitutional principles, the debt
27 obligation or other security will be included in investment capital.

1 5. (a) The term "investment income" means income, including capital
2 gains in excess of capital losses, from investment capital, to the
3 extent included in computing entire net income, less, in the discretion
4 of the commissioner of finance, any interest deductions allowable in
5 computing entire net income which are directly or indirectly attribut-
6 able to investment capital or investment income, provided, however, that
7 in no case shall investment income exceed entire net income. If the
8 amount of interest deductions subtracted under the preceding sentence
9 exceeds investment income, the excess of such amount over investment
10 income must be added back to entire net income.

11 (b) In lieu of subtracting from investment income the amount of those
12 interest deductions, the taxpayer may elect to reduce its total invest-
13 ment income by forty percent. If the taxpayer makes this election, the
14 taxpayer must also make the elections provided for in paragraphs (b) and
15 (c) of subdivision five-a of this section. A taxpayer which does not
16 make this election because it has no investment capital will not be
17 precluded from making those other elections.

18 (c) Investment income shall not include any amount treated as divi-
19 dends pursuant to section seventy-eight of the internal revenue code.

20 5-a. (a) The term "other exempt income" means the sum of exempt CFC
21 income and exempt unitary corporation dividends.

22 (b) "Exempt CFC income" means the income required to be included in
23 the taxpayer's federal gross income pursuant to subsection (a) of
24 section nine hundred fifty-one of the internal revenue code, received
25 from a corporation that is conducting a unitary business with the
26 taxpayer but is not included in a combined report with the taxpayer,
27 less, in the discretion of the commissioner of finance, any interest
28 deductions directly or indirectly attributable to that income. In lieu

1 of subtracting from its exempt CFC income the amount of those interest
2 deductions, the taxpayer may elect to reduce its total exempt CFC income
3 by forty percent. If the taxpayer makes this election, the taxpayer must
4 also make the elections provided for in paragraph (b) of subdivision
5 five of this section and paragraph (c) of this subdivision. A taxpayer
6 which does not make this election because it has no exempt CFC income
7 will not be precluded from making those other elections.

8 (c) "Exempt unitary corporate dividends" means those dividends from a
9 corporation that is conducting a unitary business with the taxpayer but
10 is not included in a combined report with the taxpayer, less, in the
11 discretion of the commissioner of finance, any interest deductions
12 directly or indirectly attributable to such income. Other than dividend
13 income received from corporations that are taxable under chapter eleven
14 of this title (except for vendors of utility services that are also
15 taxable under this subchapter) or would be taxable under chapter eleven
16 of this title (except for vendors of utility services that are also
17 taxable under this subchapter) if subject to tax, in lieu of subtracting
18 from this dividend income those interest deductions, the taxpayer may
19 elect to reduce the total amount of this dividend income by forty
20 percent. If the taxpayer makes this election, the taxpayer must also
21 make the elections provided for in paragraph (b) of subdivision five of
22 this section and paragraph (b) of this subdivision. A taxpayer that does
23 not make this election because it has not received any exempt unitary
24 corporation dividends or is precluded from making this election for
25 dividends received from corporations that are taxable under chapter
26 eleven of this title (except for vendors of utility services that are
27 also taxable under this subchapter) or would be taxable under chapter
28 eleven of this title if subject to tax (except for vendors of utility

1 services that are also taxable under this subchapter) will not be
2 precluded from making those other elections.

3 (d) If the taxpayer attributes interest deductions to other exempt
4 income and the amount deducted exceeds other exempt income, the excess
5 of the interest deductions over other exempt income must be added back
6 to entire net income. In no case shall other exempt income exceed entire
7 net income.

8 (e) Other exempt income shall not include any amount treated as divi-
9 dends pursuant to section seventy-eight of the internal revenue code.

10 6. (a) The term "business capital" means all assets, other than
11 investment capital and stock issued by the taxpayer, less liabilities
12 not deducted from investment capital; provided, however, business capi-
13 tal shall include only those assets the income, loss or expense of which
14 are properly reflected (or would have been properly reflected if not
15 fully depreciated or expensed or depreciated or expensed to a nominal
16 amount) in the computation of entire net income for the taxable year.

17 (b) Provided, further, "business capital" shall not include assets to
18 the extent employed for the purpose of generating income which is
19 excluded from entire net income pursuant to the provisions of paragraph
20 (c-1) of subdivision eight of this section and shall be computed without
21 regard to liabilities directly or indirectly attributable to such
22 assets, but only if air carriers organized in the United States and
23 operating in the foreign country or countries in which the taxpayer has
24 its major base of operations and in which it is organized, resident or
25 headquartered (if not in the same country as its major base of oper-
26 ations) are not subject to any tax based on or measured by capital
27 imposed by such foreign country or countries or any political subdivi-
28 sion thereof, or if taxed, are provided an exemption, equivalent to that

1 provided for herein, from any tax based on or measured by capital
2 imposed by such foreign country or countries and from any such tax
3 imposed by any political subdivision thereof.

4 7. The term "business income" means entire net income minus investment
5 income and other exempt income. In no event shall the sum of investment
6 income and other exempt income exceed entire net income. If the taxpayer
7 makes the election provided for in subparagraph one of paragraph (a) of
8 subdivision five of section 11-654.2 of this subchapter, then all income
9 from qualified financial instruments shall constitute business income.

10 8. The term "entire net income" means total net income from all sourc-
11 es, which shall be presumably the same as the entire taxable income (but
12 not alternative minimum taxable income), which except as hereafter
13 provided in this subdivision.

14 1. the taxpayer is required to report to the United States treasury
15 department, or

16 2. the taxpayer, in the case of a corporation that is exempt from
17 federal income tax (other than the tax on unrelated business taxable
18 income imposed under section five hundred eleven of the internal revenue
19 code) but which is subject to tax under this subchapter, would have been
20 required to report to the United States treasury department but for such
21 exemption, or

22 3. in the case of an alien corporation that under any provision of the
23 internal revenue code is not treated as a "domestic corporation" as
24 defined in section seven thousand seven hundred one of such code, is
25 effectively connected with the conduct of a trade or business within the
26 United States as determined under section eight hundred eighty-two of
27 the internal revenue code.

28 (a) Entire net income shall not include:

1 (1) Intentionally omitted;

2 (2) Intentionally omitted;

3 (2-a) any amounts treated as dividends pursuant to section seventy-
4 eight of the internal revenue code and not otherwise deductible under
5 subparagraphs one and two of this paragraph;

6 (3) bona fide gifts;

7 (4) income and deductions with respect to amounts received from school
8 districts and from corporations and associations, organized and operated
9 exclusively for religious, charitable or educational purposes, no part
10 of the net earnings of which inures to the benefit of any private share-
11 holder or individual, for the operation of school buses;

12 (5) any refund or credit of a tax imposed under this chapter, or
13 imposed by article nine, nine-A, twenty-three, or former article thir-
14 ty-two of the tax law, for which tax no exclusion or deduction was
15 allowed in determining the taxpayer's entire net income under this
16 subchapter, subchapter two, or subchapter three of this chapter for any
17 prior year;

18 (6) Intentionally omitted;

19 (7) that portion of wages and salaries paid or incurred for the taxa-
20 ble year for which a deduction is not allowed pursuant to the provisions
21 of section two hundred eighty-C of the internal revenue code;

22 (8) except with respect to property which is a qualified mass commut-
23 ing vehicle described in subparagraph (D) of paragraph eight of
24 subsection (f) of section one hundred sixty-eight of the internal reven-
25 ue code (relating to qualified mass commuting vehicles) and property of
26 a taxpayer principally engaged in the conduct of an aviation, steamboat,
27 ferry or navigation business, or two or more of such businesses, which
28 is placed in service before taxable years beginning in nineteen hundred

1 eighty-nine, any amount which is included in the taxpayer's federal
2 taxable income solely as a result of an election made pursuant to the
3 provisions of such paragraph eight as it was in effect for agreements
4 entered into prior to January first, nineteen hundred eighty-four;

5 (9) except with respect to property which is a qualified mass commut-
6 ing vehicle described in subparagraph (D) of paragraph eight of
7 subsection (f) of section one hundred sixty-eight of the internal reven-
8 ue code (relating to qualified mass commuting vehicles) and property of
9 a taxpayer principally engaged in the conduct of an aviation, steamboat,
10 ferry or navigation business, or two or more of such businesses, which
11 is placed in service before taxable years beginning in nineteen hundred
12 eighty-nine, any amount which the taxpayer could have excluded from
13 federal taxable income had it not made the election provided for in such
14 paragraph eight as it was in effect for agreements entered into prior to
15 January first, nineteen hundred eighty-four;

16 (10) the amount deductible pursuant to paragraph (j) of this subdivi-
17 sion;

18 (11) upon the disposition of property to which paragraph (j) of this
19 subdivision applies, the amount, if any, by which the aggregate of the
20 amounts described in subparagraph eleven of paragraph (b) of this subdivi-
21 vision attributable to such property exceeds the aggregate of the
22 amounts described in paragraph (j) of this subdivision attributable to
23 such property;

24 (12) the amount deductible pursuant to paragraph (k) of this subdivi-
25 sion;

26 (13) the amount deductible pursuant to paragraph (o) of this subdivi-
27 sion; and

1 (14) the amount computed pursuant to paragraph (q), (r) or (s) of this
2 subdivision, but only the amount determined pursuant to one of such
3 paragraphs.

4 (a-1) Notwithstanding any other provision of this subchapter, in the
5 case of a taxpayer that is a partner in a partnership subject to the tax
6 imposed by chapter eleven of this title as a utility, as defined in
7 subdivision six of section 11-1101 of such chapter, entire net income
8 shall not include the taxpayer's distributive or pro rata share for
9 federal income tax purposes of any item of income, gain, loss or
10 deduction of such partnership, or any item of income, gain, loss or
11 deduction of such partnership that the taxpayer is required to take into
12 account separately for federal income tax purposes.

13 (b) Entire net income shall be determined without the exclusion,
14 deduction or credit of:

15 (1) in the case of an alien corporation that under any provision of
16 the internal revenue code is not treated as a "domestic corporation" as
17 defined in section seven thousand seven hundred one of such code, (i)
18 any part of any income from dividends or interest on any kind of stock,
19 securities or indebtedness, but only if such income is treated as effec-
20 tively connected with the conduct of a trade or business in the United
21 States pursuant to section eight hundred sixty-four of the internal
22 revenue code, (ii) any income exempt from federal taxable income under
23 any treaty obligation of the United States, but only if such income
24 would be treated as effectively connected in the absence of such
25 exemption provided that such treaty obligation does not preclude the
26 taxation of such income by a state, or (iii) any income which would be
27 treated as effectively connected if such income were not excluded from

1 gross income pursuant to subsection (a) of section one hundred three or
2 the internal revenue code;

3 (2) any part of any income from dividends or interest on any kind of
4 stock, securities, or indebtedness;

5 (3) taxes on or measured by profits or income paid or accrued to the
6 United States, any of its possessions, territories or commonwealths,
7 including taxes in lieu of any of the foregoing taxes otherwise general-
8 ly imposed by any possession, territory or commonwealth of the United
9 States, or taxes paid or accrued to the state under article nine,
10 nine-A, thirteen-A or thirty-two of the tax law as in effect on December
11 thirty-first, two thousand fourteen;

12 (3-a) taxes on or measured by profits or income, or which include
13 profits or income as a measure, paid or accrued to any other state of
14 the United States, or any political subdivision thereof, or to the
15 District of Columbia, including taxes expressly in lieu of any of the
16 foregoing taxes otherwise generally imposed by any other state of the
17 United States, or any political subdivision thereof, or the District of
18 Columbia;

19 (4) taxes imposed under this chapter;

20 (4-a) Intentionally omitted;

21 (4-b) the amount allowed as an exclusion or a deduction imposed by the
22 tax law in determining the entire taxable income for a relocation
23 described in subdivision thirteen of section 11-654 of this subchapter
24 which the taxpayer is required to report to the United States treasury
25 department but only such portion of such exclusion or deduction which is
26 not in excess of the amount of the credit allowed pursuant to subdivi-
27 sion thirteen of section 11-654 of this subchapter;

1 (4-c) the amount allowed as an exclusion or a deduction imposed by the
2 tax law for a relocation described in subdivision fourteen of section
3 11-654 of this subchapter in determining the entire taxable income which
4 the taxpayer is required to report to the United States treasury depart-
5 ment but only such portion of such exclusion or deduction which is not
6 in excess of the amount of the credit allowed pursuant to subdivision
7 fourteen of section 11-654 of this subchapter;

8 (4-d) Intentionally omitted;

9 (4-e) Intentionally omitted;

10 (5) Intentionally omitted;

11 (6) any amount allowed as a deduction for the taxable year under
12 section one hundred seventy-two of the internal revenue code, including
13 carryovers of deductions from prior taxable years;

14 (7) any amount by reason of the granting, issuing or assuming of a
15 restricted stock option, as defined in the internal revenue code of
16 nineteen hundred fifty-four, or by reason of the transfer of the share
17 of stock upon the exercise of the option, unless such share is disposed
18 of by the grantee of the option within two years from the date of the
19 granting of the option or within six months after the transfer of such
20 share to the grantee;

21 (8) Intentionally omitted;

22 (9) except with respect to property which is a qualified mass commut-
23 ing vehicle described in subparagraph (D) of paragraph eight of
24 subsection (f) of section one hundred sixty-eight of the internal reven-
25 ue code (relating to qualified mass commuting vehicles) and property of
26 a taxpayer principally engaged in the conduct of an aviation, steamboat,
27 ferry or navigation business, or two or more of such businesses, which
28 is placed in service before taxable years beginning in nineteen hundred

1 eighty-nine, any amount which the taxpayer claimed as a deduction in
2 computing its federal taxable income solely as a result of an election
3 made pursuant to the provisions of such paragraph eight as it was in
4 effect for agreements entered into prior to January first, nineteen
5 hundred eighty-four;

6 (10) except with respect to property which is a qualified mass commut-
7 ing vehicle described in subparagraph (D) of paragraph eight of
8 subsection (f) of section one hundred sixty-eight of the internal reven-
9 ue code (relating to qualified mass commuting vehicles) and property of
10 a taxpayer principally engaged in the conduct of an aviation, steamboat,
11 ferry or navigation business, or two or more of such businesses, which
12 is placed in service before taxable years beginning in nineteen hundred
13 eighty-nine, any amount which the taxpayer would have been required to
14 include in the computation of its federal taxable income had it not made
15 the election permitted pursuant to such paragraph eight as it was in
16 effect for agreements entered into prior to January first, nineteen
17 hundred eighty-four;

18 (11) in the case of property placed in service in taxable years begin-
19 ning before nineteen hundred ninety-four, for taxable years beginning
20 after December thirty-first, nineteen hundred eighty-one, except with
21 respect to property subject to the provisions of section two hundred
22 eighty-F of the internal revenue code, property subject to the
23 provisions of section one hundred sixty-eight of the internal revenue
24 code which is placed in service in this state in taxable years beginning
25 after December thirty-first, nineteen hundred eighty-four and property
26 of a taxpayer principally engaged in the conduct of an aviation, steam-
27 boat, ferry or navigation business, or two or more of such businesses,
28 which is placed in service before taxable years beginning in nineteen

1 hundred eighty-nine, the amount allowable as a deduction determined
2 under section one hundred sixty-eight of the internal revenue code;

3 (12) upon the disposition of property to which paragraph (j) of this
4 subdivision applies, the amount, if any, by which the aggregate of the
5 amounts described in such paragraph (j) attributable to such property
6 exceeds the aggregate of the amounts described in subparagraph eleven of
7 this paragraph attributable to such property;

8 (13) Intentionally omitted;

9 (14) Intentionally omitted;

10 (15) Intentionally omitted;

11 (16) in the case of qualified property described in paragraph two of
12 subsection (k) of section one hundred sixty-eight of the internal reven-
13 ue code, other than qualified resurgence zone property described in
14 paragraph (m) of this subdivision, and other than qualified New York
15 Liberty Zone property described in paragraph two of subsection (b) of
16 section fourteen hundred-L of the internal revenue code (without regard
17 to clause (i) of subparagraph (C) of such paragraph), the amount allow-
18 able as a deduction under section one hundred sixty-seven of the inter-
19 nal revenue code;

20 (17) in the case of a taxpayer that is not an eligible farmer as
21 defined in subsection (n) of section six hundred six of the tax law, the
22 amount allowable as a deduction under sections one hundred seventy-nine,
23 one hundred sixty-seven and one hundred sixty-eight of the internal
24 revenue code with respect to a sport utility vehicle that is not a
25 passenger automobile as defined in paragraph five of subsection (d) of
26 section two hundred eighty-F of the internal revenue code;

27 (18) the amount of any deduction allowed pursuant to section one
28 hundred ninety-nine of the internal revenue code;

1 (19) the amount of any federal deduction for taxes imposed under arti-
2 cle twenty-three of the tax law;

3 (c) Intentionally omitted;

4 (c-1)(1) Notwithstanding any other provision of this subchapter, in
5 the case of a taxpayer which is a foreign air carrier holding a foreign
6 air carrier permit issued by the United States department of transporta-
7 tion pursuant to section four hundred two of the federal aviation act of
8 nineteen hundred fifty-eight, as amended, and which is qualified under
9 subparagraph two of this paragraph, entire net income shall not include,
10 and shall be computed without the deduction of, amounts directly or
11 indirectly attributable to, (i) any income derived from the interna-
12 tional operation of aircraft as described in and subject to the
13 provisions of section eight hundred eighty-three of the internal revenue
14 code, (ii) income without the United States which is derived from the
15 operation of aircraft, and (iii) income without the United States which
16 is of a type described in subdivision (a) of section eight hundred
17 eighty-one of the internal revenue code except that it is derived from
18 sources without the United States. Entire net income shall include
19 income described in clauses (i), (ii) and (iii) of this subparagraph in
20 the case of taxpayers not described in the previous sentence;

21 (2) A taxpayer is qualified under this subparagraph if air carriers
22 organized in the United States and operating in the foreign country or
23 countries in which the taxpayer has its major base of operations and in
24 which it is organized, resident or headquartered (if not in the same
25 country as its major base of operations) are not subject to any income
26 tax or other tax based on or measured by income or receipts imposed by
27 such foreign country or countries or any political subdivision thereof,

1 or if so subject to such tax, are provided an exemption from such tax
2 equivalent to that provided for herein;

3 (d) The commissioner of finance may, whenever necessary in order prop-
4 erly to reflect the entire net income of any taxpayer, determine the
5 year or period in which any item of income or deduction shall be
6 included, without regard to the method of accounting employed by the
7 taxpayer;

8 (e) The entire net income of any bridge commission created by act of
9 congress to construct a bridge across an international boundary means
10 its gross income less the expense of maintaining and operating its prop-
11 erties, the annual interest upon its bonds and other obligations, and
12 the annual charge for the retirement of such bonds or obligations at
13 maturity;

14 (f) Intentionally omitted;

15 (g) At the election of the taxpayer, a deduction shall be allowed for
16 expenditures paid or incurred during the taxable year for the
17 construction, reconstruction, erection or improvement of industrial
18 waste treatment facilities and air pollution control facilities.

19 (1)(i) The term "industrial waste treatment facilities" shall mean
20 facilities for the treatment, neutralization or stabilization of indus-
21 trial waste (as the term "industrial waste" is defined in section
22 17-0105 of the environmental conservation law) from a point immediately
23 preceding the point of such treatment, neutralization or stabilization
24 to the point of disposal, including the necessary pumping and transmit-
25 ting facilities, but excluding such facilities installed for the primary
26 purpose of salvaging materials which are usable in the manufacturing
27 process or are marketable.

1 (ii) The term "air pollution control facilities" shall mean facilities
2 which remove, reduce, or render less noxious air contaminants emitted
3 from an air contamination source (as the terms "air contaminant" and
4 "air contamination source" are defined in section 19-0107 of the envi-
5 ronmental conservation law) from a point immediately preceding the point
6 of such removal, reduction or rendering to the point of discharge of
7 air, meeting emission standards as established by the air pollution
8 control board, but excluding such facilities installed for the primary
9 purpose of salvaging materials which are usable in the manufacturing
10 process or are marketable and excluding those facilities which rely for
11 their efficacy on dilution, dispersion or assimilation of air contam-
12 inants in the ambient air after emission.

13 (2) However, such deduction shall be allowed only (i) with respect to
14 tangible property which is depreciable, pursuant to section one hundred
15 sixty-seven of the internal revenue code, having a situs in the city and
16 used in the taxpayer's trade or business, the construction, recon-
17 struction, erection or improvement of which, in the case of industrial
18 waste treatment facilities, is initiated on or after January first,
19 nineteen hundred sixty-six, and only for expenditures paid or incurred
20 prior to January first, nineteen hundred seventy-two, or which, in the
21 case of air pollution control facilities, is initiated on or after Janu-
22 ary first, nineteen hundred sixty-six, and

23 (ii) on condition that such facilities have been certified by the
24 state commissioner of environmental conservation or the state commis-
25 sioner's designated representative, in the same manner as provided for
26 in section 17-0707 or 19-0309 of the environmental conservation law, as
27 applicable, as complying with applicable provisions of the environmental

1 conservation law, the state sanitary code and regulations, permits or
2 orders issued pursuant thereto, and

3 (iii) on condition that entire net income for the taxable year and all
4 succeeding taxable years be computed without any deductions for such
5 expenditures or for depreciation of the same property other than the
6 deductions allowed by this paragraph except to the extent that the basis
7 of the property may be attributable to factors other than such expendi-
8 tures, or in case a deduction is allowable pursuant to this paragraph
9 for only a part of such expenditures, on condition that any deduction
10 allowed for federal income tax purposes for such expenditures or for
11 depreciation of the same property be proportionately reduced in comput-
12 ing entire net income for the taxable year and all succeeding taxable
13 years, and

14 (iv) where the election provided for in paragraph (d) of subdivision
15 three of section 11-604 of this chapter or the election provided for in
16 subdivision (k) of section 11-641 of this chapter has not been exercised
17 in respect to the same property.

18 (3)(i) If expenditures in respect to an industrial waste treatment
19 facility or an air pollution control facility have been deducted as
20 provided herein and if within ten years from the end of the taxable year
21 in which such deduction was allowed such property or any part thereof is
22 used for the primary purpose of salvaging materials which are usable in
23 the manufacturing process or are marketable, the taxpayer shall report
24 such change of use in its report for the first taxable year during which
25 it occurs, and the commissioner of finance may recompute the tax for the
26 year or years for which such deduction was allowed and any carryback or
27 carryover year, and may assess any additional tax resulting from such

1 recomputation within the time fixed by paragraph (h) of subdivision
2 three of section 11-674 of this chapter.

3 (ii) If a deduction is allowed as herein provided for expenditures
4 paid or incurred during any taxable year on the basis of a temporary
5 certificate of compliance issued pursuant to the environmental conserva-
6 tion law and if the taxpayer fails to obtain a permanent certificate of
7 compliance upon completion of the facilities with respect to which such
8 temporary certificate was issued, the taxpayer shall report such failure
9 in its report for the taxable year during which such facilities are
10 completed, and the commissioner of finance may recompute the tax for the
11 year or years for which such deduction was allowed and any carryback or
12 carryover year, and may assess any additional tax resulting from such
13 recomputation within the time fixed by paragraph (h) of subdivision
14 three of section 11-674 of this chapter.

15 (4) In any taxable year when property is sold or otherwise disposed
16 of, with respect to which a deduction has been allowed pursuant to this
17 paragraph, such deduction shall be disregarded in computing gain or
18 loss, and the gain or loss on the sale or other disposition of such
19 property shall be the gain or loss entering into the computation of
20 entire taxable income which the taxpayer is required to report to the
21 United States treasury for such taxable year;

22 (h) With respect to gain derived from the sale or other disposition of
23 any property acquired prior to January first, nineteen hundred sixty-
24 six; which had a federal adjusted basis on such date (or on the date of
25 its sale or other disposition prior to January first, nineteen hundred
26 sixty-six) lower than its fair market value on January first, nineteen
27 hundred sixty-six or the date of its sale or other disposition prior
28 thereto, except property described in subsections one and four of

1 section twelve hundred twenty-one of the internal revenue code, there
2 shall be deducted from entire net income, the difference between (1) the
3 amount of the taxpayer's federal taxable income, and (2) the amount of
4 the taxpayer's federal taxable income (if smaller than the amount
5 described in subparagraph one of this paragraph) computed as if the
6 federal adjusted basis of each such property (on the sale or other
7 disposition of which gain was derived) on the date of the sale or other
8 disposition had been equal to either (i) its fair market value on Janu-
9 ary first, nineteen hundred sixty-six or the date of its sale or other
10 disposition prior to January first, nineteen hundred sixty-six, plus or
11 minus all adjustments to basis made with respect to such property for
12 federal income tax purposes for periods on and after January first,
13 nineteen hundred sixty-six or (ii) the amount realized from its sale or
14 disposition, whichever is lower; provided, however, that the total
15 modification provided by this paragraph shall not exceed the amount of
16 the taxpayer's net gain from the sale or other disposition of all such
17 property.

18 (i) If the period covered by a report under this subchapter is other
19 than the period covered by the report of the United States treasury
20 department, entire net income shall be determined by multiplying the
21 federal taxable income (as adjusted pursuant to the provisions of this
22 subchapter) by the number of calendar months or major parts thereof
23 covered by the report under this subchapter and dividing by the number
24 of calendar months or major parts thereof covered by the report to such
25 department. If it shall appear that such method of determining entire
26 net income does not properly reflect the taxpayer's income during the
27 period covered by the report under this subchapter, the commissioner of
28 finance shall be authorized in his or her discretion to determine such

1 entire net income solely on the basis of the taxpayer's income during
2 the period covered by its report under this subchapter.

3 (j) In the case of property placed in service in taxable years begin-
4 ning before nineteen hundred ninety-four, for taxable years beginning
5 after December thirty-first, nineteen hundred eighty-one, except with
6 respect to property subject to the provisions of section two hundred
7 eighty-F of the internal revenue code and property subject to the
8 provisions of section one hundred sixty-eight of the internal revenue
9 code which is placed in service in this state in taxable years beginning
10 after December thirty-first, nineteen hundred eighty-four, and provided
11 a deduction has not been excluded from entire net income pursuant to
12 subparagraph nine of paragraph (b) of this subdivision, a taxpayer shall
13 be allowed with respect to property which is subject to the provisions
14 of section one hundred sixty-eight of the internal revenue code the
15 depreciation deduction allowable under section one hundred sixty-seven
16 of the internal revenue code as such section would have applied to prop-
17 erty placed in service on December thirty-first, nineteen hundred
18 eighty. This paragraph shall not apply to property of a taxpayer princi-
19 pally engaged in the conduct of an aviation, steamboat, ferry or naviga-
20 tion business, or two or more of such businesses, which is placed in
21 service before taxable years beginning in nineteen hundred eighty-nine.

22 (k) In the case of qualified property described in paragraph two of
23 subsection (k) of section one hundred sixty-eight of the internal reven-
24 ue code, other than qualified resurgence zone property described in
25 paragraph (m) of this subdivision, and other than qualified New York
26 Liberty Zone property described in paragraph two of subsection (b) of
27 section fourteen hundred L of the internal revenue code (without regard
28 to clause (i) of subparagraph (C) of such paragraph), the depreciation

1 deduction allowable under section one hundred sixty-seven as such
2 section would have applied to such property had it been acquired by the
3 taxpayer on September tenth, two thousand one, provided, however, that
4 for taxable years beginning on or after January first, two thousand
5 four, in the case of a passenger motor vehicle or a sport utility vehi-
6 cle subject to the provisions of paragraph (o) of this subdivision, the
7 limitation under clause (i) of subparagraph (A) of paragraph one of
8 subdivision (a) of section two hundred eighty-F of the internal revenue
9 code applicable to the amount allowed as a deduction under this para-
10 graph shall be determined as of the date such vehicle was placed in
11 service and not as of September tenth, two thousand one.

12 (l) Upon the disposition of property to which paragraph (k) of this
13 subdivision applies, the amount of any gain or loss includible in entire
14 net income shall be adjusted to reflect the inclusions and exclusions
15 from entire net income pursuant to subparagraph twelve of paragraph (a)
16 and subparagraph sixteen of paragraph (b) of this subdivision attribut-
17 able to such property.

18 (m) For purposes of this paragraph and paragraph (l) of this subdivi-
19 sion, qualified resurgence zone property shall mean qualified property
20 described in paragraph two of subsection (k) of section one hundred
21 sixty-eight of the internal revenue code substantially all of the use of
22 which is in the resurgence zone, as defined below, and is in the active
23 conduct of a trade or business by the taxpayer in such zone, and the
24 original use of which in the resurgence zone commences with the taxpayer
25 after September tenth, two thousand one. The resurgence zone shall mean
26 the area of New York county bounded on the south by a line running from
27 the intersection of the Hudson River with the Holland Tunnel, and
28 running thence east to Canal Street, then running along the centerline

1 of Canal Street to the intersection of the Bowery and Canal Street,
2 running thence in a southeasterly direction diagonally across Manhattan
3 Bridge Plaza, to the Manhattan Bridge, and thence along the centerline
4 of the Manhattan Bridge to the point where the centerline of the Manhat-
5 tan Bridge would intersect with the easterly bank of the East River, and
6 bounded on the north by a line running from the intersection of the
7 Hudson River with the Holland Tunnel and running thence north along West
8 Avenue to the intersection of Clarkson Street then running east along
9 the centerline of Clarkson Street to the intersection of Washington
10 Avenue, then running south along the centerline of Washington Avenue to
11 the intersection of West Houston Street, then east along the centerline
12 of West Houston Street, then at the intersection of the Avenue of the
13 Americas continuing east along the centerline of East Houston Street to
14 the easterly bank of the East River.

15 (n) Related members expense add back. (1) For purposes of this para-
16 graph: (i) "Related member" means a related person as defined in subpar-
17 agraph (c) of paragraph three of subsection (b) of section four hundred
18 sixty-five of the internal revenue code, except that "fifty percent"
19 shall be substituted for "ten percent".

20 (ii) "Effective rate of tax" means, as to any city, the maximum statu-
21 tory rate of tax imposed by the city on or measured by a related
22 member's net income multiplied by the apportionment percentage, if any,
23 applicable to the related member under the laws of said jurisdiction.
24 For purposes of this definition, the effective rate of tax as to any
25 city is zero where the related member's net income tax liability in said
26 city is reported on a combined or consolidated return including both the
27 taxpayer and the related member where the reported transactions between
28 the taxpayer and the related member are eliminated or offset. Also, for

1 purposes of this definition, when computing the effective rate of tax
2 for a city in which a related member's net income is eliminated or
3 offset by a credit or similar adjustment that is dependent upon the
4 related member either maintaining or managing intangible property or
5 collecting interest income in that city, the maximum statutory rate of
6 tax imposed by said city shall be decreased to reflect the statutory
7 rate of tax that applies to the related member as effectively reduced by
8 such credit or similar adjustment.

9 (iii) Royalty payments are payments directly connected to the acquisi-
10 tion, use, maintenance or management, ownership, sale, exchange, or any
11 other disposition of licenses, trademarks, copyrights, trade names,
12 trade dress, service marks, mask works, trade secrets, patents and any
13 other similar types of intangible assets as determined by the commis-
14 sioner of finance, and include amounts allowable as interest deductions
15 under section one hundred sixty-three of the internal revenue code to
16 the extent such amounts are directly or indirectly for, related to or in
17 connection with the acquisition, use, maintenance or management, owner-
18 ship, sale, exchange or disposition of such intangible assets.

19 (iv) A valid business purpose is one or more business purposes, other
20 than the avoidance or reduction of taxation, which alone or in combina-
21 tion constitute the primary motivation for some business activity or
22 transaction, which activity or transaction changes in a meaningful way,
23 apart from tax effects, the economic position of the taxpayer. The
24 economic position of the taxpayer includes an increase in the market
25 share of the taxpayer, or the entry by the taxpayer into new business
26 markets.

27 (2) Royalty expense add backs. (i) Except where a taxpayer is included
28 in a combined report pursuant to section 11-654.3 of this subchapter

1 with the applicable related member, for the purpose of computing entire
2 net income or other applicable taxable basis, a taxpayer must add back
3 royalty payments directly or indirectly paid, accrued, or incurred in
4 connection with one or more direct or indirect transactions with one or
5 more related members during the taxable year to the extent deductible in
6 calculating federal taxable income.

7 (ii) Exceptions. (A) The adjustment required in this paragraph shall
8 not apply to the portion of the royalty payment that the taxpayer estab-
9 lishes, by clear and convincing evidence of the type and in the form
10 specified by the commissioner of finance, meets all of the following
11 requirements: (I) the related member was subject to tax in this city or
12 another city within the United States or a foreign nation or some combi-
13 nation thereof on a tax base that included the royalty payment paid,
14 accrued or incurred by the taxpayer; (II) the related member during the
15 same taxable year directly or indirectly paid, accrued or incurred such
16 portion to a person that is not a related member; and (III) the trans-
17 action giving rise to the royalty payment between the taxpayer and the
18 related member was undertaken for a valid business purpose.

19 (B) The adjustment required in this paragraph shall not apply if the
20 taxpayer establishes, by clear and convincing evidence of the type and
21 in the form specified by the commissioner of finance, that: (I) the
22 related member was subject to tax on or measured by its net income in
23 this city or another city within the United States, or some combination
24 thereof; (II) the tax base for said tax included the royalty payment
25 paid, accrued or incurred by the taxpayer; and (III) the aggregate
26 effective rate of tax applied to the related member in those jurisdic-
27 tions is no less than eighty percent of the statutory rate of tax that

1 applied to the taxpayer under section 11-604 of this chapter for the
2 taxable year.

3 (C) The adjustment required in this paragraph shall not apply if the
4 taxpayer establishes, by clear and convincing evidence of the type and
5 in the form specified by the commissioner of finance, that: (I) the
6 royalty payment was paid, accrued or incurred to a related member organ-
7 ized under the laws of a country other than the United States; (II) the
8 related member's income from the transaction was subject to a comprehen-
9 sive income tax treaty between such country and the United States; (III)
10 the related member was subject to tax in a foreign nation on a tax base
11 that included the royalty payment paid, accrued or incurred by the
12 taxpayer; (IV) the related member's income from the transaction was
13 taxed in such country at an effective rate of tax at least equal to that
14 imposed by this city; and (V) the royalty payment was paid, accrued or
15 incurred pursuant to a transaction that was undertaken for a valid busi-
16 ness purpose and using terms that reflect an arm's length relationship.

17 (D) The adjustment required in this paragraph shall not apply if the
18 taxpayer and the commissioner of finance agree in writing to the appli-
19 cation or use of alternative adjustments or computations. The commis-
20 sioner of finance may, in his or her discretion, agree to the applica-
21 tion or use of alternative adjustments or computations when he or she
22 concludes that in the absence of such agreement the income of the
23 taxpayer would not be properly reflected.

24 (o) In the case of a taxpayer that is not an eligible farmer as
25 defined in subsection (n) of section six hundred six of the tax law, the
26 deductions allowable under sections one hundred seventy-nine, one
27 hundred sixty-seven and one hundred sixty-eight of the internal revenue
28 code with respect to a sport utility vehicle that is not a passenger

1 automobile as defined in paragraph five of subsection (d) of section two
2 hundred eighty-F of the internal revenue code, determined as if such
3 sport utility vehicle were a passenger automobile as defined in such
4 paragraph five. For purposes of subparagraph sixteen of paragraph (b)
5 and paragraph (k) of this subdivision, the terms qualified resurgence
6 zone property and qualified New York Liberty Zone property described in
7 paragraph two of subsection b of section fourteen hundred-L of the
8 internal revenue code shall not include any sport utility vehicle that
9 is not a passenger automobile as defined in paragraph five of subsection
10 (d) of section two hundred eighty-F of the internal revenue code.

11 (p) Upon the disposition of property to which paragraph (o) of this
12 subdivision applies, the amount of any gain or loss includible in entire
13 net income shall be adjusted to reflect the inclusions and exclusions
14 from entire net income pursuant to subparagraph thirteen of paragraph
15 (a) and subparagraph seventeen of paragraph (b) of this subdivision
16 attributable to such property.

17 (q) Subtraction modification for community banks and small thrifts.

18 (1) A taxpayer that is a qualified community bank as defined in subpara-
19 graph two of this paragraph or a small thrift institution as defined in
20 subparagraph two-a of this paragraph shall be allowed a deduction in
21 computing entire net income equal to the amount computed under subpara-
22 graph three of this paragraph.

23 (2) To be a qualified community bank, a taxpayer must satisfy the
24 following conditions:

25 (i) It is a bank or trust company organized under or subject to the
26 provisions of article three of the banking law or a comparable provision
27 of the laws of another state, or a national banking association.

1 (ii) The average value during the taxable year of the assets of the
2 taxpayer, or, if the taxpayer is included in a combined report, the
3 assets of the combined reporting group of the taxpayer under section
4 11-654.3 of this subchapter, must not exceed eight billion dollars.

5 (2-a) To be a small thrift institution, a taxpayer must satisfy the
6 following conditions:

7 (i) It is a savings bank, a savings and loan association, or other
8 savings institution chartered and supervised as such under federal or
9 state law.

10 (ii) The average value during the taxable year of the assets of the
11 taxpayer, or, if the taxpayer is included in a combined report, the
12 assets of the combined reporting group of the taxpayer under section
13 11-654.3 of this subchapter, must not exceed eight billion dollars.

14 (3)(i) The subtraction modification shall be computed as follows:

15 (A) Multiply the taxpayer's net interest income from loans during the
16 taxable year by a fraction, the numerator of which is the gross interest
17 income during the taxable year from qualifying loans and the denominator
18 of which is the gross interest income during the taxable year from all
19 loans.

20 (B) Multiply the amount determined in subclause (A) of this clause by
21 fifty percent. This product is the amount of the deduction allowed under
22 this paragraph.

23 (ii)(A) Net interest income from loans shall mean gross interest
24 income from loans less gross interest expense from loans. Gross interest
25 expense from loans is determined by multiplying gross interest expense
26 by a fraction, the numerator of which is the average total value of
27 loans owned by the thrift institution or community bank during the taxa-

1 ble year and the denominator of which is the average total assets of the
2 thrift institution or community bank during the taxable year.

3 (B) Measurement of assets. For purposes of this clause: (I) Total
4 assets are those assets that are properly reflected on a balance sheet,
5 computed in the same manner as is required by the banking regulator of
6 the taxpayers included in the combined return.

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

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

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

21 (iii) A qualifying loan is a loan that meets the conditions specified
22 in subclause (A) of this clause and subclause (B) of this clause.

23 (A) The loan is originated by the qualified community bank or small
24 thrift institution or purchased by the qualified community bank or small
25 thrift institution immediately after its origination in connection with
26 a commitment to purchase made by the bank or thrift institution prior to
27 the loan's origination.

1 (B) The loan is a small business loan or a residential mortgage loan,
2 the principal amount of which loan is five million dollars or less, and
3 either the borrower is located in this city as determined under section
4 11-654.2 of this subchapter and the loan is not secured by real proper-
5 ty, or the loan is secured by real property located in the city.

6 (C) A loan that meets the definition of a qualifying loan in a prior
7 taxable year (including years prior to the effective date of this para-
8 graph) remains a qualifying loan in taxable years during and after which
9 such loan is acquired by another corporation in the taxpayer's combined
10 reporting group under section 11-654.3 of this subchapter.

11 (r) A small thrift institution or a qualified community bank, as
12 defined in paragraph (q) of this subdivision, that maintained a captive
13 REIT on April first, two thousand fourteen shall utilize a REIT
14 subtraction equal to one hundred sixty percent of the dividends paid
15 deductions allowed to that captive REIT for the taxable year for federal
16 income tax purposes and shall not be allowed to utilize the subtraction
17 modification for community banks and small thrifts under paragraph (q)
18 of this subdivision or the subtraction modification for qualified resi-
19 dential loan portfolios under paragraph (s) of this subdivision in any
20 tax year in which such thrift institution or community bank maintains
21 that captive REIT.

22 (s) Subtraction modification for qualified residential loan portfo-
23 lios. (1)(i) A taxpayer that is either a thrift institution as defined
24 in subparagraph three of this paragraph or a qualified community bank as
25 defined in subparagraph two of paragraph (q) of this subdivision and
26 maintains a qualified residential loan portfolio as defined in subpara-
27 graph two of this paragraph shall be allowed as a deduction in computing
28 entire net income the amount, if any, by which (A) thirty-two percent of

1 its entire net income determined without regard to this paragraph
2 exceeds (B) the amounts deducted by the taxpayer pursuant to sections
3 166 and 585 of the internal revenue code less any amounts included in
4 federal taxable income as a result of a recovery of a loan.

5 (ii)(A) If the taxpayer is in a combined report under section 11-654.3
6 of this subchapter, this deduction will be computed on a combined basis.
7 In that instance, the entire net income of the combined reporting group
8 for purposes of this paragraph shall be multiplied by a fraction, the
9 numerator of which is the average total assets of all the thrift insti-
10 tutions and qualified community banks included in the combined report
11 and the denominator of which is the average total assets of all the
12 corporations included in the combined report.

13 (B) Measurement of assets. (I) Total assets are those assets that are
14 properly reflected on a balance sheet, computed in the same manner as is
15 required by the banking regulator of the taxpayers included in the
16 combined return.

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

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

1 (IV) Intercorporate stockholdings and bills, notes and accounts
2 receivable, and other intercorporate indebtedness between the corpo-
3 rations included in the combined report shall be eliminated.

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

7 (2) Qualified residential loan portfolio. (i) A taxpayer maintains a
8 qualified residential loan portfolio if at least sixty percent of the
9 amount of the total assets at the close of the taxable year of the
10 thrift institution or qualified community bank consists of the assets
11 described in subclauses (A) through (L) of this clause, with the appli-
12 cation of the rule in the last undesignated subclause of this clause. If
13 the taxpayer is a member of a combined group, the determination of
14 whether there is a qualified residential loan portfolio will be made by
15 aggregating the assets of the thrift institutions and qualified communi-
16 ty banks that are members of the combined group. Assets: (A) cash,
17 which includes cash and cash equivalents including cash items in the
18 process of collection, deposits with other financial institutions,
19 including corporate credit unions, balances with federal reserve banks
20 and federal home loan banks, federal funds sold, and cash and cash
21 equivalents on hand. Cash shall not include any balances serving as
22 collateral for securities lending transactions; (B) obligations of the
23 United States or of a state or political subdivision thereof, and stock
24 or obligations of a corporation which is an instrumentality or a govern-
25 ment sponsored enterprise of the United States or of a state or poli-
26 tical subdivision thereof; (C) loans secured by a deposit or share of a
27 member; (D) loans secured by an interest in real property which is (or,
28 from the proceeds of the loan, will become) residential real property or

1 real property used primarily for church purposes, loans made for the
2 improvement of residential real property or real property used primarily
3 for church purposes, provided that for purposes of this subclause, resi-
4 dential real property shall include single or multi-family dwellings,
5 facilities in residential developments dedicated to public use or prop-
6 erty used on a nonprofit basis for residents, and mobile homes not used
7 on a transient basis; (E) property acquired through the liquidation of
8 defaulted loans described in subclause (D) of this clause; (F) any regu-
9 lar or residual interest in a REMIC, as such term is defined in section
10 860D of the internal revenue code, but only in the proportion which the
11 assets of such REMIC consist of property described in any of the preced-
12 ing subclauses of this clause, except that if ninety-five percent or
13 more of the assets of such REMIC are assets described in subclauses (A)
14 through (E) of this clause, the entire interest in the REMIC shall qual-
15 ify; (G) any mortgage-backed security which represents ownership of a
16 fractional undivided interest in a trust, the assets of which consist
17 primarily of mortgage loans, provided that the real property which
18 serves as security for the loans is (or from the proceeds of the loan,
19 will become) the type of property described in subclause (D) of this
20 clause and any collateralized mortgage obligation, the security for
21 which consists primarily of mortgage loans that maintain as security the
22 type of property described in subclause (D) of this clause; (H) certif-
23 icates of deposit in, or obligations of, a corporation organized under a
24 state law which specifically authorizes such corporation to insure the
25 deposits or share accounts of member associations; (I) loans secured by
26 an interest in educational, health, or welfare institutions or facili-
27 ties, including structures designed or used primarily for residential
28 purposes for students, residents, and persons undercare, employees, or

1 members of the staff of such institutions or facilities; (J) loans made
2 for the payment of expenses of college or university education or voca-
3 tional training; (K) property used by the taxpayer in support of busi-
4 ness which consists principally of acquiring the savings of the public
5 and investing in loans; and (L) loans for which the taxpayer is the
6 creditor and which are wholly secured by loans described in subclause
7 (D) of this clause.

8 The value of accrued interest receivable and any loss-sharing commit-
9 ment or other loan guaranty by a governmental agency will be considered
10 part of the basis in the loans to which the accrued interest or loss
11 protection applies.

12 (ii) At the election of the taxpayer, the percentage specified in
13 clause (i) of this subparagraph shall be applied on the basis of the
14 average assets outstanding during the taxable year, in lieu of the close
15 of the taxable year. The taxpayer can elect to compute an average using
16 the assets measured on the first day of the taxable year and on the last
17 day of each subsequent quarter, or month or day during the taxable year.
18 This election may be made annually.

19 (iii) For purposes of subclause (D) of clause (i) of this subpara-
20 graph, if a multifamily structure securing a loan is used in part for
21 nonresidential use purposes, the entire loan is deemed a residential
22 real property loan if the planned residential use exceeds eighty percent
23 of the property's planned use (measured, at the taxpayer's election, by
24 using square footage or gross rental revenue, and determined as of the
25 time the loan is made).

26 (iv) For purposes of subclause (D) of clause (i) of this subparagraph,
27 loans made to finance the acquisition or development of land shall be
28 deemed to be loans secured by an interest in residential real property

1 if there is a reasonable assurance that the property will become resi-
2 dential real property within a period of three years from the date of
3 acquisition of such land; but this sentence shall not apply for any
4 taxable year unless, within such three year period, such land becomes
5 residential real property. For purposes of determining whether any
6 interest in a REMIC qualifies under subclause (F) of clause (i) of this
7 subparagraph, any regular interest in another REMIC held by such REMIC
8 shall be treated as a loan described in a preceding subclause under
9 principles similar to the principle of such subclause (F), except that
10 if such REMICs are part of a tiered structure, they shall be treated as
11 one REMIC for purposes of such subclause (F).

12 (3) For purposes of this paragraph, a "thrift institution" is a
13 savings bank, a savings and loan association, or other savings institu-
14 tion chartered and supervised as such under federal or state law.

15 9. (a) The term "calendar year" means a period of twelve calendar
16 months (or any shorter period beginning on the date the taxpayer becomes
17 subject to the tax imposed by this subchapter) ending on the thirty-
18 first day of December, provided the taxpayer keeps its books on the
19 basis of such period or on the basis of any period ending on any day
20 other than the last day of a calendar month, or provided the taxpayer
21 does not keep books, and includes, in case the taxpayer changes the
22 period on the basis of which it keeps its books from a fiscal year to a
23 calendar year, the period from the close of its last old fiscal year up
24 to and including the following December thirty-first.

25 (b) The term "fiscal year" means a period of twelve calendar months
26 (or any shorter period beginning on the date the taxpayer becomes
27 subject to the tax imposed by this subchapter) ending on the last day of
28 any month other than December, provided the taxpayer keeps its books on

1 the basis of such period, and includes, in case the taxpayer changes the
2 period on the basis of which it keeps its books from a calendar year to
3 a fiscal year or from one fiscal year to another fiscal year, the period
4 from the close of its last old calendar or fiscal year up to the date
5 designated as the close of its new fiscal year.

6 10. The term "tangible personal property" means corporeal personal
7 property, such as machinery, tools, implements, goods, wares and
8 merchandise, and does not mean money, deposits in banks, shares of
9 stock, bonds, notes, credits or evidences of an interest property and
10 evidences of debt.

11 11. The term "internal revenue code" means, unless otherwise specif-
12 ically stated in this subchapter, the internal revenue code of 1986, as
13 amended.

14 12. The term "combinable captive insurance company" means an entity
15 that is treated as an association taxable as a corporation under the
16 internal revenue code: (a) more than fifty percent of the voting stock
17 of which is owned or controlled, directly or indirectly, by a single
18 entity that is treated as an association taxable as a corporation under
19 the internal revenue code and not exempt from federal income tax;

20 (b) that is licensed as a captive insurance company under the laws of
21 this state or another jurisdiction;

22 (c) whose business includes providing, directly and indirectly, insur-
23 ance or reinsurance covering the risks of its parent and/or members of
24 its affiliated group; and

25 (d) fifty percent or less of whose gross receipts for the taxable year
26 consist of premiums from arrangements that constitute insurance for
27 federal income tax purposes.

1 For purposes of this subdivision, "affiliated group" has the same
2 meaning as that term is given in section fifteen hundred four of the
3 internal revenue code, except that the term "common parent corporation"
4 in that section is deemed to mean any person, as defined in section
5 seven thousand seven hundred one of the internal revenue code and refer-
6 ences to "at least eighty percent" in section fifteen hundred four of
7 the internal revenue code are to be read as "fifty percent or more;"
8 section fifteen hundred four of the internal revenue code is to be read
9 without regard to the exclusions provided for in subsection (b) of that
10 section; "premiums" has the same meaning as that term is given in para-
11 graph one of subdivision (c) of section fifteen hundred ten of the tax
12 law, except that it includes consideration for annuity contracts and
13 excludes any part of the consideration for insurance, reinsurance or
14 annuity contracts that do not provide bona fide insurance, reinsurance
15 or annuity benefits; and "gross receipts" includes the amounts included
16 in gross receipts for purposes of paragraph fifteen of subsection (c) of
17 section five hundred one of the internal revenue code, except that those
18 amounts also include all premiums as defined in this subdivision.

19 13. The term "partnership" includes a syndicate, group, pool, joint
20 venture, or other unincorporated organization, through or by means of
21 which any business, financial operation, or venture is carried on, and
22 which is not a corporation as defined by subdivision one of this
23 section, or a trust or estate that is separate from its owner under part
24 one of subchapter J of chapter one of subtitle A of the internal revenue
25 code; and the term "partner" includes a member in such syndicate, group,
26 pool, joint venture, or organization.

27 § 11-653 Imposition of tax; exemptions. 1. (a) For the privilege of
28 doing business, or of employing capital, or of owning or leasing proper-

1 ty in the city in a corporate or organized capacity, or of maintaining
2 an office in the city, or of deriving receipts from activity in the
3 city, for all or any part of each of its fiscal or calendar years, every
4 domestic or foreign corporation, except corporations specified in subdi-
5 vision four of this section, shall annually pay a tax, upon the basis of
6 its business income, or upon such other basis as may be applicable as
7 hereinafter provided, for such fiscal or calendar year or part thereof,
8 on a report which shall be filed, except as hereinafter provided, on or
9 before the fifteenth day of March next succeeding the close of each such
10 year, or, in the case of a taxpayer which reports on the basis of a
11 fiscal year, within two and one-half months after the close of such
12 fiscal year, and shall be paid as hereinafter provided.

13 (b) A corporation is deriving receipts from activity in the city if it
14 has receipts within the city of one million dollars or more in the taxa-
15 ble year. For purposes of this section, the term "receipts" means the
16 receipts that are subject to the apportionment rules set forth in
17 section 11-654.2 of this subchapter, and the term "receipts within the
18 city" means the receipts included in the numerator of the receipts
19 percentage determined under section 11-654.2 of this subchapter. For
20 purposes of this paragraph, receipts from processing credit card trans-
21 actions for merchants include merchant discount fees received by the
22 corporation.

23 (c) A corporation is doing business in the city if (1) it has issued
24 credit cards to one thousand or more customers who have a mailing
25 address within the city as of the last day of its taxable year, (2) it
26 has merchant customer contracts with merchants and the total number of
27 locations covered by those contracts equals one thousand or more
28 locations in the city to whom the corporation remitted payments for

1 credit card transactions during the taxable year, or (3) the sum of the
2 number of customers described in subparagraph one of this paragraph plus
3 the number of locations covered by its contracts described in subpara-
4 graph two of this paragraph equals one thousand or more. As used in this
5 subdivision, the term "credit card" includes bank, credit, travel and
6 entertainment cards.

7 (d)(1) A corporation with less than one million dollars but at least
8 ten thousand dollars of receipts within the city in a taxable year that
9 is part of a unitary group under section 11-654.3 of this subchapter is
10 deriving receipts from activity in the city if the receipts within the
11 city of the members of the unitary group that have at least ten thousand
12 dollars of receipts within the city in the aggregate meet the threshold
13 set forth in paragraph (b) of this subdivision.

14 (2) A corporation that does not meet any of the thresholds set forth
15 in paragraph (c) of this subdivision but has at least ten customers, or
16 locations, or customers and locations, as described in paragraph (c) of
17 this subdivision, and is part of a unitary group that meets the owner-
18 ship test under section 11-654.3 of this subchapter is doing business in
19 the city if the number of customers, locations, or customers and
20 locations, within the city of the members of the unitary group that have
21 at least ten customers, locations, or customers and locations, within
22 the city in the aggregate meets any of the thresholds set forth in para-
23 graph (c) of this subdivision.

24 (e) At the end of each year, the commissioner of finance shall review
25 the cumulative percentage change in the consumer price index. The
26 commissioner of finance shall adjust the receipt thresholds set forth in
27 this subdivision if the consumer price index has changed by ten percent
28 or more since January first, two thousand fifteen, or since the date

1 that the thresholds were last adjusted under this subdivision. The
2 thresholds shall be adjusted to reflect that cumulative percentage
3 change in the consumer price index. The adjusted thresholds shall be
4 rounded to the nearest one thousand dollars. As used in this paragraph,
5 "consumer price index" means the consumer price index for all urban
6 consumers (CPI-U) available from the bureau of labor statistics of the
7 United States department of labor. Any adjustment shall apply to tax
8 periods that begin after the adjustment is made.

9 (f) If a partnership is doing business, employing capital, owning or
10 leasing property in the city, maintaining an office in the city, or
11 deriving receipts from activity in the city, any corporation that is a
12 partner in such partnership shall be subject to tax under this subchap-
13 ter as described in the regulations of the commissioner of finance.

14 2. A corporation shall not be deemed to be doing business, employing
15 capital, owning or leasing property, or maintaining an office in the
16 city, or deriving receipts from activity in the city, for the purposes
17 of this subchapter, by reason of

18 (a) the maintenance of cash balances with banks or trust companies in
19 the city, or

20 (b) the ownership of shares of stock or securities kept in the city,
21 if kept in a safe deposit box, safe, vault or other receptacle rented
22 for the purpose, or if pledged as collateral security, or if deposited
23 with one or more banks or trust companies, or brokers who are members of
24 a recognized security exchange, in safekeeping or custody accounts, or

25 (c) the taking of any action by any such bank or trust company or
26 broker, which is incidental to the rendering of safekeeping or custodian
27 service to such corporation, or

1 (d) the maintenance of an office in the city by one or more officers
2 or directors of the corporation who are not employees of the corporation
3 if the corporation otherwise is not doing business in the city, and does
4 not employ capital or own or lease property in the city, or

5 (e) the keeping of books or records of a corporation in the city if
6 such books or records are not kept by employees of such corporation and
7 such corporation does not otherwise do business, employ capital, own or
8 lease property or maintain an office in the city, or

9 (f) any combination of the foregoing activities.

10 2-a. An alien corporation shall not be deemed to be doing business,
11 employing capital, owning or leasing property, or maintaining an office
12 in the city, for the purposes of this subchapter, if its activities in
13 the city are limited solely to

14 (a) investing or trading in stocks and securities for its own account
15 within the meaning of clause (ii) of subparagraph (A) of paragraph (2)
16 of subsection (b) of section eight hundred sixty-four of the internal
17 revenue code, or

18 (b) investing or trading in commodities for its own account within the
19 meaning of clause (ii) of subparagraph (B) of paragraph (2) of
20 subsection (b) of section eight hundred sixty-four of the internal
21 revenue code, or

22 (c) any combination of activities described in paragraphs (a) and (b)
23 of this subdivision.

24 An alien corporation that under any provision of the internal revenue
25 code is not treated as a "domestic corporation" as defined in section
26 seven thousand seven hundred one of such code and has no effectively
27 connected income for the taxable year pursuant to clause three of the
28 opening paragraph of subdivision eight of section 11-652 of this

1 subchapter shall not be subject to tax under this subchapter for that
2 taxable year. For purposes of this subchapter, an alien corporation is a
3 corporation organized under the laws of a country, or any political
4 subdivision thereof, other than the United States, or organized under
5 the laws of a possession, territory or commonwealth of the United
6 States.

7 3. Any receiver, referee, trustee, assignee or other fiduciary, or any
8 officer or agent appointed by any court, who conducts the business of
9 any corporation, shall be subject to the tax imposed by this subchapter
10 in the same manner and to the same extent as if the business were
11 conducted by the agents or officers of such corporation. A dissolved
12 corporation which continues to conduct business shall also be subject to
13 the tax imposed by this subchapter.

14 4. (a) Corporations subject to tax under chapter eleven of this title,
15 any trust company organized under a law of this state all of the stock
16 of which is owned by not less than twenty savings banks organized under
17 a law of this state, housing companies organized and operating pursuant
18 to the provisions of article two of the private housing finance law,
19 housing development fund companies organized pursuant to the provisions
20 of article eleven of the private housing finance law, corporations
21 described in section three of the tax law, a corporation principally
22 engaged in the operation of marine vessels whose activities in the city
23 are limited exclusively to the use of property in interstate or foreign
24 commerce, provided, however, such a corporation will not be subject to
25 tax under this subchapter solely because it maintains an office in the
26 city, or employs capital in the city, in connection with such use of
27 property, a corporation principally engaged in the conduct of a ferry
28 business and operating between any of the boroughs of the city under a

1 lease granted by the city and a corporation principally engaged in the
2 conduct of an aviation, steamboat, ferry or navigation business, or two
3 or more of such businesses, all of the capital stock of which is owned
4 by a municipal corporation of this state, shall not be subject to tax
5 under this subchapter; provided, however, that any corporation, other
6 than (1) a utility corporation subject to the supervision of the state
7 department of public service, and (2) for taxable years beginning on or
8 after August first, two thousand two, a utility as defined in subdivi-
9 sion six of section 11-1101 of this title, which is subject to tax under
10 chapter eleven of this title as a vendor of utility services shall be
11 subject to tax under this subchapter, but in computing the tax imposed
12 by this section pursuant to the provisions of clause (i) of subparagraph
13 one of paragraph (e) of subdivision one of section 11-654 of this
14 subchapter, business income allocated to the city pursuant to paragraph
15 (a) of subdivision three of such section shall be reduced by the
16 percentage which such corporation's gross operating income subject to
17 tax under chapter eleven of this title is of its gross operating income.

18 (b) The term "gross operating income", when used in paragraph (a) of
19 this subdivision, means receipts received in or by reason of any trans-
20 action had and consummated in the city, including cash, credits and
21 property of any kind or nature (whether or not such transaction is made
22 for profit), without any deduction therefrom on account of the cost of
23 the property sold, the cost of materials used, labor or other services,
24 delivery costs or any other costs whatsoever, interest or discount paid
25 or any other expenses whatsoever.

26 (c) If it shall appear to the commissioner of finance that the appli-
27 cation of the proviso of paragraph (a) of this subdivision, does not
28 fairly and equitably reflect the portion of the taxpayer's business

1 income allocable to the city which is attributable to its city activ-
2 ities which are not taxable under subchapter two of chapter eleven of
3 this title, the commissioner of finance may prescribe other means or
4 methods of determining such portion, including the use of the books and
5 records of the taxpayer, if the commissioner of finance finds that such
6 means or methods used in keeping them fairly and equitably reflect such
7 portion.

8 5. Intentionally omitted.

9 6. Intentionally omitted.

10 7. For any taxable year of a real estate investment trust, as defined
11 in section eight hundred fifty-six of the internal revenue code, in
12 which such trust is subject to federal income taxation under section
13 eight hundred fifty-seven of such code, such trust shall be subject to a
14 tax computed under either clause (i) of subparagraph one of paragraph
15 (e) subdivision one of section 11-654 of this subchapter, or clause
16 (iv), whichever is greater. In the case of such a real estate investment
17 trust, including a captive REIT as defined in section 11-601 of this
18 chapter, the term "entire net income" means "real estate investment
19 trust taxable income" as defined in paragraph two of subdivision (b) of
20 section eight hundred fifty-seven (as modified by section eight hundred
21 fifty-eight) of the internal revenue code plus the amount taxable under
22 paragraph three of subdivision (b) of section eight hundred fifty-seven
23 of such code, subject to the modifications required by subdivision eight
24 of section 11-652 of this subchapter including the modifications
25 required by paragraphs (d) and (e) of subdivision three of section
26 11-654 of this subchapter.

27 8. For any taxable year of a regulated investment company, as defined
28 in section eight hundred fifty-one of the internal revenue code, in

1 which such company is subject to federal income taxation under section
2 eight hundred fifty-two of such code, such company shall be subject to a
3 tax computed under either clause one or four of subparagraph (a) of
4 paragraph E of subdivision one of section 11-654 of this subchapter,
5 whichever is greater. In the case of such a regulated investment compa-
6 ny, including a captive RIC as defined in section 11-601 of this chap-
7 ter, the term "entire net income" used in subdivision one of this
8 section means "investment company taxable income" as defined in para-
9 graph two of subdivision (b) of section eight hundred fifty-two, as
10 modified by section eight hundred fifty-five, of the internal revenue
11 code plus the amount taxable under paragraph three of subdivision (b) of
12 section eight hundred fifty-two of such code subject to the modifica-
13 tions required by subdivision eight of section 11-652 of this subchap-
14 ter, including the modification required by paragraphs (d) and (e) of
15 subdivision three of section 11-654 of this subchapter.

16 9. An organization described in paragraph two or twenty-five of subdi-
17 vision (c) of section five hundred one of the internal revenue code
18 shall be exempt from all taxes imposed by this subchapter.

19 § 11-654 Computation of tax. 1. (a) Intentionally omitted.

20 (b) Intentionally omitted.

21 (c) Intentionally omitted.

22 (d) Intentionally omitted.

23 (e) The tax imposed by subdivision one of section 11-653 of this
24 subchapter shall be, in the case of each taxpayer:

25 (1) whichever of the following amounts is the greatest:

26 (i) an amount computed at the rate of eight and eighty-five one-hun-
27 dredths per centum, of its business income or the portion of such busi-
28 ness income allocated within the city as hereinafter provided, subject

1 to the application of paragraphs (j) and (k) of this subdivision and any
 2 modification required by paragraphs (d) and (e) of subdivision three of
 3 this section,

4 (ii) an amount computed by multiplying its total business capital, or
 5 the portion thereof allocated within the city, as hereinafter provided,
 6 by fifteen one-hundredths per centum and subtracting ten thousand
 7 dollars from the total, except that in the case of a cooperative housing
 8 corporation as defined in the internal revenue code, such amount shall
 9 be computed by multiplying its total business capital, or the portion
 10 thereof allocated within the city, as hereinafter provided, by four
 11 one-hundredths per centum and subtracting ten thousand dollars from the
 12 total, provided that if such amount is less than zero it shall be deemed
 13 to be zero, and provided further that in no event shall the amount of
 14 tax computed on the taxpayer's business capital, or the portion of ther-
 15 eof allocated within the city, exceed ten million dollars, or

16 (iii) Intentionally omitted

17 <u>(iv) If New York city receipts are:</u>	<u>Fixed dollar minimum</u>
	<u>tax is:</u>
19 <u>Not more than \$100,000</u>	<u>\$25</u>
20 <u>More than \$100,000 but not over \$250,000</u>	<u>\$75</u>
21 <u>More than \$250,000 but not over \$500,000</u>	<u>\$175</u>
22 <u>More than \$500,000 but not over \$1,000,000</u>	<u>\$500</u>
23 <u>More than \$1,000,000 but not over \$5,000,000</u>	<u>\$1,500</u>
24 <u>More than \$5,000,000 but not over \$25,000,000</u>	<u>\$3,500</u>
25 <u>More than \$25,000,000 but not over \$50,000,000</u>	<u>\$5,000</u>
26 <u>More than \$50,000,000 but not over \$100,000,000</u>	<u>\$10,000</u>
27 <u>More than \$100,000,000 but not over \$250,000,000</u>	<u>\$20,000</u>
28 <u>More than \$250,000,000 but not over \$500,000,000</u>	<u>\$50,000</u>

1	<u>More than \$500,000,000 but not over \$1,000,000,000</u>	<u>\$100,000</u>
2	<u>Over \$1,000,000,000</u>	<u>\$200,000</u>

3 For purposes of this clause, New York city receipts are the receipts
4 computed in accordance with section 11-654.2 of this subchapter for the
5 taxable year. If the taxable year is less than twelve months, the amount
6 prescribed by this clause shall be reduced by twenty-five percent if the
7 period for which the taxpayer is subject to tax is more than six months
8 but not more than nine months and by fifty percent if the period for
9 which the taxpayer is subject to tax is not more than six months. If the
10 taxable year is less than twelve months, the amount of New York city
11 receipts for purposes of this clause is determined by dividing the
12 amount of the receipts for the taxable year by the number of months in
13 the taxable year and multiplying the result by twelve.

14 (f) Intentionally omitted.

15 (g) Intentionally omitted.

16 (h) Intentionally omitted.

17 (i) Intentionally omitted.

18 (j) (1) If the amount of business income computed without taking into
19 account the prior net operation loss conversion subtraction provided for
20 in subdivision two of section 11-654.1 of this subchapter allocated
21 within the city as hereinafter provided is less than one million
22 dollars, the amount computed in clause (i) of subparagraph one of para-
23 graph (e) of this subdivision shall be at the rate of six and five-
24 tenths per centum of the amount of business income allocated within the
25 city as hereinafter provided, subject to any modification required by
26 paragraphs (d) and (e) of subdivision three of this section;

27 (2) Subject to subparagraph three of this paragraph, if the amount of
28 business income computed without taking into account the prior net oper-

1 ating loss conversion subtraction provided for in subdivision two of
2 section 11-654.1 of this subchapter allocated within the city as herein-
3 after provided is one million dollars or greater but less than one
4 million dollars but less than one million five hundred thousand dollars,
5 the amount computed in clause (i) of subparagraph one of paragraph (e)
6 of this subdivision shall be at the rate of (i) six and five-tenths per
7 centum, plus (ii) two and thirty-five one-hundredths per centum multi-
8 plied by a fraction the numerator of which is allocated business income
9 computed without taking into account the prior net operating loss
10 conversion subtraction provided for in subdivision two of section
11 11-654.1 of this subchapter less one million dollars and the denominator
12 of which is five hundred thousand dollars, of the amount of business
13 income allocated within the city as hereinafter provided, subject to any
14 modification required by paragraphs (d) and (e) of subdivision three of
15 this section;

16 (3) Provided, however, notwithstanding anything to the contrary, if
17 the amount of unallocated business income computed without taking into
18 account the prior net operating loss conversion subtraction provided for
19 in subdivision two of section 11-654.1 of this subchapter is two million
20 dollars or greater but less than three million dollars, the rate of tax
21 provided for in this paragraph shall not be less than (i) six and five-
22 tenths per centum, plus (ii) two and thirty-five one-hundredths per
23 centum multiplied by a fraction the numerator of which is unallocated
24 business income computed without taking into account the prior net oper-
25 ating loss conversion subtraction provided for in subdivision two of
26 section 11-654.1 of this subchapter less two million dollars and the
27 denominator of which is one million dollars, and provided, however,
28 notwithstanding anything to the contrary, if the amount of unallocated

1 business income computed without taking into account the prior net oper-
2 ating loss conversion subtraction provided for in subdivision two of
3 section 11-654.1 of this subchapter is three million dollars or greater,
4 the rate of tax shall be eight and eighty-five one hundredths percentum.

5 (k)(1) For qualified New York city manufacturing corporations as
6 defined in subparagraph four of this paragraph, if the amount of busi-
7 ness income computed without taking into account the prior net operating
8 loss conversion subtraction provided for in subdivision two of section
9 11-654.1 of this subchapter allocated within the city as hereinafter
10 provided is less than ten million dollars, the amount computed in clause
11 (i) of subparagraph one of paragraph (e) of this subdivision shall be at
12 the rate of four and four hundred twenty-five one thousandths per
13 centum, of its business income allocated within the city as hereinafter
14 provided, subject to any modification required by paragraphs (d) and (e)
15 of subdivision three of this section;

16 (2) Subject to subparagraph three of this paragraph for qualified New
17 York city manufacturing corporations as defined in subparagraph four of
18 this paragraph, if the amount of business income computed without taking
19 into account the prior net operating loss conversion subtraction
20 provided for in subdivision two of section 11-654.1 of this subchapter
21 allocated within the city as hereinafter provided is ten million dollars
22 or greater but less than twenty million dollars, the amount computed in
23 clause (i) of subparagraph one of paragraph (e) of this subdivision
24 shall be at the rate of (i) four and four hundred twenty-five one-thous-
25 andths per centum, plus (ii) four and four hundred twenty-five one-
26 thousandths per centum multiplied by a fraction the numerator of which
27 is allocated business income computed without taking into account the
28 prior net operating loss conversion subtraction provided for in subdivi-

1 sion two of section 11-654.1 of this subchapter less ten million dollars
2 and the denominator of which is ten million dollars, of its business
3 income or the portion of such business income allocated within the city
4 as hereinafter provided, subject to any modification required by para-
5 graphs (d) and (e) of subdivision three of this section;

6 (3) Notwithstanding anything to the contrary, if the amount of unallo-
7 cated business income computed without taking into account the prior net
8 operating loss conversion subtraction provided for in subdivision two of
9 section 11-654.1 of this subchapter is twenty million dollars or greater
10 but less than forty million dollars, the rate of tax provided for in
11 this paragraph shall not be less than (i) four and four hundred twenty-
12 five one thousandths percentum, plus (ii) four and four hundred twenty-
13 five one thousandths percentum multiplied by a fraction the numerator of
14 which is unallocated business income computed without taking into
15 account the prior net operating loss conversion subtraction provided for
16 in subdivision two of section 11-654.1 of this subchapter less twenty
17 million dollars and the denominator of which is twenty million dollars,
18 and provided, however, notwithstanding anything to the contrary, if the
19 amount of unallocated business income computed without taking into
20 account the prior net operating loss conversion subtraction provided for
21 in subdivision two of section 11-654.1 of this subchapter is forty
22 million dollars or greater, the rate of tax shall be eight and eighty-
23 five one-hundredths per centum.

24 (4)(i) As used in this subparagraph, the term "manufacturing corpo-
25 ration" means a corporation principally engaged in the manufacturing and
26 sale thereof of tangible personal property; and the term "manufacturing"
27 includes the process (including the assembly process) (A) of working raw
28 materials into wares suitable for use or (B) which gives new shapes, new

1 qualities or new combinations to matter which already has gone through
2 some artificial process, by the use of machinery, tools, appliances and
3 other similar equipment. Moreover, in the case of a combined report, a
4 combined group shall be considered a "manufacturing corporation" for
5 purposes of this subparagraph only if the combined group during the
6 taxable year is principally engaged in the activities set forth in this
7 paragraph, or any combination thereof. A taxpayer or, in the case of a
8 combined report, a combined group, shall be "principally engaged" in
9 activities described above if, during the taxable year, more than fifty
10 percent of the gross receipts of the taxpayer or combined group, respec-
11 tively, are derived from receipts from the sale of goods produced by
12 such activities. In computing a combined group's gross receipts, inter-
13 corporate receipts shall be eliminated.

14 (ii) A "qualified New York city manufacturing corporation" is a manu-
15 facturing corporation that has property in the city which is described
16 in subparagraph five of this paragraph and either (A) the adjusted basis
17 of such property for federal income tax purposes at the close of the
18 taxable year is at least one million dollars or (B) more than fifty
19 percentum of its real and personal property is located in the city.

20 (5) For purposes of subclause (A) of clause (ii) of subparagraph four
21 of this paragraph, property includes tangible personal property and
22 other tangible property, including buildings and structural components
23 of buildings, which are: depreciable pursuant to section one hundred
24 sixty-seven of the internal revenue code, have a useful life of four
25 years or more, are acquired by purchase as defined in subsection (d) of
26 section one hundred seventy-nine of the internal revenue code, have a
27 situs in this city and are principally used by the taxpayer in the
28 production of goods by manufacturing. Property used in the production of

1 goods shall include machinery, equipment or other tangible property
2 which is principally used in the repair and service of other machinery,
3 equipment or other tangible property used principally in the production
4 of goods and shall include all facilities used in the production opera-
5 tion, including storage of material to be used in production and of the
6 products that are produced.

7 2. The amount of business capital shall be determined by taking the
8 average value of the gross assets included therein (less liabilities
9 deductible therefrom pursuant to the provisions of subdivisions four and
10 six of section 11-652 of this subchapter), and, if the period covered by
11 the report is other than a period of twelve calendar months, by multi-
12 plying such value by the number of calendar months or major parts there-
13 of included in such period, and dividing the product thus obtained by
14 twelve. For purposes of this subdivision, real property and marketable
15 securities shall be valued at fair market value and the value of
16 personal property other than marketable securities shall be the value
17 thereof shown on the books and records of the taxpayer in accordance
18 with generally accepted accounting principles.

19 3. The portion of the business income of a taxpayer to be allocated to
20 the city shall be determined as follows:

21 (a) multiply its business income by a business allocation percentage
22 to be determined by:

23 (1) ascertaining the percentage which the average value of the taxpay-
24 er's real and tangible personal property, whether owned or rented to it,
25 within the city during the period covered by its report bears to the
26 average value of all the taxpayer's real and tangible personal property,
27 whether owned or rented to it, wherever situated during such period. For
28 the purpose of this subparagraph, the term "value of the taxpayer's real

1 and tangible personal property" shall mean the adjusted bases of such
2 properties for federal income tax purposes (except that in the case of
3 rented property such value shall mean the product of (i) eight and (ii)
4 the gross rents payable for the rental of such property during the taxa-
5 ble year); provided, however, that the taxpayer may make a one-time,
6 revocable election, pursuant to regulations promulgated by the commis-
7 sioner of finance to use fair market value as the value of all of its
8 real and tangible personal property, provided that such election is made
9 on or before the due date for filing a report under section 11-655 of
10 this subchapter for the taxpayer's first taxable year commencing on or
11 after January first, two thousand fifteen and provided that such
12 election shall not apply to any taxable year with respect to which the
13 taxpayer is included on a combined report unless each of the taxpayers
14 included on such report has made such an election which remains in
15 effect for such year or to any taxpayer that was subject to tax under
16 subchapter two of this chapter and did not have an election in effect
17 under subparagraph one of paragraph (a) of subdivision three of section
18 11-604 of this chapter on December thirty-first, two thousand fourteen;
19 (2) ascertaining the percentage determined under section 11-654.2 of
20 this subchapter;
21 (3) ascertaining the percentage of the total wages, salaries and other
22 personal service compensation, similarly computed, during such period of
23 employees within the city, except general executive officers, to the
24 total wages, salaries and other personal service compensation, similarly
25 computed, during such period of all the taxpayer's employees within and
26 without the city, except general executive officers; and
27 (4) adding together the percentages so determined and dividing the
28 result by the number of percentages.

1 (5) Intentionally omitted.

2 (6) Intentionally omitted.

3 (7) Intentionally omitted.

4 (8) Intentionally omitted.

5 (9) Intentionally omitted.

6 (10) Notwithstanding subparagraphs one through four of this paragraph,
7 the business allocation percentage, to the extent that it is computed by
8 reference to the percentages determined under subparagraphs one, two and
9 three of this paragraph, shall be computed in the manner set forth in
10 this subparagraph.

11 (i) Intentionally omitted.

12 (ii) Intentionally omitted.

13 (iii) Intentionally omitted.

14 (iv) Intentionally omitted.

15 (v) Intentionally omitted.

16 (vi) Intentionally omitted.

17 (vii) For taxable years beginning in two thousand fifteen, the busi-
18 ness allocation percentage shall be determined by adding together the
19 following percentages:

20 (A) the product of ten percent and the percentage determined under
21 subparagraph one of this paragraph;

22 (B) the product of eighty percent and the percentage determined under
23 subparagraph two of this paragraph; and

24 (C) the product of ten percent and the percentage determined under
25 subparagraph three of this paragraph.

26 (viii) For taxable years beginning in two thousand sixteen, the busi-
27 ness allocation percentage shall be determined by adding together the
28 following percentages:

1 (A) the product of six and one-half percent and the percentage deter-
2 mined under subparagraph one of this paragraph;

3 (B) the product of eighty-seven percent and the percentage determined
4 under subparagraph two of this paragraph; and

5 (C) the product of six and one-half percent and the percentage deter-
6 mined under subparagraph three of this paragraph.

7 (ix) For taxable years beginning in two thousand seventeen, the busi-
8 ness allocation percentage shall be determined by adding together the
9 following percentages:

10 (A) the product of three and one-half percent and the percentage
11 determined under subparagraph one of this paragraph;

12 (B) the product of ninety-three percent and the percentage determined
13 under subparagraph two of this paragraph; and

14 (C) the product of three and one-half percent and the percentage
15 determined under subparagraph three of this paragraph.

16 (x) For taxable years beginning after two thousand seventeen, the
17 business allocation percentage shall be the percentage determined under
18 subparagraph two of this paragraph.

19 (xi) The commissioner of finance shall promulgate rules necessary to
20 implement the provisions of this subparagraph under such circumstances
21 where any of the percentages to be determined under subparagraph one,
22 two or three of this paragraph cannot be determined because the taxpayer
23 has no property, receipts or wages within or without the city.

24 (b) Intentionally omitted.

25 (c) Intentionally omitted.

26 (d) In any taxable year when property is sold or otherwise disposed
27 of, with respect to which a deduction has been allowed pursuant to
28 subparagraph one or two of paragraph (d) of subdivision three of section

1 11-604 of this chapter or subdivision (k) of section 11-641 of this
2 chapter in any period in which the taxpayer was subject to tax under
3 subchapter two of this chapter, the gain or loss thereon entering into
4 the computation of federal taxable income shall be disregarded in
5 computing entire net income, and there shall be added to or subtracted
6 from the portion of entire net income allocated within the city the gain
7 or loss upon such sale or other disposition. In computing such gain or
8 loss the basis of the property sold or disposed of shall be adjusted to
9 reflect the deduction allowed with respect to such property pursuant to
10 subparagraph one or two of paragraph (d) of subdivision three of section
11 11-604 of this chapter. Provided, however, that no loss shall be recog-
12 nized for the purposes of this subparagraph with respect to a sale or
13 other disposition of property to a person whose acquisition thereof is
14 not a purchase as defined in subsection (d) of section one hundred
15 seventy-nine of the internal revenue code.

16 (e) In any taxable year when property is sold or otherwise disposed
17 of, with respect to which a deduction has been allowed pursuant to
18 subparagraph one or two of paragraph (e) of subdivision three of section
19 11-604 of this chapter in any period the taxpayer was subject to tax
20 under subchapter two of this chapter, the gain or loss thereon entering
21 into the computation of federal taxable income shall be disregarded in
22 computing entire net income, and there shall be added to or subtracted
23 from the portion of entire net income allocated within the city the gain
24 or loss upon such sale or other disposition. In computing such gain or
25 loss the basis of the property sold or disposed of shall be adjusted to
26 reflect the deduction allowed with respect to such property pursuant to
27 subparagraph one or two of paragraph (e) of subdivision three of section
28 11-604 of this chapter. Provided, however, that no loss shall be recog-

1 nized for the purposes of this subparagraph with respect to a sale or
2 other disposition of property to a person whose acquisition thereof is
3 not a purchase as defined in subsection (d) of section one hundred
4 seventy-nine of the internal revenue code.

5 4. The portion of the business capital of a taxpayer to be allocated
6 within the city shall be determined by multiplying the amount thereof by
7 the business allocation percentage determined as hereinabove provided.

8 4-a. A corporation that is a partner in a partnership shall compute
9 tax under this subchapter using any method required or permitted in
10 regulations of the commissioner of finance.

11 5. Intentionally omitted.

12 6. Intentionally omitted.

13 7. Intentionally omitted.

14 8. Intentionally omitted.

15 9. If it shall appear to the commissioner of finance that any business
16 allocation percentage determined as hereinabove provided does not prop-
17 erly reflect the activity, business, income or capital of a taxpayer
18 within the city, the commissioner of finance shall be authorized in his
19 or her discretion to adjust it, or the taxpayer may request that the
20 commissioner of finance adjust it, by (a) excluding one or more of the
21 factors therein, (b) including one or more other factors, such as
22 expenses, purchases, contract values (minus subcontract values), (c)
23 excluding one or more assets in computing such allocation percentage,
24 provided the income therefrom, is also excluded in determining entire
25 net income, or (d) any other similar or different method calculated to
26 effect a fair and proper allocation of the income and capital reasonably
27 attributable to the city. The commissioner of finance from time to time

1 shall publish all rulings of general public interest with respect to any
2 application of the provisions of this subdivision.

3 10. Intentionally omitted.

4 11. Intentionally omitted.

5 12. Intentionally omitted.

6 13. (a) In addition to any other credit allowed by this section, a
7 taxpayer shall be allowed a credit against the tax imposed by this
8 subchapter to be credited or refunded without interest, in the manner
9 hereinafter provided in this section.

10 (1)(i) Where a taxpayer shall have relocated to the city from a
11 location outside the state, and by such relocation shall have created a
12 minimum of one hundred industrial or commercial employment opportu-
13 nities; and where such taxpayer shall have entered into a written lease
14 for the relocation premises, the terms of which lease provide for
15 increased additional payments to the landlord which are based solely and
16 directly upon any increase or addition in real estate taxes imposed on
17 the leased premises, the taxpayer upon approval and certification by the
18 industrial and commercial incentive board as hereinafter provided shall
19 be entitled to a credit against the tax imposed by this subchapter. The
20 amount of such credit shall be an amount equal to the annual increased
21 payments actually made by the taxpayer to the landlord which are solely
22 and directly attributable to an increase or addition to the real estate
23 tax imposed upon the leased premises. Such credit shall be allowed only
24 to the extent that the taxpayer has not otherwise claimed said amount as
25 a deduction against the tax imposed by this subchapter.

26 (ii) The industrial and commercial incentive board in approving and
27 certifying to the qualifications of the taxpayer to receive the tax
28 credit provided for herein shall first determine that the applicant has

1 met the requirements of this section, and further, that the granting of
2 the tax credit to the applicant is in the "public interest". In deter-
3 mining that the granting of the tax credit is in the public interest,
4 the board shall make affirmative findings that: the granting of the tax
5 credit to the applicant will not effect an undue hardship on similar
6 taxpayers already located within the city; the existence of this tax
7 incentive has been instrumental in bringing about the relocation of the
8 applicant to the city; and the granting of the tax credit will foster
9 the economic recovery and economic development of the city.

10 (iii) The tax credit, if approved and certified by the industrial and
11 commercial incentive board, must be utilized annually by the taxpayer
12 for the length of the term of the lease or for a period not to exceed
13 ten years from the date of relocation whichever period is shorter.

14 (2) When used in this subdivision:

15 (i) "Employment opportunity" means the creation of a full time posi-
16 tion of gainful employment for an industrial or commercial employee and
17 the actual hiring of such employee for the said position.

18 (ii) "Industrial employee" means one engaged in the manufacture or
19 assembling of tangible goods or the processing of raw materials.

20 (iii) "Commercial employee" means one engaged in the buying, selling
21 or otherwise providing of goods or services other than on a retail
22 basis.

23 (iv) "Retail" means the selling or otherwise disposing or furnishing
24 of tangible goods or services directly to the ultimate user or consumer.

25 (v) "Full time position" means the hiring of an industrial or commer-
26 cial employee in a position of gainful employment where the number of
27 hours worked by such employees is not less than thirty hours during any
28 given work week.

1 (vi) "Industrial and commercial incentive board" means the board
2 created pursuant to part three of subchapter two of chapter two of this
3 title.

4 (b) The credit allowed under this subdivision for any taxable year
5 shall be deemed to be an overpayment of tax by the taxpayer to be cred-
6 ited or refunded, without interest, in accordance with the provisions of
7 section 11-677 of this chapter.

8 14. (a) In addition to any other credit allowed by this section, a
9 taxpayer shall be allowed a credit against the tax imposed by this
10 subchapter to be credited or refunded without interest, in the manner
11 hereinafter provided in this section. The amount of such credit shall
12 be:

13 (1) A maximum of three hundred dollars for each commercial employment
14 opportunity and a maximum of five hundred dollars for each industrial
15 employment opportunity relocated to the city from an area outside the
16 state. Such credit shall be allowed to a taxpayer who relocates a mini-
17 imum of ten employment opportunities. The credit shall be allowed against
18 employment opportunity relocation costs incurred by the taxpayer. Such
19 credit shall be allowed only to the extent that the taxpayer has not
20 claimed a deduction for allowable employment opportunity relocation
21 costs. The credit allowed hereunder may be taken by the taxpayer in
22 whole or in part in the year in which the employment opportunity is
23 relocated by such taxpayer or either of the two years succeeding such
24 event, provided, however, no credit shall be allowed under this subdivi-
25 sion to a taxpayer for industrial employment opportunities relocated to
26 premises (i) that are within an industrial business zone established
27 pursuant to section 22-626 of this code and (ii) for which a binding

1 contract to purchase or lease was first entered into by the taxpayer on
2 or after July first, two thousand five.

3 The commissioner of finance is empowered to promulgate rules and regu-
4 lations and to prescribe the form of application to be used by a taxpay-
5 er seeking the credit provided hereunder.

6 (2) When used in this subdivision:

7 (i) "Employment opportunity" means the creation of a full time posi-
8 tion of gainful employment for an industrial or commercial employee and
9 the actual hiring of such employee for the said position.

10 (ii) "Industrial employee" means one engaged in the manufacture or
11 assembling of tangible goods or the processing of raw materials.

12 (iii) "Commercial employee" means one engaged in the buying, selling
13 or otherwise providing of goods or services other than on a retail
14 basis.

15 (iv) "Retail" means the selling or otherwise disposing of tangible
16 goods directly to the ultimate user or consumer.

17 (v) "Full time position" means the hiring of an industrial or commer-
18 cial employee in a position of gainful employment where the number of
19 hours worked by such employee is not less than thirty hours during any
20 given work week.

21 (vi) "Employment opportunity relocation costs" means the costs
22 incurred by the taxpayer in moving furniture, files, papers and office
23 equipment into the city from a location outside the state; the costs
24 incurred by the taxpayer in the moving and installation of machinery and
25 equipment into the city from a location outside the state; the costs of
26 installation of telephones and other communications equipment required
27 as a result of the relocation to the city from a location outside the
28 state; the cost incurred in the purchase of office furniture and

1 fixtures required as a result of the relocation to the city from a
2 location outside the state; and the cost of renovation of the premises
3 to be occupied as a result of the relocation; provided, however, that
4 such renovation costs shall be allowable only to the extent that they do
5 not exceed seventy-five cents per square foot of the total area utilized
6 by the taxpayer in the occupied premises.

7 (b) The credit allowed under this section for any taxable year shall
8 be deemed to be an overpayment of tax by the taxpayer to be credited or
9 refunded without interest in accordance with the provisions of section
10 11-677 of this chapter.

11 (c) Notwithstanding any other provision of this subdivision to the
12 contrary, in the case of a taxpayer that has received, in a taxable year
13 beginning before January first, two thousand fifteen, the credit set
14 forth in subdivision fourteen of section 11-604 of this chapter for an
15 eligible employment relocation, a credit shall be allowed to the taxpay-
16 er under this subdivision for any tax year beginning on or after January
17 first, two thousand fifteen, in the same amount and to the same extent
18 that a credit, or the unused portion thereof, would have been allowed
19 under subdivision fourteen of section 11-604 of this chapter, as in
20 effect on December thirty-first, two thousand fourteen, if such subdivi-
21 sion continued to apply to the taxpayer for such taxable year.

22 15. Intentionally omitted.

23 16. Intentionally omitted.

24 17. (a) In addition to any other credit allowed by this section, a
25 taxpayer that has obtained the certifications required by chapter six-B
26 of title twenty-two of this code shall be allowed a credit against the
27 tax imposed by this subchapter. The amount of the credit shall be the
28 amount determined by multiplying five hundred dollars or, in the case of

1 a taxpayer that has obtained pursuant to chapter six-B of such title
2 twenty-two a certification of eligibility dated on or after July first,
3 nineteen hundred ninety-five, one thousand dollars or, in the case of an
4 eligible business that has obtained pursuant to chapter six-B of such
5 title twenty-two a certification of eligibility dated on or after July
6 first, two thousand, for a relocation to eligible premises located with-
7 in a revitalization area defined in subdivision (n) of section 22-621 of
8 this code, three thousand dollars, by the number of eligible aggregate
9 employment shares maintained by the taxpayer during the taxable year
10 with respect to particular premises to which the taxpayer has relocated;
11 provided, however, with respect to a relocation for which no application
12 for a certificate of eligibility is submitted prior to July first, two
13 thousand three, to eligible premises that are not within a revitaliza-
14 tion area, if the date of such relocation as determined pursuant to
15 subdivision (j) of section 22-621 of this code is before July first,
16 nineteen hundred ninety-five, the amount to be multiplied by the number
17 of eligible aggregate employment shares shall be five hundred dollars,
18 and with respect to a relocation for which no application for a certif-
19 icate of eligibility is submitted prior to July first, two thousand
20 three, to eligible premises that are within a revitalization area, if
21 the date of such relocation as determined pursuant to subdivision (j) of
22 such section is before July first, nineteen hundred ninety-five, the
23 amount to be multiplied by the number of eligible aggregate employment
24 shares shall be five hundred dollars, and if the date of such relocation
25 as determined pursuant to subdivision (j) of such section is on or after
26 July first, nineteen hundred ninety-five, and before July first, two
27 thousand, one thousand dollars; provided, however, that no credit shall
28 be allowed for the relocation of any retail activity or hotel services;

1 provided, further, that no credit shall be allowed under this subdivi-
2 sion to any taxpayer that has elected pursuant to subdivision (d) of
3 section 22-622 of this code to take such credit against a gross receipts
4 tax imposed by chapter eleven of this title; and provided that in the
5 case of an eligible business that has obtained pursuant to chapter six-B
6 of such title twenty-two certifications of eligibility for more than one
7 relocation, the portion of the total amount of eligible aggregate
8 employment shares to be multiplied by the dollar amount specified in
9 this subdivision for each such certification of a relocation shall be
10 the number of total attributed eligible aggregate employment shares
11 determined with respect to such relocation pursuant to subdivision (o)
12 of section 22-621 of this code. For purposes of this subdivision, the
13 terms "eligible aggregate employment shares," "relocate," "retail activ-
14 ity" and "hotel services" shall have the meanings ascribed by section
15 22-621 of this code.

16 (b) The credit allowed under this subdivision with respect to eligible
17 aggregate employment shares maintained with respect to particular prem-
18 ises to which the taxpayer has relocated shall be allowed for the first
19 taxable year during which such eligible aggregate employment shares are
20 maintained with respect to such premises and for any of the twelve
21 succeeding taxable years during which eligible aggregate employment
22 shares are maintained with respect to such premises; provided that the
23 credit allowed for the twelfth succeeding taxable year shall be calcu-
24 lated by multiplying the number of eligible aggregate employment shares
25 maintained with respect to such premises in the twelfth succeeding taxa-
26 ble year by the lesser of one and a fraction the numerator of which is
27 such number of days in the taxable year of relocation less the number of
28 days the eligible business maintained employment shares in the eligible

1 premises in the taxable year of relocation and the denominator of which
2 is the number of days in such twelfth succeeding taxable year during
3 which such eligible aggregate employment shares are maintained with
4 respect to such premises. Except as provided in paragraph (d) of this
5 subdivision, if the amount of the credit allowable under this subdivi-
6 sion for any taxable year exceeds the tax imposed for such year, the
7 excess may be carried over, in order, to the five immediately succeeding
8 taxable years and, to the extent not previously deductible, may be
9 deducted from the taxpayer's tax for such years.

10 (c) The credit allowable under this subdivision shall be deducted
11 after the credit allowed by subdivision eighteen of this section, but
12 prior to the deduction of any other credit allowed by this section.

13 (d) In the case of a taxpayer that has obtained a certification of
14 eligibility pursuant to chapter six-B of title twenty-two of this code
15 dated on or after July first, two thousand for a relocation to eligible
16 premises located within the revitalization area defined in subdivision
17 (n) of section 22-621 of this code, the credits allowed under this
18 subdivision, or in the case of a taxpayer that has relocated more than
19 once, the portion of such credits attributed to such certification of
20 eligibility pursuant to paragraph (a) of this subdivision, against the
21 tax imposed by this chapter for the taxable year of such relocation and
22 for the four taxable years immediately succeeding the taxable year of
23 such relocation, shall be deemed to be overpayments of tax by the
24 taxpayer to be credited or refunded, without interest, in accordance
25 with the provisions of section 11-677 of this chapter. For such taxable
26 years, such credits or portions thereof may not be carried over to any
27 succeeding taxable year; provided, however, that this paragraph shall
28 not apply to any relocation for which an application for a certification

1 of eligibility was not submitted prior to July first, two thousand
2 three, unless the date of such relocation is on or after July first, two
3 thousand.

4 (e) Notwithstanding any other provision of this subdivision to the
5 contrary, in the case of a taxpayer that has obtained, pursuant to chap-
6 ter six-B of title twenty-two of this code, a certification of eligibil-
7 ity and has received, in a taxable year beginning before January first,
8 two thousand fifteen, the credit set forth in subdivision seventeen of
9 section 11-604 of this chapter or section 11-643.7 of this chapter for
10 the relocation of an eligible business, a credit shall be allowed under
11 this subdivision to the taxpayer for any taxable year beginning on or
12 after January first, two thousand fifteen in the same amount and to the
13 same extent that a credit would have been allowed under subdivision
14 seventeen of section 11-604 of this chapter or section 11-643.7 of this
15 chapter, as in effect on December thirty-first, two thousand fourteen,
16 if such subdivision continued to apply to the taxpayer for such taxable
17 year.

18 17-a. Intentionally omitted.

19 17-b. (a) In addition to any other credit allowed by this section, an
20 eligible business that first enters into a binding contract on or after
21 July first, two thousand five to purchase or lease eligible premises to
22 which it relocates shall be allowed a one-time credit against the tax
23 imposed by this subchapter to be credited or refunded in the manner
24 hereinafter provided in this subdivision. The amount of such credit
25 shall be one thousand dollars per full-time employee; provided, however,
26 that the amount of such credit shall not exceed the lesser of actual
27 relocation costs or one hundred thousand dollars.

1 (b) When used in this subdivision, the following terms shall have the
2 following meanings:

3 (1) "Eligible business" means any business subject to tax under this
4 subchapter that (i) has been conducting substantial business operations
5 and engaging primarily in industrial and manufacturing activities at one
6 or more locations within the city of New York or outside the state of
7 New York continuously during the twenty-four consecutive full months
8 immediately preceding relocation, (ii) has leased the premises from
9 which it relocates continuously during the twenty-four consecutive full
10 months immediately preceding relocation, (iii) first enters into a bind-
11 ing contract on or after July first, two thousand five to purchase or
12 lease eligible premises to which such business will relocate, and (iv)
13 will be engaged primarily in industrial and manufacturing activities at
14 such eligible premises.

15 (2) "Eligible premises" means premises located entirely within an
16 industrial business zone. For any eligible business, an industrial busi-
17 ness zone tax credit shall not be granted with respect to more than one
18 eligible premises.

19 (3) "Full-time employee" means (i) one person gainfully employed in an
20 eligible premises by an eligible business where the number of hours
21 required to be worked by such person is not less than thirty-five hours
22 per week; or (ii) two persons gainfully employed in an eligible premises
23 by an eligible business where the number of hours required to be worked
24 by each such person is more than fifteen hours per week but less than
25 thirty-five hours per week.

26 (4) "Industrial business zone" means an area within the city of New
27 York established pursuant to section 22-626 of this code.

1 (5) "Industrial business zone tax credit" means a credit, as provided
2 for in this subdivision, against a tax imposed under this subchapter.

3 (6) "Industrial and manufacturing activities" means activities involv-
4 ing the assembly of goods to create a different article, or the process-
5 ing, fabrication, or packaging of goods. Industrial and manufacturing
6 activities shall not include waste management or utility services.

7 (7) "Relocation" means the physical relocation of furniture, fixtures,
8 equipment, machinery and supplies directly to an eligible premises, from
9 one or more locations of an eligible business, including at least one
10 location at which such business conducts substantial business operations
11 and engages primarily in industrial and manufacturing activities. For
12 purposes of this subdivision, the date of relocation shall be (i) the
13 date of the completion of the relocation to the eligible premises or
14 (ii) ninety days from the commencement of the relocation to the eligible
15 premises, whichever is earlier.

16 (8) "Relocation costs" means costs incurred in the relocation of such
17 furniture, fixtures, equipment, machinery and supplies, including, but
18 not limited to, the cost of dismantling and reassembling equipment and
19 the cost of floor preparation necessary for the reassembly of the equip-
20 ment. Relocation costs shall include only such costs that are incurred
21 during the ninety-day period immediately following the commencement of
22 the relocation to an eligible premises. Relocation costs shall not
23 include costs for structural or capital improvements or items purchased
24 in connection with the relocation.

25 (c) The credit allowed under this subdivision for any taxable year
26 shall be deemed to be an overpayment of tax by the taxpayer to be cred-
27 ited or refunded without interest, in accordance with the provisions of
28 section 11-677 of this chapter.

1 (d) The number of full-time employees for the purposes of calculating
2 an industrial business tax credit shall be the average number of full-
3 time employees, calculated on a weekly basis, employed in the eligible
4 premises by the eligible business in the fifty-two week period imme-
5 diately following the earlier of (1) the date of the completion of the
6 relocation to eligible premises or (2) ninety days from the commencement
7 of the relocation to the eligible premises.

8 (e) The credit allowed under this subdivision must be taken by the
9 taxpayer in the taxable year in which such twelve month period selected
10 by the taxpayer ends.

11 (f) For the purposes of calculating entire net income in the taxable
12 year that an industrial business tax credit is allowed, a taxpayer must
13 add back the amount of the credit allowed under this subdivision, to the
14 extent of any relocation costs deducted in the current taxable year or a
15 prior taxable year in calculating federal taxable income.

16 (g) The credit allowed under this subdivision shall not be granted for
17 an eligible business for more than one relocation. Notwithstanding the
18 foregoing, an industrial business tax credit shall not be granted if the
19 eligible business receives benefits pursuant to chapter six-B or six-C
20 of title twenty-two of this code, through a grant program administered
21 by the business relocation assistance corporation, or through the New
22 York city printers relocation fund grant.

23 (h) The commissioner of finance is authorized to promulgate rules and
24 regulations and to prescribe forms necessary to effectuate the purposes
25 of this subdivision.

26 18. (a) If a corporation is a partner in an unincorporated business
27 taxable under chapter five of this title, and is required to include in
28 entire net income its distributive share of income, gain, loss and

1 deductions of, or guaranteed payments from, such unincorporated busi-
2 ness, such corporation shall be allowed a credit against the tax imposed
3 by this subchapter equal to the lesser of the amounts determined in
4 subparagraphs one and two of this paragraph:

5 (1) The amount determined in this subparagraph is the product of (i)
6 the sum of (A) the tax imposed by chapter five of this title on the
7 unincorporated business for its taxable year ending within or with the
8 taxable year of the corporation and paid by the unincorporated business
9 and (B) the amount of any credit or credits taken by the unincorporated
10 business under section 11-503 of this title (except the credit allowed
11 by subdivision (b) of section 11-503 of this title) for its taxable year
12 ending within or with the taxable year of the corporation, to the extent
13 that such credits do not reduce such unincorporated business's tax below
14 zero, and (ii) a fraction, the numerator of which is the net total of
15 the corporation's distributive share of income, gain, loss and
16 deductions of, and guaranteed payments from, the unincorporated business
17 for such taxable year, and the denominator of which is the sum, for such
18 taxable year, of the net total distributive shares of income, gain, loss
19 and deductions of, and guaranteed payments to, all partners in the unin-
20 corporated business for whom or which such net total (as separately
21 determined for each partner) is greater than zero.

22 (2) The amount determined in this subparagraph is the product of (i)
23 the excess of (A) the tax computed under clause (i) of subparagraph one
24 of paragraph (e) of subdivision one of this section, without allowance
25 of any credits allowed by this section, over (B) the tax so computed,
26 determined as if the corporation had no such distributive share or guar-
27 anteed payments with respect to the unincorporated business, and (ii) a
28 fraction, the numerator of which is four and the denominator of which is

1 eight and eighty-five one hundredths, provided however, in the case of a
2 taxpayer that is subject to paragraph (j) or (k) of subdivision one of
3 this section, such denominator shall be the rate of tax as determined by
4 such paragraph (j) or (k) for the taxable year and, provided, however,
5 that the amounts computed in subclauses (A) and (B) of clause (i) of
6 this subparagraph shall be computed with the following modifications:

7 (A) such amounts shall be computed without taking into account any
8 carryforward or carryback by the partner of a net operating loss or a
9 prior net operation loss conversion subtraction;

10 (B) if, prior to taking into account any distributive share or guaran-
11 teed payments from any unincorporated business or any net operating loss
12 carryforward or carryback, the entire net income of the partner is less
13 than zero, such entire net income shall be treated as zero; and

14 (C) if such partner's net total distributive share of income, gain,
15 loss and deductions of, and guaranteed payments from, any unincorporated
16 business is less than zero, such net total shall be treated as zero. The
17 amount determined in this subparagraph shall not be less than zero.

18 (b)(1) Notwithstanding anything to the contrary in paragraph (a) of
19 this subdivision, in the case of a corporation that, before the applica-
20 tion of this subdivision or any other credit allowed by this section, is
21 liable for the tax on business income under clause (i) of subparagraph
22 one of paragraph (e) of subdivision one of this section, the credit or
23 the sum of the credits that may be taken by such corporation for a taxa-
24 ble year under this subdivision with respect to an unincorporated busi-
25 ness or unincorporated businesses in which it is a partner shall not
26 exceed the tax so computed, without allowance of any credits allowed by
27 this section, multiplied by a fraction the numerator of which is four
28 and the denominator of which is eight and eighty-five one-hundredths

1 provided however, in the case of a taxpayer that is subject to paragraph
2 (j) or (k) of subdivision one of this section, such denominator shall be
3 the rate of tax as determined by such paragraph (j) or (k) for the taxa-
4 ble year. If the credit allowed under this subdivision or the sum of
5 such credits exceeds the product of such tax and such fraction, the
6 amount of the excess may be carried forward, in order, to each of the
7 seven immediately succeeding taxable years and, to the extent not previ-
8 ously taken, shall be allowed as a credit in each of such years. In
9 applying the provisions of the preceding sentence, the credit determined
10 for the taxable year under paragraph (a) of this subdivision shall be
11 taken before taking any credit carryforward pursuant to this paragraph
12 and the credit carryforward attributable to the earliest taxable year
13 shall be taken before taking a credit carryforward attributable to a
14 subsequent taxable year.

15 (2) Intentionally omitted.

16 (2-a) Notwithstanding any other provision of this subdivision to the
17 contrary, in the case of a taxpayer that has received, in a taxable year
18 beginning before January first, two thousand fifteen, the credit set
19 forth in subdivision eighteen of section 11-604 of this chapter or
20 section 11-643.8 of this chapter for a tax paid under chapter five of
21 this title in a taxable year beginning before January first, two thou-
22 sand fifteen, the taxpayer may carry forward the unused portion of such
23 credit under this subdivision to any taxable year beginning on or after
24 January first, two thousand fifteen in the same amount and to the same
25 extent, including the same limitations, that the credit, or the unused
26 portion thereof, would have been allowed to be carried forward under
27 subparagraph one of paragraph (b) of subdivision eighteen of section
28 11-604 of this chapter or paragraph one of subdivision (b) of section

1 11-643.8 of this chapter, as in effect on December thirty-first, two
2 thousand fourteen, if such subdivision continued to apply to the taxpay-
3 er for such taxable year.

4 (3) No credit allowed under this subdivision may be taken in a taxable
5 year by a taxpayer that, in the absence of such credit, would be liable
6 for the tax computed on the basis of business capital under clause (ii)
7 of subparagraph one of paragraph (e) of subdivision one of this section
8 or the fixed-dollar minimum tax under clause (iv) of subparagraph one of
9 paragraph (e) of subdivision one of this section.

10 (c) For corporations that file a report on a combined basis pursuant
11 to section 11-654.3 of this subchapter, the credit allowed by this
12 subdivision shall be computed as if the combined group were the partner
13 in each unincorporated business from which any of the members of such
14 group had a distributive share or guaranteed payments, provided, howev-
15 er, if more than one member of the combined group is a partner in the
16 same unincorporated business, for purposes of the calculation required
17 in subparagraph one of paragraph (a) of this subdivision, the numerator
18 of the fraction described in clause (ii) of such subparagraph one shall
19 be the sum of the net total distributive shares of income, gain, loss
20 and deductions of, and guaranteed payments from, the unincorporated
21 business of all of the partners of the unincorporated business within
22 the combined group for which such net total (as separately determined
23 for each partner) is greater than zero, and the denominator of such
24 fraction shall be the sum of the net total distributive shares of
25 income, gain, loss and deductions of, and guaranteed payments from, the
26 unincorporated business of all partners in the unincorporated business
27 for whom or which such net total (as separately determined for each
28 partner) is greater than zero.

1 (d) Notwithstanding any other provision of this subchapter, the credit
2 allowable under this subdivision shall be taken prior to the taking of
3 any other credit allowed by this section. Notwithstanding any other
4 provision of this subchapter, the application of this subdivision shall
5 not change the basis on which the taxpayer's tax is computed under para-
6 graph (e) of subdivision one of this section.

7 19. Lower Manhattan relocation and employment assistance credit. (a)
8 In addition to any other credit allowed by this section, a taxpayer that
9 has obtained the certifications required by chapter six-C of title twen-
10 ty-two of this code shall be allowed a credit against the tax imposed by
11 this subchapter. The amount of the credit shall be the amount determined
12 by multiplying three thousand dollars by the number of eligible aggre-
13 gate employment shares maintained by the taxpayer during the taxable
14 year with respect to eligible premises to which the taxpayer has relo-
15 cated; provided, however, that no credit shall be allowed for the relo-
16 cation of any retail activity or hotel services; provided, further, that
17 no credit shall be allowed under this subdivision to any taxpayer that
18 has elected pursuant to subdivision (d) of section 22-624 of this code
19 to take such credit against a gross receipts tax imposed under chapter
20 eleven of this title. For purposes of this subdivision, the terms
21 "eligible aggregate employment shares," "eligible premises," "relocate,"
22 "retail activity" and "hotel services" shall have the meanings ascribed
23 by section 22-623 of this code.

24 (b) The credit allowed under this subdivision with respect to eligible
25 aggregate employment shares maintained with respect to eligible premises
26 to which the taxpayer has relocated shall be allowed for the taxable
27 year of the relocation and for any of the twelve succeeding taxable
28 years during which eligible aggregate employment shares are maintained

1 with respect to eligible premises; provided that the credit allowed for
2 the twelfth succeeding taxable year shall be calculated by multiplying
3 the number of eligible aggregate employment shares maintained with
4 respect to eligible premises in the twelfth succeeding taxable year by
5 the lesser of one and a fraction the numerator of which is such number
6 of days in the taxable year of relocation less the number of days the
7 taxpayer maintained employment shares in eligible premises in the taxa-
8 ble year of relocation and the denominator of which is the number of
9 days in such twelfth taxable year during which such eligible aggregate
10 employment shares are maintained with respect to such premises.

11 (c) Except as provided in paragraph (d) of this subdivision, if the
12 amount of the credit allowable under this subdivision for any taxable
13 year exceeds the tax imposed for such year, the excess may be carried
14 over, in order, to the five immediately succeeding taxable years and, to
15 the extent not previously deductible, may be deducted from the taxpay-
16 er's tax for such years.

17 (d) The credits allowed under this subdivision, against the tax
18 imposed by this chapter for the taxable year of the relocation and for
19 the four taxable years immediately succeeding the taxable year of such
20 relocation, shall be deemed to be overpayments of tax by the taxpayer to
21 be credited or refunded, without interest, in accordance with the
22 provisions of section 11-677 of this chapter. For such taxable years,
23 such credits or portions thereof may not be carried over to any succeed-
24 ing taxable year.

25 (e) The credit allowable under this subdivision shall be deducted
26 after the credits allowed by subdivisions seventeen and eighteen of this
27 section, but prior to the deduction of any other credit allowed by this
28 section.

1 (f) Notwithstanding any other provision of this subdivision to the
2 contrary, in the case of a taxpayer that has obtained, pursuant to chap-
3 ter six-C of title twenty-two of this code, a certification of eligibil-
4 ity and has received, in a taxable year beginning before January first,
5 two thousand fifteen, the credit set forth in subdivision nineteen of
6 section 11-604 of this chapter or section 11-643.9 of this chapter for
7 the relocation of an eligible business, a credit shall be allowed under
8 this subdivision to the taxpayer for any taxable year beginning on or
9 after January first, two thousand fifteen in the same amount and to the
10 same extent that a credit would have been allowed under subdivision
11 nineteen of section 11-604 of this chapter or section 11-643.9 of this
12 chapter, as in effect on December thirty-first, two thousand fourteen,
13 if such subdivision continued to apply to the taxpayer for such taxable
14 year.

15 20. Intentionally omitted.

16 21. Biotechnology credit. (a) (1) A taxpayer that is a qualified
17 emerging technology company, engages in biotechnologies, and meets the
18 eligibility requirements of this subdivision, shall be allowed a credit
19 against the tax imposed by this subchapter. The amount of credit shall
20 be equal to the sum of the amounts specified in subparagraphs three,
21 four and five of this paragraph, subject to the limitations in subpara-
22 graph seven of this paragraph and paragraph (b) of this subdivision. For
23 the purposes of this subdivision, "qualified emerging technology compa-
24 ny" shall mean a company located in the city: (i) whose primary products
25 or services are classified as emerging technologies and whose total
26 annual product sales are ten million dollars or less; or (ii) a company
27 that has research and development activities in the city and whose ratio
28 of research and development funds to net sales equals or exceeds the

1 average ratio for all surveyed companies classified as determined by the
2 National Science Foundation in the most recent published results from
3 its Survey of Industry Research and Development, or any comparable
4 successor survey as determined by the department of finance, and whose
5 total annual product sales are ten million dollars or less. For the
6 purposes of this subdivision, the definition of research and development
7 funds shall be the same as that used by the National Science Foundation
8 in the aforementioned survey. For the purposes of this subdivision,
9 "biotechnologies" shall mean the technologies involving the scientific
10 manipulation of living organisms, especially at the molecular and/or the
11 sub-molecular genetic level, to produce products conducive to improving
12 the lives and health of plants, animals, and humans; and the associated
13 scientific research, pharmacological, mechanical, and computational
14 applications and services connected with these improvements. Activities
15 included with such applications and services shall include, but not be
16 limited to, alternative mRNA splicing, DNA sequence amplification, anti-
17 genetic switching bioaugmentation, bioenrichment, bioremediation, chro-
18 mosome walking, cytogenetic engineering, DNA diagnosis, fingerprinting,
19 and sequencing, electroporation, gene translocation, genetic mapping,
20 site-directed mutagenesis, bio-transduction, bio-mechanical and bio-e-
21 lectrical engineering, and bio-informatics.

22 (2) An eligible taxpayer shall (i) have no more than one hundred full-
23 time employees, of which at least seventy-five percent are employed in
24 the city, (ii) have a ratio of research and development funds to net
25 sales, as referred to in section thirty-one hundred two-e of the public
26 authorities law, which equals or exceeds six percent during the calendar
27 year ending with or within the taxable year for which the credit is
28 claimed, and (iii) have gross revenues, along with the gross revenues of

1 its "affiliates" and "related members" not exceeding twenty million
2 dollars for the calendar year immediately preceding the calendar year
3 ending with or within the taxable year for which the credit is claimed.
4 For the purposes of this subdivision, "affiliates" shall mean those
5 corporations that are members of the same affiliated group (as defined
6 in section fifteen hundred four of the internal revenue code) as the
7 taxpayer. For the purposes of this subdivision, the term "related
8 members" shall mean a person, corporation, or other entity, including an
9 entity that is treated as a partnership or other pass-through vehicle
10 for purposes of federal taxation, whether such person, corporation or
11 entity is a taxpayer or not, where one such person, corporation or enti-
12 ty, or set of related persons, corporations or entities, directly or
13 indirectly owns or controls a controlling interest in another entity.
14 Such entity or entities may include all taxpayers under chapters five,
15 eleven and seventeen of this title, and subchapters two and three of
16 this chapter. A controlling interest shall mean, in the case of a corpo-
17 ration, either thirty percent or more of the total combined voting power
18 of all classes of stock of such corporation, or thirty percent or more
19 of the capital, profits or beneficial interest in such voting stock of
20 such corporation; and in the case of a partnership, association, trust
21 or other entity, thirty percent or more of the capital, profits or bene-
22 ficial interest in such partnership, association, trust or other entity.
23 (3) An eligible taxpayer shall be allowed a credit for eighteen per
24 centum of the cost or other basis for federal income tax purposes of
25 research and development property that is acquired by the taxpayer by
26 purchase as defined in subsection (d) of section one hundred seventy-
27 nine of the internal revenue code and placed in service during the
28 calendar year that ends with or within the taxable year for which the

1 credit is claimed. Provided, however, for the purposes of this para-
2 graph only, an eligible taxpayer shall be allowed a credit for such
3 percentage of the (i) cost or other basis for federal income tax
4 purposes for property used in the testing or inspection of materials and
5 products, (ii) the costs or expenses associated with quality control of
6 the research and development, (iii) fees for use of sophisticated tech-
7 nology facilities and processes, and (iv) fees for the production or
8 eventual commercial distribution of materials and products resulting
9 from the activities of an eligible taxpayer as long as such activities
10 fall under activities relating to biotechnologies. The costs, expenses
11 and other amounts for which a credit is allowed and claimed under this
12 paragraph shall not be used in the calculation of any other credit
13 allowed under this subchapter. For the purposes of this subdivision,
14 "research and development property" shall mean property that is used for
15 purposes of research and development in the experimental or laboratory
16 sense. Such purposes shall not be deemed to include the ordinary testing
17 or inspection of materials or products for quality control, efficiency
18 surveys, management studies, consumer surveys, advertising, promotions,
19 or research in connection with literary, historical or similar projects.

20 (4) An eligible taxpayer shall be allowed a credit for nine per centum
21 of qualified research expenses paid or incurred by the taxpayer in the
22 calendar year that ends with or within the taxable year for which the
23 credit is claimed. For the purposes of this subdivision, "qualified
24 research expenses" shall mean expenses associated with in-house research
25 and processes, and costs associated with the dissemination of the
26 results of the products that directly result from such research and
27 development activities; provided, however, that such costs shall not
28 include advertising or promotion through media. In addition, costs asso-

1 ciated with the preparation of patent applications, patent application
2 filing fees, patent research fees, patent examinations fees, patent post
3 allowance fees, patent maintenance fees, and grant application expenses
4 and fees shall qualify as qualified research expenses. In no case shall
5 the credit allowed under this subparagraph apply to expenses for liti-
6 gation or the challenge of another entity's intellectual property
7 rights, or for contract expenses involving outside paid consultants.

8 (5) An eligible taxpayer shall be allowed a credit for qualified high-
9 technology training expenditures as described in this subparagraph paid
10 or incurred by the taxpayer during the calendar year that ends with or
11 within the taxable year for which the credit is claimed.

12 (i) The amount of credit shall be one hundred percent of the training
13 expenses described in clause (iii) of this subparagraph, subject to a
14 limitation of no more than four thousand dollars per employee per calen-
15 dar year for such training expenses.

16 (ii) Qualified high-technology training shall include a course or
17 courses taken and satisfactorily completed by an employee of the taxpay-
18 er at an accredited, degree granting post-secondary college or universi-
19 ty in the city that (A) directly relates to biotechnology activities,
20 and (B) is intended to upgrade, retrain or improve the productivity or
21 theoretical awareness of the employee. Such course or courses may
22 include, but are not limited to, instruction or research relating to
23 techniques, meta, macro, or micro-theoretical or practical knowledge
24 bases or frontiers, or ethical concerns related to such activities. Such
25 course or courses shall not include classes in the disciplines of
26 management, accounting or the law or any class designed to fulfill the
27 discipline specific requirements of a degree program at the associate,
28 baccalaureate, graduate or professional level of these disciplines.

1 Satisfactory completion of a course or courses shall mean the earning
2 and granting of credit or equivalent unit, with the attainment of a
3 grade of "B" or higher in a graduate level course or courses, a grade of
4 "C" or higher in an undergraduate level course or courses, or a similar
5 measure of competency for a course that is not measured according to a
6 standard grade formula.

7 (iii) Qualified high-technology training expenditures shall include
8 expenses for tuition and mandatory fees, software required by the insti-
9 tution, fees for textbooks or other literature required by the institu-
10 tion offering the course or courses, minus applicable scholarships and
11 tuition or fee waivers not granted by the taxpayer or any affiliates of
12 the taxpayer, that are paid or reimbursed by the taxpayer. Qualified
13 high-technology expenditures do not include room and board, computer
14 hardware or software not specifically assigned for such course or cours-
15 es, late-charges, fines or membership dues and similar expenses. Such
16 qualified expenditures shall not be eligible for the credit provided by
17 this section unless the employee for whom the expenditures are disbursed
18 is continuously employed by the taxpayer in a full-time, full-year posi-
19 tion primarily located at a qualified site during the period of such
20 coursework and lasting through at least one hundred eighty days after
21 the satisfactory completion of the qualifying course-work. Qualified
22 high-technology training expenditures shall not include expenses for
23 in-house or shared training outside of a city higher education institu-
24 tion or the use of consultants outside of credit granting courses,
25 whether such consultants function inside of such higher education insti-
26 tution or not.

27 (iv) If a taxpayer relocates from an academic business incubator
28 facility partnered with an accredited post-secondary education institu-

1 tion located within the city, which provides space and business support
2 services to taxpayers, to another site, the credit provided in this
3 subdivision shall be allowed for all expenditures referenced in clause
4 (iii) of this subparagraph paid or incurred in the two preceding calen-
5 dar years that the taxpayer was located in such an incubator facility
6 for employees of the taxpayer who also relocate from said incubator
7 facility to such city site and are employed and primarily located by the
8 taxpayer in the city. Such expenditures in the two preceding years
9 shall be added to the amounts otherwise qualifying for the credit
10 provided by this subdivision that were paid or incurred in the calendar
11 year that the taxpayer relocates from such a facility. Such expenditures
12 shall include expenses paid for an eligible employee who is a full-time,
13 full-year employee of said taxpayer during the calendar year that the
14 taxpayer relocated from an incubator facility notwithstanding (A) that
15 such employee was employed full or part-time as an officer, staff-person
16 or paid intern of the taxpayer when such taxpayer was located at such
17 incubator facility or (B) that such employee was not continuously
18 employed when such taxpayer was located at the incubator facility during
19 the one hundred eighty day period referred to in clause (iii) of this
20 subparagraph, provided such employee received wages or equivalent income
21 for at least seven hundred fifty hours during any twenty-four month
22 period when the taxpayer was located at the incubator facility. Such
23 expenditures shall include payments made to such employee after the
24 taxpayer has relocated from the incubator facility for qualified expend-
25 itures if such payments are made to reimburse an employee for expendi-
26 tures paid by the employee during such two preceding years. The credit
27 provided under this paragraph shall be allowed in any taxable year that
28 the taxpayer qualifies as an eligible taxpayer.

1 (v) For purposes of this subdivision the term "academic year" shall
2 mean the annual period of sessions of a post-secondary college or
3 university.

4 (vi) For the purposes of this subdivision the term "academic incubator
5 facility" shall mean a facility providing low-cost space, technical
6 assistance, support services and educational opportunities, including
7 but not limited to central services provided by the manager of the
8 facility to the tenants of the facility, to an entity located in the
9 city. Such entity's primary activity must be in biotechnologies, and
10 such entity must be in the formative stage of development. The academic
11 incubator facility and the entity must act in partnership with an
12 accredited post-secondary college or university located in the city. An
13 academic incubator facility's mission shall be to promote job creation,
14 entrepreneurship, technology transfer, and provide support services to
15 incubator tenants, including, but not limited to, business planning,
16 management assistance, financial-packaging, linkages to financing
17 services, and coordinating with other sources of assistance.

18 (6) An eligible taxpayer may claim credits under this subdivision for
19 three consecutive years. In no case shall the credit allowed by this
20 subdivision to a taxpayer exceed two hundred fifty thousand dollars per
21 calendar year for eligible expenditures made during such calendar year.

22 (7) The credit allowed under this subdivision for any taxable year
23 shall not reduce the tax due for such year to less than the amount
24 prescribed in clause (iv) of subparagraph one of paragraph (e) of subdi-
25 vision one of this section. Provided, however, if the amount of credit
26 allowed under this subdivision for any taxable year reduces the tax to
27 such amount, any amount of credit not deductible in such taxable year
28 shall be treated as an overpayment of tax to be credited or refunded in

1 accordance with the provisions of section 11-677 of this chapter;
2 provided, however, that notwithstanding the provisions of section 11-679
3 of this chapter, no interest shall be paid thereon.

4 (8) The credit allowed under this subdivision shall only be allowed
5 for taxable years beginning before January first, two thousand sixteen.

6 (b) (1) The percentage of the credit allowed to a taxpayer under this
7 subdivision in any calendar year shall be:

8 (i) If the average number of individuals employed full time by a
9 taxpayer in the city during the calendar year that ends with or within
10 the taxable year for which the credit is claimed is at least one hundred
11 five percent of the taxpayer's base year employment, one hundred
12 percent, except that in no case shall the credit allowed under this
13 clause exceed two hundred fifty thousand dollars per calendar year.
14 Provided, however, the increase in base year employment shall not apply
15 to a taxpayer allowed a credit under this subdivision that was, (A)
16 located outside of the city, (B) not doing business, or (C) did not have
17 any employees, in the year preceding the first year that the credit is
18 claimed. Any such taxpayer shall be eligible for one hundred percent of
19 the credit for the first calendar year that ends with or within the
20 taxable year for which the credit is claimed, provided that such taxpay-
21 er locates in the city, begins doing business in the city or hires
22 employees in the city during such calendar year and is otherwise eligi-
23 ble for the credit pursuant to the provisions of this subdivision.

24 (ii) If the average number of individuals employed full time by a
25 taxpayer in the city during the calendar year that ends with or within
26 the taxable year for which the credit is claimed is less than one
27 hundred five percent of the taxpayer's base year employment, fifty
28 percent, except that in no case shall the credit allowed under this

1 clause exceed one hundred twenty-five thousand dollars per calendar
2 year. In the case of an entity located in the city receiving space and
3 business support services by an academic incubator facility, if the
4 average number of individuals employed full time by such entity in the
5 city during the calendar year in which the credit allowed under this
6 subdivision is claimed is less than one hundred five percent of the
7 taxpayer's base year employment, the credit shall be zero.

8 (2) For the purposes of this subdivision, "base year employment" means
9 the average number of individuals employed full-time by the taxpayer in
10 the city in the year preceding the first calendar year that ends with or
11 within the taxable year for which the credit is claimed.

12 (3) For the purposes of this subdivision, average number of individ-
13 uals employed full-time shall be computed by adding the number of such
14 individuals employed by the taxpayer at the end of each quarter during
15 each calendar year or other applicable period and dividing the sum so
16 obtained by the number of such quarters occurring within such calendar
17 year or other applicable period.

18 (4) Notwithstanding anything contained in this section to the contra-
19 ry, the credit provided by this subdivision shall be allowed against the
20 taxes authorized by this chapter for the taxable year after reduction by
21 all other credits permitted by this chapter.

22 (c) Notwithstanding any other provision of this subdivision to the
23 contrary, in the case of a taxpayer that has received, in a taxable year
24 beginning before January first, two thousand fifteen, the credit set
25 forth in subdivision twenty-one of section 11-604 of this chapter for an
26 eligible acquisition of property and/or expense paid or incurred, a
27 credit shall be allowed to the taxpayer under this subdivision for any
28 tax year beginning on or after January first, two thousand fifteen in

1 the same amount and to the same extent that a credit would have been
2 allowed under subdivision twenty-one of section 11-604 of this chapter,
3 as in effect on December thirty-first, two thousand fourteen, if such
4 subdivision continued to apply to the taxpayer for such taxable year.

5 § 11-654.1 Net operating loss. 1. In computing the business income
6 subject to tax, taxpayers shall be allowed both a prior net operating
7 loss conversion subtraction under subdivision two of this section and a
8 net operating loss deduction under subdivision three of this section.
9 The prior net operating loss conversion subtraction computed under
10 subdivision two of this section shall be applied against business income
11 before the net operating loss deduction computed under subdivision three
12 of this section.

13 2. Prior net operating loss conversion subtraction. (a) Definitions.

14 (1) "Base year" means the last taxable year beginning on or after Janu-
15 ary first, two thousand fourteen and before January first, two thousand
16 fifteen.

17 (2) "Unabsorbed net operating loss" means the unabsorbed portion of
18 net operating loss as calculated under paragraph (f) of subdivision
19 eight of section 11-602 of this chapter or subdivision (k-1) of section
20 11-641 of this chapter as such sections were in effect on December thir-
21 ty-first, two thousand fourteen, that was not deductible in previous
22 taxable years and was eligible for carryover on the last day of the base
23 year subject to the limitations for deduction under such sections,
24 including any net operating loss sustained by the taxpayer during the
25 base year.

26 (3) "Base year BAP" means the taxpayer's business allocation percent-
27 age as calculated under paragraph (a) of subdivision three of section
28 11-604 of this chapter for the base year, or the taxpayer's allocation

1 percentage as calculated under section 11-642 of this chapter for
2 purposes of calculating entire net income for the base year, as such
3 sections were in effect on December thirty-first, two thousand fourteen.

4 (4) "Base year tax rate" means the taxpayer's tax rate for the base
5 year as calculated under subdivision one of section 11-604 of this chap-
6 ter or section 11-643.5 of this chapter, as such provisions were in
7 effect on December thirty-first, two thousand fourteen.

8 (b) The prior net operating loss conversion subtraction shall be
9 calculated as follows:

10 (1) The taxpayer shall first calculate the tax value of its unabsorbed
11 net operating loss for the base year. The value is equal to the product
12 of (i) the amount of the taxpayer's unabsorbed net operating loss, (ii)
13 the taxpayer's base year BAP, and (iii) the taxpayer's base year tax
14 rate.

15 (2) The product determined under subparagraph one of this paragraph
16 shall then be divided by eight and eighty-five one hundredths per
17 centum. This result shall equal the taxpayer's prior net operating loss
18 conversion subtraction pool.

19 (3) The taxpayer's prior net operating loss conversion subtraction for
20 the taxable year shall equal one-tenth of its prior net operating loss
21 conversion subtraction pool, plus any amount of unused prior net operat-
22 ing loss conversion subtraction from preceding taxable years.

23 (4) In lieu of the prior net operating loss conversion subtraction
24 described in subparagraph three of this paragraph, if the taxpayer so
25 elects, the taxpayer's prior net operating loss conversion subtraction
26 for its taxable years beginning on or after January first, two thousand
27 fifteen and before January first, two thousand seventeen shall equal, in
28 each year, not more than one-half of its prior net operating loss

1 conversion subtraction pool until the pool is exhausted. If the pool is
2 not exhausted at the end of such time period, the remainder of the pool
3 shall be forfeited. The taxpayer shall make such election on its first
4 return for the tax year beginning on or after January first, two thou-
5 sand fifteen and before January first, two thousand sixteen by the due
6 date for such return (determined with regard to extensions).

7 (c) (1) Where a taxpayer was properly included or required to be
8 included in a combined report for the base year pursuant to subdivision
9 four of section 11-605 of this chapter or a combined return for the base
10 year under subdivision (f) of section 11-646 of this chapter, as such
11 sections were in effect on December thirty-first, two thousand fourteen,
12 and the members of the combined group for the base year are the same as
13 the members of the combined group for the taxable year immediately
14 succeeding the base year, the combined group shall calculate its prior
15 net operating loss conversion subtraction pool using the combined
16 group's total unabsorbed net operating loss, base year BAP, and base
17 year tax rate.

18 (2) If a combined group includes additional members in the taxable
19 year immediately succeeding the base year that were not included in the
20 combined group during the base year, each base year combined group and
21 each taxpayer that filed separately for the base year but is included in
22 the combined group in the taxable year succeeding the base year shall
23 calculate its prior net operating loss conversion subtraction pool, and
24 the sum of the pools shall be the combined prior net operating loss
25 conversion subtraction pool of the combined group.

26 (3) If a taxpayer was properly included in a combined report for the
27 base year and files a separate report for a subsequent taxable year,
28 then the amount of remaining prior net operating loss conversion

1 subtraction allowed to the taxpayer filing such separate report shall be
2 proportionate to the amount that such taxpayer contributed to the prior
3 net operating loss conversion subtraction pool on a combined basis, and
4 the remaining prior net operating loss conversion subtraction allowed to
5 the remaining members of the combined group shall be reduced according-
6 ly.

7 (4) If a taxpayer filed a separate report for the base year and is
8 properly included in a combined report for a subsequent taxable year,
9 then the prior net operating loss conversion subtraction pool of the
10 combined group shall be increased by the amount of the remaining prior
11 net operating loss conversion subtraction allowed to the taxpayer at the
12 time the taxpayer is properly included in the combined group.

13 (d) The prior net operating loss conversion subtraction may be used to
14 reduce the taxpayer's tax on allocated business income to the higher of
15 the tax on capital under clause (ii) of subparagraph one of paragraph
16 (e) of subdivision one of section 11-654 of this subchapter or the fixed
17 dollar minimum under clause (iv) of subparagraph one of paragraph (e) of
18 subdivision one of section 11-654 of this subchapter. Unless the taxpay-
19 er has made the election provided for in subparagraph four of paragraph
20 (b) of this subdivision, any amount of unused prior net operating loss
21 conversion subtraction shall be carried forward to a subsequent tax year
22 or subsequent tax years until the prior net operating loss conversion
23 subtraction pool is exhausted, but for no longer than twenty taxable
24 years or not after the taxable year beginning on or after January first,
25 two thousand thirty-five but before January first, two thousand thirty-
26 six, whichever comes first. Such amount carried forward shall not be
27 subject to the one-tenth limitation for the subsequent tax year or years
28 under subparagraph three of paragraph (b) of this subdivision. However,

1 if the taxpayer elects to compute its prior net operating loss conver-
2 sion subtraction pursuant to subparagraph four of paragraph (b) of this
3 subdivision, the taxpayer shall not carry forward any unused amount of
4 such prior net operating loss conversion subtraction to any tax year
5 beginning on or after January first, two thousand seventeen.

6 3. In computing business income, a net operating loss deduction shall
7 be allowed. A net operating loss deduction shall be the amount of net
8 operating loss or losses from one or more taxable years that are carried
9 forward or carried back to a particular taxable year. A net operating
10 loss shall be the amount of a business loss incurred in a particular tax
11 year multiplied by the business allocation percentage for that year as
12 determined under subdivision three of section 11-654 of this subchapter.
13 The maximum net operating loss deduction that is allowed in a taxable
14 year shall be the amount that reduces the taxpayer's tax on allocated
15 business income to the higher of the tax on capital or the fixed dollar
16 minimum amount. Such net operating loss deduction and net operating loss
17 shall be determined in accordance with the following:

18 (a) Such net operating loss deduction shall not be limited to the
19 amount allowed under section one hundred seventy-two of the internal
20 revenue code or the amount that would have been allowed if the taxpayer
21 did not have an election under subchapter S of chapter one of the inter-
22 nal revenue code in effect for the applicable tax year.

23 (b) Such net operating loss deduction shall not include any net oper-
24 ating loss incurred during any taxable year beginning prior to January
25 first, two thousand fifteen, or during any taxable year in which the
26 taxpayer was not subject to the tax imposed by this subchapter.

27 (c) A taxpayer that files as part of a federal consolidated return but
28 on a separate basis for purposes of this subchapter shall compute its

1 deduction and loss as if it were filing on a separate basis for federal
2 income tax purposes.

3 (d) A net operating loss may be carried back three taxable years
4 preceding the taxable year of the loss except that no loss may be
5 carried back to a taxable year beginning before January first, two thou-
6 sand fifteen. The loss first shall be carried to the earliest of the
7 three taxable years preceding the taxable year of the loss. If it is not
8 entirely used in that year, it shall be carried to the second taxable
9 year preceding the taxable year of the loss, and any remaining amount
10 shall be carried to the taxable year immediately preceding the taxable
11 year of the loss. Any unused amount of loss then remaining may be
12 carried forward for as many as twenty taxable years following the taxa-
13 ble year of the loss. Losses carried forward are carried forward first
14 to the taxable year immediately following the taxable year of the loss,
15 then to the second taxable year following the taxable year of the loss,
16 and then to the next immediately subsequent taxable year or years until
17 the loss is used up or the twentieth taxable year following the loss
18 year, whichever comes first.

19 (e) Such net operating loss deduction shall not include any net oper-
20 ating loss incurred during any year commencing after January first, two
21 thousand fifteen if the taxpayer was subject to tax under subchapter two
22 or three of this chapter in that year; provided, however, any year
23 commencing after January first, two thousand fifteen that the taxpayer
24 was subject to tax under subchapter two or three of this chapter in that
25 year must be treated as a taxable year for purposes of determining the
26 number of taxable years to which a net operating loss may be carried
27 forward.

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

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

13 § 11-654.2 Receipts apportionment. 1. The percentage of receipts of
14 the taxpayer to be allocated to the city for purposes of subparagraph
15 two of paragraph (a) of subdivision three of section 11-654 of this
16 subchapter shall be equal to the receipts fraction determined pursuant
17 to this section. The receipts fraction is a fraction, determined by
18 including only those receipts, net income, net gains, and other items
19 described in this section that are included in the computation of the
20 taxpayer's business income (determined without regard to the modifica-
21 tion provided in subparagraph fourteen of paragraph (a) of subdivision
22 eight of section 11-652 of this subchapter) for the taxable year. The
23 numerator of the receipts fraction shall be equal to the sum of all the
24 amounts required to be included in the numerator pursuant to the
25 provisions of this section and the denominator of the receipts fraction
26 shall be equal to the sum of all the amounts required to be included in
27 the denominator pursuant to the provisions of this section.

1 2. (a) Receipts from sales of tangible personal property where ship-
2 ments are made to points within the city or the destination of the prop-
3 erty is a point within the city shall be included in the numerator of
4 the receipts fraction. Receipts from sales of tangible personal property
5 where shipments are made to points within and without the city or the
6 destination is within and without the city shall be included in the
7 denominator of the receipts fraction.

8 (b) Receipts from sales of electricity delivered to points within the
9 city shall be included in the numerator of the receipts fraction.
10 Receipts from sales of electricity delivered to points within and with-
11 out the city shall be included in the denominator of the receipts frac-
12 tion.

13 (c) Receipts from sales of tangible personal property and electricity
14 that are traded as commodities as the term "commodity" is defined in
15 section four hundred seventy-five of the internal revenue code shall be
16 included in the receipts fraction in accordance with clause (i) of
17 subparagraph two of paragraph (a) of subdivision five of this section.

18 (d) Net gains (not less than zero) from the sales of real property
19 located within the city shall be included in the numerator of the
20 receipts fraction. Net gains (not less than zero) from the sales of real
21 property located within and without the city shall be included in the
22 denominator of the receipts fraction.

23 3. (a) Receipts from rentals of real and tangible personal property
24 located within the city shall be included in the numerator of the
25 receipts fraction. Receipts from rentals of real and tangible personal
26 property located within and without the city shall be included in the
27 denominator of the receipts fraction.

1 (b) Receipts of royalties from the use of patents, copyrights, trade-
2 marks, and similar intangible personal property within the city shall be
3 included in the numerator of the receipts fraction. Receipts of royal-
4 ties from the use of patents, copyrights, trademarks, and similar intan-
5 gible personal property within and without the city shall be included in
6 the denominator of the receipts fraction. A patent, copyright, trade-
7 mark, or similar intangible personal property is used within the city to
8 the extent that the activities thereunder are carried on within the
9 city.

10 (c) Receipts from the sales of rights for closed-circuit and cable
11 television transmissions of an event (other than events occurring on a
12 regularly scheduled basis) taking place within the city as a result of
13 the rendition of services by employees of the corporation, as athletes,
14 entertainers or performing artists, shall be included in the numerator
15 of the receipts fraction to the extent that such receipts are attribut-
16 able to such transmissions received or exhibited within the city.
17 Receipts from all sales of rights for closed-circuit and cable tele-
18 vision transmissions of an event shall be included in the denominator of
19 the receipts fraction.

20 4. (a) For purposes of determining the receipts fraction under this
21 section, the term "digital product" means any property or service, or
22 combination thereof, of whatever nature delivered to the purchaser
23 through the use of wire, cable, fiber-optic, laser, microwave, radio
24 wave, satellite or similar successor media, or any combination thereof.
25 Digital product includes, but is not limited to, an audio work, audi-
26 ovisual work, visual work, book or literary work, graphic work, game,
27 information or entertainment service, storage of digital products and
28 computer software by whatever means delivered. The term "delivered to"

1 includes furnished or provided to or accessed by. A digital product
2 shall not include legal, medical, accounting, architectural, research,
3 analytical, engineering or consulting services provided by the taxpayer.

4 (b) Receipts from the sale of, license to use, or granting of remote
5 access to digital products within the city, determined according to the
6 hierarchy of methods set forth in subparagraphs one through four of
7 paragraph (c) of this subdivision, shall be included in the numerator of
8 the receipts fraction. Receipts from the sale of, license to use, or
9 granting of remote access to digital products within and without the
10 city shall be included in the denominator of the receipts fraction. The
11 taxpayer must exercise due diligence under each method described in
12 paragraph (c) of this subdivision before rejecting it and proceeding to
13 the next method in the hierarchy, and must base its determination on
14 information known to the taxpayer or information that would be known to
15 the taxpayer upon reasonable inquiry. If the receipt for a digital prod-
16 uct is comprised of a combination of property and services, it cannot be
17 divided into separate components and shall be considered to be one
18 receipt regardless of whether it is separately stated for billing
19 purposes. The entire receipt must be allocated by this hierarchy.

20 (c) The hierarchy of sourcing methods is as follows: (1) the custom-
21 er's primary use location of the digital product; (2) the location where
22 the digital product is received by the customer, or is received by a
23 person designated for receipt by the customer; (3) the receipts fraction
24 determined pursuant to this subdivision for the preceding taxable year
25 for such digital product; or (4) the receipts fraction in the current
26 taxable year for those digital products that can be sourced using the
27 hierarchy of sourcing methods in subparagraphs one and two of this para-
28 graph.

1 5. (a) A financial instrument is a "qualified financial instrument" if
2 it is eligible or required to be marked to market under section four
3 hundred seventy-five or section twelve hundred fifty-six of the internal
4 revenue code, provided that loans secured by real property shall not be
5 qualified financial instruments. A financial instrument is a "nonquali-
6 fied financial instrument" if it is not a qualified financial instru-
7 ment.

8 (1) In determining the inclusion of receipts and net gains from quali-
9 fied financial instruments in the receipts fraction, taxpayers may elect
10 to use the fixed percentage method described in this subparagraph for
11 qualified financial instruments. The election is irrevocable, applies to
12 all qualified financial instruments, and must be made on an annual basis
13 on the taxpayer's original, timely filed return. If the taxpayer elects
14 the fixed percentage method, then all income, gain or loss, including
15 marked to market net gains as defined in clause (x) of subparagraph two
16 of this paragraph from qualified financial instruments constitute busi-
17 ness income, gain or loss. If the taxpayer does not elect to use the
18 fixed percentage method, then receipts and net gains are included in the
19 receipts fraction in accordance with the customer sourcing method
20 described in subparagraph two of this paragraph. Under the fixed
21 percentage method, eight percent of all net income (not less than zero)
22 from qualified financial instruments shall be included in the numerator
23 of the receipts fraction. All net income (not less than zero) from qual-
24 ified financial instruments shall be included in the denominator of the
25 receipts fraction.

26 (2) Receipts and net gains from qualified financial instruments, in
27 cases where the taxpayer did not elect to use the fixed percentage meth-
28 od described in subparagraph one of this paragraph, and from nonquali-

1 fied financial instruments shall be included in the receipts fraction in
2 accordance with this subparagraph. For purposes of this paragraph, an
3 individual is deemed to be located within the city if his or her billing
4 address is within the city. A business entity is deemed to be located
5 within the city if its commercial domicile is located within the city.

6 (i) (A) Receipts constituting interest from loans secured by real prop-
7 erty located within the city shall be included in the numerator of the
8 receipts fraction. Receipts constituting interest from loans secured by
9 real property located within and without the city shall be included in
10 the denominator of the receipts fraction.

11 (B) Receipts constituting interest from loans not secured by real
12 property shall be included in the numerator of the receipts fraction if
13 the borrower is located within the city. Receipts constituting interest
14 from loans not secured by real property, whether the borrower is located
15 within or without the city, shall be included in the denominator of the
16 receipts fraction.

17 (C) Net gains (not less than zero) from sales of loans secured by real
18 property shall be included in the numerator of the receipts fraction as
19 provided in this subclause. The amount of net gains from the sales of
20 loans secured by real property included in the numerator of the receipts
21 fraction shall be determined by multiplying the net gains by a fraction,
22 the numerator of which shall be the amount of gross proceeds from sales
23 of loans secured by real property located within the city and the denom-
24 inator of which shall be the gross proceeds from sales of loans secured
25 by real property located within and without the city. Gross proceeds
26 shall be determined after the deduction of any cost incurred to acquire
27 the loans but shall not be less than zero. Net gains (not less than
28 zero) from sales of loans secured by real property located within and

1 without the city shall be included in the denominator of the receipts
2 fraction.

3 (D) Net gains (not less than zero) from sales of loans not secured by
4 real property shall be included in the numerator of the receipts frac-
5 tion as provided in this subclause. The amount of net gains from the
6 sales of loans not secured by real property included in the numerator of
7 the receipts fraction shall be determined by multiplying the net gains
8 by a fraction, the numerator of which shall be the amount of gross
9 proceeds from sales of loans not secured by real property to purchasers
10 located within the city and the denominator of which shall be the amount
11 of gross proceeds from sales of loans not secured by real property to
12 purchasers located within and without the city. Gross proceeds shall be
13 determined after the deduction of any cost incurred to acquire the loans
14 but shall not be less than zero. Net gains (not less than zero) from
15 sales of loans not secured by real property shall be included in the
16 denominator of the receipts fraction.

17 (E) For purposes of this subdivision, a loan is secured by real prop-
18 erty if fifty percent or more of the value of the collateral used to
19 secure the loan, when valued at fair market value as of the time the
20 loan was entered into, consists of real property.

21 (ii) Federal, state, and municipal debt. Receipts constituting inter-
22 est and net gains from sales of debt instruments issued by the United
23 States, any state, or political subdivision of a state shall not be
24 included in the numerator of the receipts fraction. Receipts constitut-
25 ing interest and net gains (not less than zero) from sales of debt
26 instruments issued by the United States and the state of New York or its
27 political subdivisions, including the city, shall be included in the
28 denominator of the receipts fraction. Fifty percent of the receipts

1 constituting interest and net gains (not less than zero) from sales of
2 debt instruments issued by other states or their political subdivisions
3 shall be included in the denominator of the receipts fraction.

4 (iii) Asset backed securities and other government agency debt. Eight
5 percent of the interest income from asset backed securities or other
6 securities issued by government agencies, including but not limited to
7 securities issued by the government national mortgage association
8 (GNMA), the federal national mortgage association (FNMA), the federal
9 home loan mortgage corporation (FHLMC), or the small business adminis-
10 tration, or eight percent of the interest income from asset backed secu-
11 rities issued by other entities shall be included in the numerator of
12 the receipts fraction. Eight percent of the net gains (not less than
13 zero) from (A) sales of asset backed securities or other securities
14 issued by government agencies, including but not limited to securities
15 issued by GNMA, FNMA, FHLMC, or the small business administration, or
16 (B) sales of other asset backed securities that are sold through a
17 registered securities broker or dealer or through a licensed exchange,
18 shall be included in the numerator of the receipts fraction. The amount
19 of net gains (not less than zero) from sales of other asset backed secu-
20 rities not referenced in subclause (A) or (B) of this clause included in
21 the numerator of the receipts fraction shall be determined by multiply-
22 ing such net gains by a fraction, the numerator of which shall be the
23 amount of gross proceeds from such sales to purchasers located in the
24 city and the denominator of which shall be the amount of gross proceeds
25 from such sales to purchasers located within and without the city.
26 Receipts constituting interest income from asset backed securities and
27 other securities referenced in this clause and net gains (not less than
28 zero) from sales of asset backed securities and other securities refer-

1 enced in this clause shall be included in the denominator of the
2 receipts fraction. Gross proceeds shall be determined after the
3 deduction of any cost to acquire the securities but shall not be less
4 than zero.

5 (iv) Receipts constituting interest from corporate bonds shall be
6 included in the numerator of the receipts fraction if the commercial
7 domicile of the issuing corporation is within the city. Eight percent of
8 the net gains (not less than zero) from sales of corporate bonds sold
9 through a registered securities broker or dealer or through a licensed
10 exchange shall be included in the numerator of the receipts fraction.
11 The amount of net gains (not less than zero) from other sales of corpo-
12 rate bonds included in the numerator of the receipts fraction shall be
13 determined by multiplying such net gains by a fraction, the numerator of
14 which is the amount of gross proceeds from such sales to purchasers
15 located within the city and the denominator of which is the amount of
16 gross proceeds from sales to purchasers located within and without the
17 city. Receipts constituting interest from corporate bonds, whether the
18 issuing corporation's commercial domicile is within or without the city,
19 and net gains (not less than zero) from sales of corporate bonds to
20 purchasers within and without the city shall be included in the denomi-
21 nator of the receipts fraction. Gross proceeds shall be determined after
22 the deduction of any cost to acquire the bonds but shall not be less
23 than zero.

24 (v) Eight percent of net interest income (not less than zero) from
25 reverse repurchase agreements and securities borrowing agreements shall
26 be included in the numerator of the receipts fraction. Net interest
27 income (not less than zero) from reverse repurchase agreements and secu-
28 rities borrowing agreements shall be included in the denominator of the

1 receipts fraction. Net interest income from reverse repurchase agree-
2 ments and securities borrowing agreements shall be determined for
3 purposes of this subdivision after the deduction of the interest expense
4 from the taxpayer's repurchase agreements and securities lending agree-
5 ments but shall not be less than zero. For this calculation, the amount
6 of such interest expense shall be the interest expense associated with
7 the sum of the value of the taxpayer's repurchase agreements where it is
8 the seller/borrower plus the value of the taxpayer's securities lending
9 agreements where it is the securities lender, provided such sum is
10 limited to the sum of the value of the taxpayer's reverse repurchase
11 agreements where it is the purchaser/lender plus the value of the
12 taxpayer's securities lending agreements where it is the securities
13 borrower.

14 (vi) Eight percent of the net interest (not less than zero) from
15 federal funds shall be included in the numerator of the receipts frac-
16 tion. The net interest (not less than zero) from federal funds shall be
17 included in the denominator of the receipts fraction. Net interest from
18 federal funds shall be determined after deduction of interest expense
19 from federal funds.

20 (vii) Dividends from stock, net gains (not less than zero) from sales
21 of stock and net gains (not less than zero) from sales of partnership
22 interests shall not be included in either the numerator or denominator
23 of the receipts fraction unless the commissioner of finance determines
24 pursuant to subdivision eleven of this section that inclusion of such
25 dividends and net gains (not less than zero) is necessary to properly
26 reflect the business income or capital of the taxpayer.

27 (viii)(A) Receipts constituting interest from other financial instru-
28 ments shall be included in the numerator of the receipts fraction if the

1 payor is located within the city. Receipts constituting interest from
2 other financial instruments, whether the payor is within or without the
3 city, shall be included in the denominator of the receipts fraction.

4 (B) Net gains (not less than zero) from sales of other financial
5 instruments and other income (not less than zero) from other financial
6 instruments where the purchaser or payor is located within the city
7 shall be included in the numerator of the receipts fraction, provided
8 that, if the purchaser or payor is a registered securities broker or
9 dealer or the transaction is made through a licensed exchange, then
10 eight percent of the net gains (not less than zero) or other income (not
11 less than zero) shall be included in the numerator of the receipts frac-
12 tion. Net gains (not less than zero) from sales of other financial
13 instruments and other income (not less than zero) from other financial
14 instruments shall be included in the denominator of the receipts frac-
15 tion.

16 (ix) Net income (not less than zero) from sales of physical commod-
17 ities shall be included in the numerator of the receipts fraction as
18 provided in this clause. The amount of net income from sales of phys-
19 ical commodities included in the numerator of the receipts fraction
20 shall be determined by multiplying the net income from sales of physical
21 commodities by a fraction, the numerator of which shall be the amount of
22 receipts from sales of physical commodities actually delivered to points
23 within the city or, if there is no actual delivery of the physical
24 commodity, sold to purchasers located within the city, and the denomina-
25 tor of which shall be the amount of receipts from sales of physical
26 commodities actually delivered to points within and without the city or,
27 if there is no actual delivery of the physical commodity, sold to
28 purchasers located within and without the city. Net income (not less

1 than zero) from sales of physical commodities shall be included in the
2 denominator of the receipts fraction. Net income (not less than zero)
3 from sales of physical commodities shall be determined after the
4 deduction of the cost to acquire or produce the physical commodities.

5 (x)(A) For purposes of this subdivision, "marked to market" means that
6 a financial instrument is, under section four hundred seventy-five or
7 section twelve hundred fifty-six of the internal revenue code, treated
8 by the taxpayer as sold for its fair market value on the last business
9 day of the taxpayer's taxable year. "Marked to market gain or loss"
10 means the gain or loss recognized by the taxpayer under section four
11 hundred seventy-five or section twelve hundred fifty-six of the internal
12 revenue code because the financial instrument is treated as sold for its
13 fair market value on the last business day of the taxpayer's taxable
14 year.

15 (B) The amount of marked to market net gains (not less than zero) from
16 each type of financial instrument that is marked to market included in
17 the numerator of the receipts fraction shall be determined by multiply-
18 ing the marked to market net gains (not less than zero) from such type
19 of financial instrument by a fraction, the numerator of which shall be
20 the numerator of the receipts fraction for that type of financial
21 instrument determined under the applicable clause of this subparagraph
22 and the denominator of which shall be the denominator of the receipts
23 fraction for net gains from that type of financial instrument determined
24 under the applicable clause of this subparagraph. Marked to market net
25 gains (not less than zero) from financial instruments for which the
26 numerator of the receipts fraction for net gains is determined under the
27 immediately preceding sentence shall be included in the denominator of
28 the receipts fraction.

1 (C) If the type of financial instrument that is marked to market is
2 not otherwise sourced by the taxpayer under this subparagraph, or if the
3 taxpayer has a net loss from the sales of that type of financial instru-
4 ment under the applicable clause of this subparagraph, the amount of
5 marked to market net gains (not less than zero) from that type of finan-
6 cial instrument included in the numerator of the receipts fraction shall
7 be determined by multiplying the marked to market net gains (but not
8 less than zero) from that type of financial instrument by a fraction,
9 the numerator of which shall be the sum of the amount of receipts
10 included in the numerator of the receipts fraction under clauses (i)
11 through (ix) of this subparagraph and subclause (B) of this clause, and
12 the denominator of which shall be the sum of the amount of receipts
13 included in the denominator of the receipts fraction under clauses (i)
14 through (ix) of this subparagraph and subclause (B) of this clause.
15 Marked to market net gains (not less than zero) for which the amount to
16 be included in the numerator of the receipts fraction is determined
17 under the immediately preceding sentence shall be included in the denom-
18 inator of the receipts fraction.

19 (b) Receipts of a registered securities broker or dealer from securi-
20 ties or commodities broker or dealer activities described in this para-
21 graph shall be deemed to be generated within the city as described in
22 subparagraphs one through eight of this paragraph. Receipts from such
23 activities generated within the city shall be included in the numerator
24 of the receipts fraction. Receipts from such activities generated within
25 and without the city shall be included in the denominator of the
26 receipts fraction. For the purposes of this paragraph, the term "securi-
27 ties" shall have the same meaning as in paragraph two of subsection (c)
28 of section four hundred seventy-five of the internal revenue code and

1 the term "commodities" shall have the same meaning as in paragraph two
2 of subsection (e) of section four hundred seventy-five of the internal
3 revenue code.

4 (1) Receipts constituting brokerage commissions derived from the
5 execution of securities or commodities purchase or sales orders for the
6 accounts of customers shall be deemed to be generated within the city if
7 the mailing address in the records of the taxpayer of the customer who
8 is responsible for paying such commissions is within the city.

9 (2) Receipts constituting margin interest earned on behalf of broker-
10 age accounts shall be deemed to be generated within the city if the
11 mailing address in the records of the taxpayer of the customer who is
12 responsible for paying such margin interest is within the city.

13 (3) (i) Receipts constituting fees earned by the taxpayer for advisory
14 services to a customer in connection with the underwriting of securities
15 for such customer (such customer being the entity that is contemplating
16 issuing or is issuing securities) or fees earned by the taxpayer for
17 managing an underwriting shall be deemed to be generated within the city
18 if the mailing address in the records of the taxpayer of such customer
19 who is responsible for paying such fees is within the city.

20 (ii) Receipts constituting the primary spread of selling concession
21 from underwritten securities shall be deemed to be generated within the
22 city if the customer is located within the city.

23 (iii) The term "primary spread" means the difference between the price
24 paid by the taxpayer to the issuer of the securities being marketed and
25 the price received from the subsequent sale of the underwritten securi-
26 ties at the initial public offering price, less any selling concession
27 and any fees paid to the taxpayer for advisory services or any manager's
28 fees, if such fees are not paid by the customer to the taxpayer sepa-

1 rately. The term "public offering price" means the price agreed upon by
2 the taxpayer and the issuer at which the securities are to be offered to
3 the public. The term "selling concession" means the amount paid to the
4 taxpayer for participating in the underwriting of a security where the
5 taxpayer is not the lead underwriter.

6 (4) Receipts constituting account maintenance fees shall be deemed to
7 be generated within the city if the mailing address in the record of the
8 taxpayer of the customer who is responsible for paying such account
9 maintenance fees is within the city.

10 (5) Receipts constituting fees for management or advisory services,
11 including fees for advisory services in relation to merger or acquisi-
12 tion activities, but excluding fees paid for services described in para-
13 graph (d) of this subdivision, shall be deemed to be generated within
14 the city if the mailing address in the records of the taxpayer of the
15 customer who is responsible for paying such fees is within the city.

16 (6) Receipts constituting interest earned by the taxpayer on loans and
17 advances made by the taxpayer to a corporation affiliated with the
18 taxpayer but with which the taxpayer is not permitted or required to
19 file a combined report pursuant to section 11-654.3 of this subchapter
20 shall be deemed to arise from services performed at the principal place
21 of business of such affiliated corporation.

22 (7) If the taxpayer receives any of the receipts enumerated in subpar-
23 agraphs one through four of this paragraph as a result of a securities
24 correspondent relationship such taxpayer has with another broker or
25 dealer with the taxpayer acting in this relationship as the clearing
26 firm, such receipts shall be deemed to be generated within the city to
27 the extent set forth in each of such subparagraphs. The amount of such
28 receipts shall exclude the amount the taxpayer is required to pay to the

1 correspondent firm for such correspondent relationship. If the taxpayer
2 receives any of the receipts enumerated in subparagraphs one through
3 four of this paragraph as result of a securities correspondent relation-
4 ship such taxpayer has with another broker or dealer with the taxpayer
5 acting in this relationship as the introducing firm, such receipts shall
6 be deemed to be generated within the city to the extent set forth in
7 each of such subparagraphs.

8 (8) If, for the purposes of subparagraph one, subparagraph two, clause
9 (i) of subparagraph three, subparagraph four, or subparagraph five of
10 this paragraph the taxpayer is unable from its records to determine the
11 mailing address of the customer, eight percent of the receipts shall be
12 included in the numerator of the receipts fraction.

13 (c) Receipts relating to the bank, credit, travel, and entertainment
14 card activities described in this paragraph shall be deemed to be gener-
15 ated within the city as described in subparagraphs one through four of
16 this paragraph. Receipts from such activities generated within the city
17 shall be included in the numerator of the receipts fraction. Receipts
18 from such activities generated within and without the city shall be
19 included in the denominator of the receipts fraction.

20 (1) Receipts constituting interest, and fees and penalties in the
21 nature of interest, from bank, credit, travel and entertainment card
22 receivables shall be deemed to be generated within the city if the mail-
23 ing address of the card holder in the records of the taxpayer is within
24 the city;

25 (2) Receipts from service charges and fees from such cards shall be
26 deemed to be generated within the city if the mailing address of the
27 card holder in the records of the taxpayer is within the city;

1 (3) Receipts from merchant discounts shall be deemed to be generated
2 within the city if the merchant is located within the city. In the case
3 of a merchant with locations both within and without the city, only
4 receipts from merchant discounts attributable to sales made from
5 locations within the city are allocated to the city. It shall be
6 presumed that the location of the merchant is the address of the
7 merchant shown on the invoice submitted by the merchant to the taxpayer;
8 and

9 (4) Receipts from credit card authorization processing, and clearing
10 and settlement processing received by a credit card processor shall be
11 deemed to be generated within the city if the location where the credit
12 card processor's customer accesses the credit card processor's network
13 is located within the city. The amount of all other receipts received by
14 a credit card processor not specifically addressed in subdivisions one
15 through nine or subdivision twelve of this section deemed to be gener-
16 ated within the city shall be determined by multiplying the total amount
17 of such other receipts by the average of (i) eight percent and (ii) the
18 percent of New York city access points. The percent of New York city
19 access points shall be the number of locations in New York city from
20 which the credit card processor's customers access the credit card
21 processor's network divided by the total number of locations in the
22 United States where the credit card processor's customers access the
23 credit card processor's network.

24 (d) Receipts received from an investment company arising from the sale
25 of management, administration or distribution services to such invest-
26 ment company shall be included in the denominator of the receipts frac-
27 tion. The portion of such receipts included in the numerator of the

1 receipts fraction (such portion referred to herein as the New York city
2 portion) shall be determined as provided in this paragraph.

3 (1) The New York city portion shall be the product of the total of
4 such receipts from the sale of such services and a fraction. The numera-
5 tor of that fraction shall be the sum of the monthly percentages (as
6 defined hereinafter) determined for each month of the investment compa-
7 ny's taxable year for federal income tax purposes which taxable year
8 ends within the taxable year of the taxpayer (but excluding any month
9 during which the investment company had no outstanding shares). The
10 monthly percentage for each such month shall be determined by dividing
11 the number of shares in the investment company that are owned on the
12 last day of the month by shareholders that are located in the city by
13 the total number of shares in the investment company outstanding on that
14 date. The denominator of the fraction shall be the number of such month-
15 ly percentages.

16 (2)(i) For purposes of this paragraph, an individual, estate or trust
17 shall be deemed to be located within the city if his, her or its mailing
18 address in the records of the investment company is located within the
19 city. A business entity is deemed to be located within the city if its
20 commercial domicile is located within the city.

21 (ii) For purposes of this paragraph, the term "investment company"
22 means a regulated investment company, as defined in section eight
23 hundred fifty-one of the internal revenue code, and a partnership to
24 which subsection (a) of section seven thousand seven hundred four of the
25 internal revenue code applies (by virtue of paragraph three of
26 subsection (c) of section seven thousand seven hundred four of such
27 code) and that meets the requirements of subsection (b) of section eight
28 hundred fifty-one of such code. The preceding sentence shall be applied

1 to the taxable year for federal income tax purposes of the business
2 entity that is asserted to constitute an investment company that ends
3 within the taxable year of the taxpayer.

4 (iii) For purposes of this paragraph, the term "receipts received from
5 an investment company" includes amounts received directly from an
6 investment company as well as amounts received from the shareholders in
7 such investment company, in their capacity as such.

8 (iv) For purposes of this paragraph, the term "management services"
9 means the rendering of investment advice to an investment company,
10 making determinations as to when sales and purchases of securities are
11 to be made on behalf of an investment company, or the selling or
12 purchasing of securities constituting assets of an investment company,
13 and related activities, but only where such activity or activities are
14 performed pursuant to a contract with the investment company entered
15 into pursuant to subsection (a) of section fifteen of the federal
16 investment company act of nineteen hundred forty, as amended.

17 (v) For purposes of this paragraph, the term "distribution services"
18 means the services of advertising, servicing investor accounts (includ-
19 ing redemptions), marketing shares or selling shares of an investment
20 company, but, in the case of advertising, servicing investor accounts
21 (including redemptions) or marketing shares, only where such service is
22 performed by a person who is (or was, in the case of a closed end compa-
23 ny) also engaged in the service of selling such shares. In the case of
24 an open end company, such service of selling shares must be performed
25 pursuant to a contract entered into pursuant to subsection (b) of
26 section fifteen of the federal investment company act of nineteen
27 hundred forty, as amended.

1 (vi) For purposes of this paragraph, the term "administration
2 services" includes clerical, accounting, bookkeeping, data processing,
3 internal auditing, legal and tax services performed for an investment
4 company but only if the provider of such service or services during the
5 taxable year in which such service or services are sold also sells
6 management or distribution services, as defined hereinabove, to such
7 investment company.

8 (e) For purposes of this subdivision, a taxpayer shall use the follow-
9 ing hierarchy to determine the commercial domicile of a business entity,
10 based on the information known to the taxpayer or information that would
11 be known upon reasonable inquiry: (1) the seat of management and control
12 of the business entity; and (2) the billing address of the business
13 entity in the taxpayer's records. The taxpayer must exercise due dili-
14 gence before rejecting the first method in this hierarchy and proceeding
15 to the next method.

16 (f) For purposes of this subdivision, the term "registered securities
17 broker or dealer" means a broker or dealer registered as such by the
18 securities and exchange commission or a broker or dealer registered as
19 such by the commodities futures trading commission, and shall include an
20 OTC derivatives dealer as defined under regulations of the securities
21 and exchange commission at title 17, part 240, section 3b-12 of the code
22 of federal regulations (17 CFR 240.3b-12).

23 6. Receipts from the conduct of a railroad business (including surface
24 railroad, whether or not operated by steam, subway railroad, elevated
25 railroad, palace car or sleeping car business) or a trucking business
26 shall be included in the numerator of the receipts fraction as follows.
27 The amount of receipts from the conduct of a railroad business or a
28 trucking business included in the numerator of the receipts fraction

1 shall be determined by multiplying the amount of receipts from such
2 business by a fraction, the numerator of which shall be the miles in
3 such business within the city during the period covered by the taxpay-
4 er's report and the denominator of which shall be the miles in such
5 business within and without the city during such period. Receipts from
6 the conduct of the railroad business or a trucking business shall be
7 included in the denominator of the receipts fraction.

8 7. (a) Receipts of a taxpayer acting as principal from the activity of
9 air freight forwarding and like indirect air carrier receipts arising
10 from such activity shall be included in the numerator of the receipts
11 fraction as follows: one hundred percent of such receipts if both the
12 pickup and delivery associated with such receipts are made within the
13 city and fifty percent of such receipts if either the pickup or delivery
14 associated with such receipts is made within this city. Such receipts,
15 whether the pickup or delivery associated with the receipts is within or
16 without the city, shall be included in the denominator of the receipts
17 fraction.

18 (b) (1) (i) The portion of receipts of a taxpayer from aviation services
19 (other than services described in paragraph (a) of this subdivision, but
20 including the receipts of a qualified air freight forwarder) to be
21 included in the numerator of the receipts fraction shall be determined
22 by multiplying its receipts from such aviation services by a percentage
23 which is equal to the arithmetic average of the following three percent-
24 ages:

25 (A) the percentage determined by dividing the aircraft arrivals and
26 departures within the city by the taxpayer during the period covered by
27 its report by the total aircraft arrivals and departures within and
28 without the city during such period; provided, however, arrivals and

1 departures solely for maintenance or repair, refueling (where no debar-
2 kation or embarkation of traffic occurs), arrivals and departures of
3 ferry and personnel training flights or arrivals and departures in the
4 event of emergency situations shall not be included in computing such
5 arrival and departure percentage; provided, further, the commissioner of
6 finance may also exempt from such percentage aircraft arrivals and
7 departures of all non-revenue flights including flights involving the
8 transportation of officers or employees receiving air transportation to
9 perform maintenance or repair services or where such officers or employ-
10 ees are transported in conjunction with an emergency situation or the
11 investigation of an air disaster (other than on a scheduled flight);
12 provided, however, that arrivals and departures of flights transporting
13 officers and employees receiving air transportation for purposes other
14 than specified above (without regard to remuneration) shall be included
15 in computing such arrival and departure percentage;

16 (B) the percentage determined by dividing the revenue tons handled by
17 the taxpayer at airports within the city during such period by the total
18 revenue tons handled by it at airports within and without the city
19 during such period; and

20 (C) the percentage determined by dividing the taxpayer's originating
21 revenue within the city for such period by its total originating revenue
22 within and without the city for such period.

23 (ii) As used herein the term "aircraft arrivals and departures" means
24 the number of landings and takeoffs of the aircraft of the taxpayer and
25 the number of air pickups and deliveries by the aircraft of such taxpay-
26 er; the term "originating revenue" means revenue to the taxpayer from
27 the transportation of revenue passengers and revenue property first
28 received by the taxpayer either as originating or connecting traffic at

1 airports; and the term "revenue tons handled by the taxpayer at
2 airports" means the weight in tons of revenue passengers (at two hundred
3 pounds per passenger) and revenue cargo first received either as origi-
4 nating or connecting traffic or finally discharged by the taxpayer at
5 airports.

6 (2) All such receipts of a taxpayer from aviation services described
7 in this paragraph shall be included in the denominator of the receipts
8 fraction.

9 (3) A corporation is a qualified air freight forwarder with respect to
10 another corporation:

11 (i) if it owns or controls either directly or indirectly all of the
12 capital stock of such other corporation, or if all of its capital stock
13 is owned or controlled either directly or indirectly by such other
14 corporation, or if all of the capital stock of both corporations is
15 owned or controlled either directly or indirectly by the same interests;

16 (ii) if it is principally engaged in the business of air freight
17 forwarding; and

18 (iii) if its air freight forwarding business is carried on principally
19 with the airline or airlines operated by such other corporation.

20 8. (a) The amount of receipts from sales of advertising in newspapers
21 or periodicals included in the numerator of the receipts fraction shall
22 be determined by multiplying the total of such receipts by a fraction,
23 the numerator of which shall be the number of newspapers and periodicals
24 delivered to points within the city and the denominator of which shall
25 be the number of newspapers and periodicals delivered to points within
26 and without the city. The total of such receipts from sales of advertis-
27 ing in newspapers or periodicals shall be included in the denominator of
28 the receipts fraction.

1 (b) The amount of receipts from sales of advertising on television or
2 radio included in the receipts fraction shall be determined by multiply-
3 ing the total of such receipts by a fraction, the numerator of which
4 shall be the number of viewers or listeners within the city and the
5 denominator of which shall be the number of viewers or listeners within
6 and without the city. The total of such receipts from sales of adver-
7 tising on television or radio shall be included in the denominator of
8 the receipts fraction.

9 (c) The amount of receipts from sales of advertising not described in
10 paragraph (a) or (b) of this subdivision that is furnished, provided or
11 delivered to, or accessed by the viewer or listener through the use of
12 wire, cable, fiber-optic, laser, microwave, radio wave, satellite or
13 similar successor media or any combination thereof, included in the
14 numerator of the receipts fraction shall be determined by multiplying
15 the total of such receipts by a fraction, the numerator of which shall
16 be the number of viewers or listeners within the city and the denomina-
17 tor of which shall be the number of viewers or listeners within and
18 without the city. The total of such receipts from sales of advertising
19 described in this paragraph shall be included in the denominator of the
20 receipts fraction.

21 9. Receipts from the transportation or transmission of gas through
22 pipes shall be included in the numerator of the receipts fraction as
23 follows. The amount of receipts from the transportation or transmission
24 of gas through pipes included in the numerator of the receipts fraction
25 shall be determined by multiplying the total amount of such receipts by
26 a fraction, the numerator of which shall be the taxpayer's transporta-
27 tion units within the city and the denominator of which shall be the
28 taxpayer's transportation units within and without the city. A transpor-

1 tation unit is the transportation of one cubic foot of gas over a
2 distance of one mile. The total amount of receipts from the transporta-
3 tion or transmission of gas through pipes shall be included in the
4 denominator of the receipts fraction.

5 10. (a) Receipts from services not addressed in subdivisions one
6 through nine or subdivision twelve of this section and other business
7 receipts not addressed in such subdivisions shall be included in the
8 numerator of the receipts fraction if the location of the customer is
9 within the city. Such receipts from customers within and without the
10 city shall be included in the denominator of the receipts fraction.
11 Whether the receipts are included in the numerator of the receipts frac-
12 tion shall be determined according to the hierarchy of methods set forth
13 in paragraph (b) of this subdivision. The taxpayer must exercise due
14 diligence under each method described in such paragraph before rejecting
15 it and proceeding to the next method in the hierarchy, and must base its
16 determination on information known to the taxpayer or information that
17 would be known to the taxpayer upon reasonable inquiry.

18 (b) The hierarchy of methods is as follows: (1) the benefit is
19 received in the city; (2) delivery destination; (3) the receipts frac-
20 tion for such receipts within the city determined pursuant to this
21 subdivision for the preceding taxable year; or (4) the receipts fraction
22 in the current taxable year determined pursuant to this subdivision for
23 those receipts that can be sourced using the hierarchy of sourcing meth-
24 ods in subparagraphs one and two of this paragraph.

25 11. If it shall appear that the receipts fraction determined pursuant
26 to this section does not result in a proper reflection of the taxpayer's
27 business income or capital within the city, the commissioner of finance
28 is authorized in his or her discretion to adjust it, or the taxpayer may

1 request that the commissioner of finance adjust it, by (a) excluding one
2 or more items in such determination, (b) including one or more other
3 items in such determination, or (c) any other similar or different meth-
4 od calculated to effect a fair and proper apportionment of the business
5 income and capital reasonably attributed to the city. The party seeking
6 the adjustment shall bear the burden of proof to demonstrate that the
7 receipts fraction determined pursuant to this section does not result in
8 a proper reflection of the taxpayer's business income or capital within
9 the city and that the proposed adjustment is appropriate.

10 12. Receipts from the operation of vessels shall be included in the
11 numerator of the receipts fraction as follows. The amount of receipts
12 from the operation of vessels included in the numerator of the receipts
13 fraction shall be determined by multiplying the amount of such receipts
14 by a fraction, the numerator of which shall be the aggregate number of
15 working days of the vessels owned or leased by the taxpayer in territo-
16 rial waters of the city during the period covered by the taxpayer's
17 report and the denominator of which shall be the aggregate number of
18 working days of all vessels owned or leased by the taxpayer during such
19 period. Receipts from the operation of vessels shall be included in the
20 denominator of the receipts fraction.

21 § 11-654.3 Combined reports. 1. (a) The tax on a combined report shall
22 be the highest of (1) the combined business income multiplied by the tax
23 rate specified in clause (i) of subparagraph one of paragraph (e) of
24 subdivision one of section 11-654 of this subchapter; (2) the combined
25 capital multiplied by the tax rate specified in clause (ii) of subpara-
26 graph one of paragraph (e) of subdivision one of section 11-654 of this
27 subchapter, but not exceeding the limitation provided for in such clause
28 (ii); or (3) the fixed dollar minimum that is attributable to the desig-

1 nated agent of the combined group. In addition, the tax on a combined
2 report shall include the fixed dollar minimum tax specified in clause
3 (iv) of subparagraph one of paragraph (e) of subdivision one of section
4 11-654 of this subchapter for each member of the combined group, other
5 than the designated agent, that is a taxpayer.

6 (b) The combined business income base is the amount of the combined
7 business income of the combined group that is allocated to the city,
8 reduced by any prior net operating loss conversion subtraction and any
9 net operating loss deduction for the combined group. The combined capi-
10 tal base is the amount of the combined capital of the combined group
11 that is allocated to the city.

12 2. (a) Except as provided in paragraph (c) of this subdivision, any
13 taxpayer (1) which owns or controls either directly or indirectly more
14 than fifty percent of the voting power of the capital stock of one or
15 more other corporations, or (2) more than fifty percent of the voting
16 power of the capital stock of which is owned or controlled either
17 directly or indirectly by one or more other corporations, or (3) more
18 than fifty percent of the voting power of the capital stock of which and
19 the capital stock of one or more other corporations, is owned or
20 controlled, directly or indirectly, by the same interests, and (4) that
21 is engaged in a unitary business with those corporations (hereinafter
22 referred to as "related corporations"), shall make a combined report
23 with those other corporations.

24 (b) A corporation required to make a combined report within the mean-
25 ing of this section shall also include (1) a captive REIT and a captive
26 RIC; (2) a combinable captive insurance company; and (3) an alien corpo-
27 ration that satisfies the conditions in paragraph (a) of this subdivi-
28 sion if (i) under any provision of the internal revenue code, that

1 corporation is treated as a "domestic corporation" as defined in section
2 seven thousand seven hundred one of the internal revenue code, or (ii)
3 it has effectively connected income for the taxable year pursuant to
4 clause three of the opening paragraph of subdivision eight of section
5 11-652 of this subchapter.

6 (c) A corporation required or permitted to make a combined report
7 under this section does not include (1) a corporation that is taxable
8 under a tax imposed by subchapter two of this chapter or chapter eleven
9 of this title (except for a vendor of utility services that is taxable
10 under both chapter eleven of this title and this subchapter), or would
11 be taxable under a tax imposed by subchapter two of this chapter or
12 chapter eleven of this title (except for a vendor of utility services
13 that is taxable under both chapter eleven of this title and this
14 subchapter), or would have been taxable as an insurance corporation
15 under the former part IV, title R, chapter forty-six of the administra-
16 tive code as in effect on June thirtieth, nineteen hundred seventy-four;
17 (2) a REIT that is not a captive REIT, and a RIC that is not a captive
18 RIC; or (3) an alien corporation that under any provision of the inter-
19 nal revenue code is not treated as a "domestic corporation" as defined
20 in section seven thousand seven hundred one of such code and has no
21 effectively connected income for the taxable year pursuant to clause
22 three of the opening paragraph of subdivision eight of section 11-652 of
23 this subchapter. If a corporation is subject to tax under this subchap-
24 ter solely as a result of its ownership of a limited partner interest in
25 a limited partnership that is doing business, employing capital, owning
26 or leasing property, maintaining an office in this state, or deriving
27 receipts from activity in this state, and none of the corporation's
28 related corporations are subject to tax under this subchapter, such

1 corporation shall not be required or permitted to file a combined report
2 under this section with such related corporations.

3 (d) A combined report shall be filed by the designated agent of the
4 combined group as determined under subdivision seven of this section.

5 3. (a) Subject to the provisions of paragraph (c) of subdivision two
6 of this section, a taxpayer may elect to treat as its combined group all
7 corporations that meet the ownership requirements described in paragraph
8 (a) of subdivision two of this section (such corporations collectively
9 referred to in this subdivision as the "commonly owned group"). If that
10 election is made, the commonly owned group shall calculate the combined
11 business income, combined capital, and fixed dollar minimum amount of
12 all members of the group in accordance with paragraph four of this
13 subdivision, whether or not that business income or business capital is
14 from a single unitary business.

15 (b) The election under this subdivision shall be made on an original,
16 timely filed return of the combined group. Any corporation entering a
17 commonly owned group subsequent to the year of election shall be
18 included in the combined group and is considered to have waived any
19 objection to its inclusion in the combined group.

20 (c) The election shall be irrevocable, and binding for and applicable
21 to the taxable year for which it is made and for the next six taxable
22 years. The election will automatically be renewed for another seven
23 taxable years after it has been in effect for seven taxable years unless
24 it is affirmatively revoked. The revocation shall be made on an
25 original, timely filed return for the first taxable year after the
26 completion of a seven year period for which an election under this
27 subdivision was in place. In the case of a revocation, a new election
28 under this subdivision shall not be permitted in any of the immediately

1 following three taxable years. In determining the seven and three year
2 periods described in this paragraph, short taxable years shall not be
3 considered or counted.

4 4. (a) In computing the tax bases for a combined report, the combined
5 group shall generally be treated as a single corporation, except as
6 otherwise provided, and subject to any regulations or guidance issued by
7 the commissioner of finance or the department of finance.

8 (b)(1) In computing combined business income, all intercorporate divi-
9 dends shall be eliminated, and all other intercorporate transactions
10 shall be deferred in a manner similar to the United States Treasury
11 regulations relating to intercompany transactions under section fifteen
12 hundred two of the internal revenue code.

13 (2) In computing combined capital, all intercorporate stockholdings,
14 intercorporate bills, intercorporate notes receivable and payable,
15 intercorporate accounts receivable and payable, and other intercorporate
16 indebtedness, shall be eliminated.

17 (c) Qualification for credits, including any limitations thereon,
18 shall be determined separately for each of the members of the combined
19 group, and shall not be determined on a combined group basis, except as
20 otherwise provided. However, the credits shall be applied against the
21 combined tax of the group. To the extent that a provision of section
22 11-654 of this subchapter, or any other applicable section of this
23 subchapter, limits a credit to the fixed dollar minimum amount
24 prescribed in clause (iv) of subparagraph one of paragraph (e) of subdi-
25 vision one of section 11-654 of this subchapter, such fixed dollar mini-
26 mum amount shall be the fixed dollar minimum amount that is attributable
27 to the designated agent of the combined group.

1 (d)(1) A net operating loss deduction is allowed in computing the
2 combined business income base. Such deduction may reduce the tax on the
3 combined business income base to the higher of the tax on the combined
4 capital or the fixed dollar minimum amount that is attributable to the
5 designated agent of the combined group and the members of the combined
6 group. A combined net operating loss deduction is equal to the amount of
7 combined net operating loss or losses from one or more taxable years
8 that are carried forward or carried back to a particular taxable year. A
9 combined net operating loss is the combined business loss incurred in a
10 particular taxable year multiplied by the combined business allocation
11 percentage for that year determined as provided in subdivision five of
12 this section.

13 (2) The combined net operating loss deduction and combined net operat-
14 ing loss are also subject to the provisions contained in paragraphs (a)
15 through (g) of subdivision three of section 11-654.1 of this subchapter.

16 (3) In the case of a corporation that files a combined report, either
17 in the year the net operating loss is incurred or in the year in which a
18 deduction is claimed on account of the loss, the combined net operating
19 loss deduction is determined as if the combined group is a single corpo-
20 ration and, to the extent possible and not otherwise inconsistent with
21 this subdivision, is subject to the same limitations that would apply
22 for federal income tax purposes under the internal revenue code and the
23 code of federal regulations as if such corporation had filed for such
24 taxable year a consolidated federal income tax return with the same
25 corporations included in the combined report. If a corporation files a
26 combined report, regardless of whether it filed a separate return or
27 consolidated return for federal income tax purposes, the net operating
28 loss and net operating loss deduction for the combined group must be

1 computed as if the corporation had filed a consolidated return for the
2 same corporations for federal income tax purposes.

3 (4) In general, any net operating loss carryover from a year in which
4 a combined report was filed shall be based on the combined net operating
5 loss of the group of corporations filing such report. The portion of the
6 combined loss attributable to any member of the group that files a sepa-
7 rate report for a succeeding taxable year will be an amount bearing the
8 same relation to the combined loss as the net operating loss of such
9 corporation bears to the total net operating loss of all members of the
10 group having such losses to the extent that they are taken into account
11 in computing the combined net operating loss.

12 (d-1) A prior net operating loss conversion subtraction is allowed in
13 computing the combined business income base, as provided in subdivisions
14 one and two of section 11-654.1 of this subchapter. Such subtraction may
15 reduce the tax on combined business income to the higher of the tax on
16 combined capital or the fixed dollar minimum amount that is attributable
17 to the designated agent of the combined group and the members of the
18 combined group.

19 (e) Any election made pursuant to paragraph (b) of subdivision five,
20 paragraphs (b) and (c) of subdivision five-a of section 11-652 of this
21 subchapter, and paragraph (d) of subdivision three of section 11-654.1
22 of this subchapter shall apply to all members of the combined group.

23 (f)(1) In the case of a captive REIT or captive RIC required under
24 this section to be included in a combined report, entire net income
25 shall be computed as required under subdivision seven (in the case of a
26 captive REIT) or subdivision eight (in the case of a captive RIC) of
27 section 11-653 of this subchapter. However, the deduction under the
28 internal revenue code for dividends paid by the captive REIT or captive

1 RIC to any member of the affiliated group that includes the corporation
2 that directly or indirectly owns over fifty percent of the voting stock
3 of the captive REIT or captive RIC shall not be allowed. For purposes
4 of this subparagraph, the term "affiliated group" means "affiliated
5 group" as defined in section fifteen hundred four of the internal reven-
6 ue code, but without regard to the exceptions provided for in subsection
7 (b) of that section.

8 (2) In the case of a combinable captive insurance company required
9 under this section to be included in a combined report, entire net
10 income shall be computed as required by subdivision eight of section
11 11-652 of this subchapter.

12 (g) If more than one member of a combined group is eligible for any of
13 the modifications described in paragraphs (q), (r) or (s) of subdivision
14 eight of section 11-652 of this subchapter, all such members must
15 utilize the same modification.

16 5. (a) In determining the business allocation percentage for a
17 combined report, the receipts, net income, net gains and other items of
18 each member of the combined group, whether or not they are a taxpayer,
19 are included and intercorporate receipts, income and gains are elimi-
20 nated. Receipts, net income, net gains and other items are sourced, and
21 the amounts allowed in the receipts fraction are determined, as provided
22 in section 11-654.2 of this subchapter.

23 (b) An election made to allocate income and gains from qualifying
24 financial instruments pursuant to subparagraph one of paragraph (a) of
25 subdivision five of section 11-654.2 of this subchapter shall apply to
26 all members of the combined group.

1 6. Every member of the combined group that is subject to tax under
2 this article shall be jointly and severally liable for the tax due
3 pursuant to a combined report.

4 7. Each combined group shall appoint a designated agent for the
5 combined group, which shall be a taxpayer. Only the designated agent may
6 act on behalf of the members of the combined group for matters relating
7 to the combined report.

8 § 11-655 Reports. 1. Every corporation having an officer, agent or
9 representative within the city, shall annually on or before March
10 fifteenth, transmit to the commissioner of finance a report in a form
11 prescribed by the commissioner of finance (except that a corporation
12 which reports on the basis of a fiscal year shall transmit its report
13 within two and one-half months after the close of its fiscal year),
14 setting forth such information as the commissioner of finance may
15 prescribe and every taxpayer which ceases to do business in the city or
16 to be subject to the tax imposed by this subchapter shall transmit to
17 the commissioner of finance a report on the date of such cessation or at
18 such other time as the commissioner of finance may require covering each
19 year or period for which no report was theretofore filed. Every taxpayer
20 shall also transmit such other reports and such facts and information as
21 the commissioner of finance may require in the administration of this
22 subchapter. The commissioner of finance may grant a reasonable extension
23 of time for filing reports whenever good cause exists.

24 An automatic extension of six months for the filing of its annual
25 report shall be allowed any taxpayer if, within the time prescribed by
26 either of the preceding paragraphs, whichever is applicable, such
27 taxpayer files with the commissioner of finance an application for
28 extension in such form as the commissioner of finance may prescribe by

1 regulation and pays on or before the date of such filing the amount
2 properly estimated as its tax.

3 2. Every report shall have annexed thereto a certification by the
4 president, vice-president, treasurer, assistant treasurer, chief
5 accounting officer or another officer of the taxpayer duly authorized so
6 to act to the effect that the statements contained therein are true. In
7 the case of an association, within the meaning of paragraph three of
8 section (a) of section seventy-seven hundred one of the internal revenue
9 code, a publicly-traded partnership treated as a corporation for
10 purposes of the internal revenue code pursuant to section seventy-seven
11 hundred four thereof and any business conducted by a trustee or trustees
12 wherein interest or ownership is evidenced by certificates or other
13 written instruments, such certification shall be made by any person duly
14 authorized so to act on behalf of such association, publicly-traded
15 partnership or business. The fact that an individual's name is signed on
16 a certification of the report shall be prima facie evidence that such
17 individual is authorized to sign and certify the report on behalf of the
18 corporation. Blank forms of reports shall be furnished by the commis-
19 sioner of finance, on application, but failure to secure such a blank
20 shall not release any corporation from the obligation of making any
21 report required by this subchapter.

22 2-a. The commissioner of finance may prescribe regulations and
23 instructions requiring returns of information to be made and filed in
24 conjunction with the reports required to be filed pursuant to this
25 section, relating to payments made to shareholders owning, directly or
26 indirectly, individually or in the aggregate, more than fifty percent of
27 the issued capital stock of the taxpayer, where such payments are treat-

1 ed as payments of interest in the computation of entire net income
2 reported on such reports.

3 3. If the amount of taxable income or other basis of tax for any year
4 of any taxpayer as returned to the United States treasury department or
5 the New York state commissioner of taxation and finance is changed or
6 corrected by the commissioner of internal revenue or other officer of
7 the United States or the New York state commissioner of taxation and
8 finance or other competent authority, or where a renegotiation of a
9 contract or subcontract with the United States or the state of New York
10 results in a change in taxable income or other basis of tax, or where a
11 recovery of a war loss results in a computation or recomputation of any
12 tax imposed by the United States or the state of New York, or if a
13 taxpayer, pursuant to subsection (d) of section sixty-two hundred thir-
14 teen of the internal revenue code, executes a notice of waiver of the
15 restrictions provided in subsection (a) of said section, or if a taxpay-
16 er, pursuant to subsection (f) of section one thousand eighty-one of the
17 tax law, executes a notice of waiver of the restrictions provided in
18 subsection (c) of said section, such taxpayer shall report such changed
19 or corrected taxable income or other basis of tax, or the results of
20 such renegotiation, or such computation, or recomputation, or such
21 execution of such notice of waiver and the changes or corrections of the
22 taxpayer's federal or New York state taxable income or other basis of
23 tax on which it is based, within ninety days (or one hundred twenty
24 days, in the case of a taxpayer making a combined report under this
25 subchapter for such year) after such execution or the final determi-
26 nation of such change or correction or renegotiation, or such computa-
27 tion, or recomputation, or as required by the commissioner of finance,
28 and shall concede the accuracy of such determination or state wherein it

1 is erroneous. The allowance of a tentative carryback adjustment based
2 upon a net operating loss carryback or net capital loss carryback pursu-
3 ant to section sixty-four hundred eleven of the internal revenue code
4 shall be treated as a final determination for purposes of this subdivi-
5 sion. Any taxpayer filing an amended return with such department shall
6 also file within ninety days (or one hundred twenty days, in the case of
7 a taxpayer making a combined report under this subchapter for such year)
8 thereafter an amended report with the commissioner of finance.

9 4. The provisions of section 11-654.3 of this subchapter shall apply
10 to combined reports.

11 5. In case it shall appear to the commissioner of finance that any
12 agreement, understanding or arrangement exists between the taxpayer and
13 any other corporation or any person or firm, whereby the activity, busi-
14 ness, income or capital of the taxpayer within the city is improperly or
15 inaccurately reflected, the commissioner of finance is authorized and
16 empowered, in its discretion and in such manner as it may determine, to
17 adjust items of income, deductions and capital, and to eliminate assets
18 in computing any allocation percentage provided only that any income
19 directly traceable thereto be also excluded from entire net income, so
20 as equitably to determine the tax. Where (a) any taxpayer conducts its
21 activity or business under any agreement, arrangement or understanding
22 in such manner as either directly or indirectly to benefit its members
23 or stockholders, or any of them, or any person or persons directly or
24 indirectly interested in such activity or business, by entering into any
25 transaction at more or less than a fair price which, but for such agree-
26 ment, arrangement or understanding, might have been paid or received
27 therefor, or (b) any taxpayer, a substantial portion of whose capital
28 stock is owned either directly or indirectly by another corporation,

1 enters into any transaction with such other corporation on such terms as
2 to create an improper loss or net income, the commissioner of finance
3 may include in the entire net income of the taxpayer the fair profits,
4 which, but for such agreement, arrangement or understanding, the taxpay-
5 er might have derived from such transaction. Where any taxpayer owns,
6 directly or indirectly, more than fifty percent of the capital stock of
7 another corporation subject to tax under section fifteen hundred two-a
8 of the tax law and fifty percent or less of whose gross receipts for the
9 taxable year consist of premiums, the commissioner of finance may
10 include in the entire net income of the taxpayer, as a deemed distrib-
11 ution, the amount of the net income of the other corporation that is in
12 excess of its net premium income.

13 6. An action may be brought at any time by the corporation counsel at
14 the instance of the commissioner of finance to compel the filing of
15 reports due under this subchapter.

16 7. Reports shall be preserved for five years, and thereafter until the
17 commissioner of finance orders them to be destroyed.

18 8. Where the state tax commission changes or corrects a taxpayer's
19 sales and compensating use tax liability with respect to the purchase or
20 use of items for which a sales or compensating use tax credit against
21 the tax imposed by this subchapter was claimed, the taxpayer shall
22 report such change or correction to the commissioner of finance within
23 ninety days of the final determination of such change or correction, or
24 as required by the commissioner of finance, and shall concede the accu-
25 racy of such determination or state wherein it is erroneous. Any taxpay-
26 er filing an amended return or report relating to the purchase or use of
27 such items shall also file within ninety days thereafter a copy of such
28 amended return or report with the commissioner of finance.

1 § 11-656 Payment and lien of tax. 1. To the extent the tax imposed by
2 section 11-653 of this subchapter shall not have been previously paid
3 pursuant to section 11-658 of this subchapter:

4 (a) such tax, or the balance thereof, shall be payable to the commis-
5 sioner of finance in full at the time the report is required to be
6 filed; and

7 (b) such tax, or the balance thereof, imposed on any taxpayer which
8 ceases to do business in the city or to be subject to the tax imposed by
9 this subchapter shall be payable to the commissioner of finance at the
10 time the report is required to be filed; all other taxes of any such
11 taxpayer, which pursuant to the foregoing provisions of this section
12 would otherwise be payable subsequent to the time such report is
13 required to be filed, shall nevertheless be payable at such time.

14 If the taxpayer, within the time prescribed by section 11-655 of this
15 subchapter, shall have applied for an automatic extension of time to
16 file its annual report and shall have paid to the commissioner of
17 finance on or before the date such application is filed an amount prop-
18 erly estimated as provided by said section, the only amount payable in
19 addition to the tax shall be interest at the underpayment rate set by
20 the commissioner of finance pursuant to section 11-687 of this chapter,
21 or, if no rate is set, at the rate of seven and one-half percent per
22 annum upon the amount by which the tax, or the portion thereof payable
23 on or before the date the report was required to be filed, exceeds the
24 amount so paid. For purposes of the preceding sentence:

25 (1) an amount so paid shall be deemed properly estimated if it is
26 either: (i) not less than ninety percent of the tax as finally deter-
27 mined, or (ii) not less than the tax shown on the taxpayer's report for

1 the preceding taxable year, if such preceding year was a taxable year of
2 twelve months; and

3 (2) the time when a report is required to be filed shall be determined
4 without regard to any extension of time for filing such report.

5 2. The commissioner of finance may grant a reasonable extension of
6 time for payment of any tax imposed by this subchapter under such condi-
7 tions as the commissioner of finance deems just and proper.

8 3. Intentionally omitted.

9 § 11-657 Declaration of estimated tax. 1. Every taxpayer subject to
10 the tax imposed by section 11-653 of this subchapter shall make a decla-
11 ration of its estimated tax for the current privilege period, containing
12 such information as the commissioner of finance may prescribe by regu-
13 lations or instructions, if such estimated tax can reasonably be
14 expected to exceed one thousand dollars.

15 2. The term "estimated tax" means the amount which a taxpayer esti-
16 mates to be the tax imposed by section 11-653 of this subchapter for the
17 current privilege period, less the amount which it estimates to be the
18 sum of any credits allowable against the tax.

19 3. In the case of a taxpayer which reports on the basis of a calendar
20 year, a declaration of estimated tax shall be filed on or before June
21 fifteenth of the current privilege period, except that if the require-
22 ments of subdivision one of this section are first met:

23 (a) after May thirty-first and before September first of such current
24 privilege period, the declaration shall be filed on or before September
25 fifteenth; or

26 (b) after August thirty-first and before December first of such
27 current privilege period, the declaration shall be filed on or before
28 December fifteenth.

1 4. A taxpayer may amend a declaration under regulations of the commis-
2 sioner of finance.

3 5. If, on or before February fifteenth of the succeeding year in the
4 case of a taxpayer which reports on the basis of a calendar year, a
5 taxpayer files its report for the year for which the declaration is
6 required, and pays therewith the balance, if any, of the full amount of
7 the tax shown to be due on the report:

8 (a) such report shall be considered as its declaration if no declara-
9 tion is required to be filed during the calendar or fiscal year for
10 which the tax was imposed, but is otherwise required to be filed on or
11 before December fifteenth pursuant to subdivision three of this section;
12 and

13 (b) such report shall be considered as the amendment permitted by
14 subdivision four of this section to be filed on or before December
15 fifteenth if the tax shown on the report is greater than the estimated
16 tax shown on a declaration previously made.

17 6. This section shall apply to privilege periods of twelve months
18 other than a calendar year by the substitution of the months of such
19 fiscal year for the corresponding months specified in this section.

20 7. If the privilege period for which a tax is imposed by section
21 11-653 of this subchapter is less than twelve months, every taxpayer
22 required to make a declaration of estimated tax for such privilege peri-
23 od shall make such a declaration in accordance with regulations of the
24 commissioner of finance.

25 8. The commissioner of finance may grant a reasonable extension of
26 time, not to exceed three months, for the filing of any declaration
27 required pursuant to this section, on such terms and conditions as it
28 may require.

1 § 11-658 Payments on account of estimated tax. 1. Every taxpayer
2 subject to the tax imposed by section 11-653 of this subchapter shall
3 pay with the report required to be filed for the preceding privilege
4 period, if any, or with an application for extension of the time and
5 filing such report, an amount equal to twenty-five per centum of the
6 preceding year's tax if such preceding year's tax exceeded one thousand
7 dollars.

8 2. The estimated tax with respect to which a declaration for such
9 privilege period is required shall be paid, in the case of a taxpayer
10 which reports on the basis of a calendar year, as follows:

11 (a) If the declaration is filed on or before June fifteenth, the esti-
12 mated tax shown thereon, after applying thereto the amount, if any, paid
13 during the same privilege period pursuant to subdivision one of this
14 section, shall be paid in three equal installments. One of such install-
15 ments shall be paid at the time of the filing of the declaration, one
16 shall be paid on the following September fifteenth, and one on the
17 following December fifteenth.

18 (b) If the declaration is filed after June fifteenth and not after
19 September fifteenth of such privilege period, and is not required to be
20 filed on or before June fifteenth of such period, the estimated tax
21 shown on such declaration, after applying thereto the amount, if any,
22 paid during the same privilege period pursuant to subdivision one of
23 this section, shall be paid in two equal installments. One of such
24 installments shall be paid at the time of the filing of the declaration
25 and one shall be paid on the following December fifteenth.

26 (c) If the declaration is filed after September fifteenth of such
27 privilege period, and is not required to be filed on or before September
28 fifteenth of such privilege period, the estimated tax shown on such

1 declaration, after applying thereto the amount, if any, paid in respect
2 to such privilege period pursuant to subdivision one of this section,
3 shall be paid in full at the time of the filing of the declaration.

4 (d) If the declaration is filed after the time prescribed therefor, or
5 after the expiration of any extension of time therefor, paragraphs (b)
6 and (c) of this subdivision shall not apply, and there shall be paid at
7 the time of such filing all installments of estimated tax payable at or
8 before such time, and the remaining installments shall be paid at the
9 times at which, and in the amounts in which, they would have been paya-
10 ble if the declaration had been filed when due.

11 3. If any amendment of a declaration is filed, the remaining install-
12 ments, if any, shall be ratably increased or decreased (as the case may
13 be) to reflect any increase or decrease in the estimated tax by reason
14 of such amendment, and if any amendment is made after September
15 fifteenth of the privilege period, any increase in the estimated tax by
16 reason thereof shall be paid at the time of making such amendment.

17 4. Any amount paid shall be applied after payment as a first install-
18 ment against the estimated tax of the taxpayer for the current privilege
19 period shown on the declaration required to be filed pursuant to section
20 11-657 of this subchapter or, if no declaration of estimated tax is
21 required to be filed by the taxpayer pursuant to such section, any such
22 amount shall be considered a payment on account of the tax shown on the
23 report required to be filed by the taxpayer for such privilege period.

24 5. Notwithstanding the provisions of section 11-679 of this chapter or
25 of section three-a of the general municipal law, if an amount paid
26 pursuant to subdivision one of this section exceeds the tax shown on the
27 report required to be filed by the taxpayer for the privilege period
28 during which the amount was paid, interest shall be allowed and paid on

1 the amount by which the amount so paid pursuant to such subdivision
2 exceeds such tax, at the overpayment rate set by the commissioner of
3 finance pursuant to section 11-687 of this chapter, or, if no rate is
4 set, at the rate of four percent per annum from the date of payment of
5 the amount so paid pursuant to such subdivision to the fifteenth day of
6 the third month following the close of the privilege period, provided,
7 however, that no interest shall be allowed or paid under this subdivi-
8 sion if the amount thereof is less than one dollar or if such interest
9 becomes payable solely because of a carryback of a net operating loss in
10 a subsequent privilege period.

11 6. As used in this section, "the preceding year's tax" means the tax
12 imposed upon the taxpayer by section 11-653 of this subchapter for the
13 preceding calendar or fiscal year, or, for purposes of computing the
14 first installment of estimated tax when an application has been filed
15 for extension of the time for filing the report required to be filed for
16 such preceding calendar or fiscal year, the amount properly estimated
17 pursuant to section 11-657 of this subchapter as the tax imposed upon
18 the taxpayer for such calendar or fiscal year.

19 7. This section shall apply to a privilege period of less than twelve
20 months in accordance with regulations of the commissioner of finance.

21 8. The provisions of this section shall apply to privilege periods of
22 twelve months other than a calendar year by the substitution of the
23 months of such fiscal year for the corresponding months specified in
24 such provisions.

25 9. The commissioner of finance may grant a reasonable extension of
26 time, not to exceed six months, for payment of any installment of esti-
27 mated tax required pursuant to this section, on such terms and condi-
28 tions as the commissioner of finance may require including the furnish-

1 ing of a bond or other security by the taxpayer in an amount not
2 exceeding twice the amount for which any extension of time for payment
3 is granted, provided however that interest at the underpayment rate set
4 by the commissioner of finance pursuant to section 11-687 of this
5 subchapter, or, if no rate is set, at the rate of seven and one-half
6 percent per annum for the period of the extension shall be charged and
7 collected on the amount for which any extension of time for payment is
8 granted under this subdivision.

9 10. A taxpayer may elect to pay any installment of estimated tax prior
10 to the date prescribed in this section for payment thereof.

11 11. Intentionally omitted.

12 § 11-659 Collection of taxes. Every foreign corporation (other than a
13 moneyed corporation) subject to the provisions of this subchapter,
14 except a corporation having authority to do business by virtue of
15 section thirteen hundred five of the business corporation law, shall
16 file in the department of state a certificate of designation in its
17 corporate name, signed and acknowledged by its president or a vice-pre-
18 sident or its secretary or treasurer, under its corporate seal, desig-
19 nating the secretary of state as its agent upon whom process in any
20 action provided for by this subchapter may be served within this state,
21 and setting forth an address to which the secretary of state shall mail
22 a copy of any such process against the corporation which may be served
23 upon the secretary of state. In case any such corporation shall have
24 failed to file such certificate of designation, it shall be deemed to
25 have designated the secretary of state as its agent upon whom such proc-
26 ess against it may be served; and until a certificate of designation
27 shall have been filed the corporation shall be deemed to have directed
28 the secretary of state to mail copies of process served upon him or her

1 to the corporation at its last known office address within or without
2 the state. When a certificate of designation has been filed by such
3 corporation the secretary of state shall mail copies of process there-
4 after served upon the secretary of state to the address set forth in
5 such certificate. Any such corporation, from time to time, may change
6 the address to which the secretary of state is directed to mail copies
7 of process, by filing a certificate to that effect executed, signed and
8 acknowledged in like manner as a certificate of designation as herein
9 provided. Service of process upon any such corporation or upon any
10 corporation having a certificate of authority under section eight
11 hundred five of the limited liability company law or having authority to
12 do business by virtue of section thirteen hundred five of the business
13 corporation law, in any action commenced at any time pursuant to the
14 provisions of this subchapter, may be made by either: (a) personally
15 delivering to and leaving with the secretary of state, a deputy secre-
16 tary of state or with any person authorized by the secretary of state to
17 receive such service duplicate copies thereof at the office of the
18 department of state in the city of Albany, in which event the secretary
19 of state shall forthwith send by registered mail, return receipt
20 requested, one of such copies to the corporation at the address desig-
21 nated by it or at its last known office address within or without the
22 state, or (b) personally delivering to and leaving with the secretary of
23 state, a deputy secretary of state or with any person authorized by the
24 secretary of state to receive such service, a copy thereof at the office
25 of the department of state in the city of Albany and by delivering a
26 copy thereof to, and leaving such copy with, the president, vice-presi-
27 dent, secretary, assistant secretary, treasurer, assistant treasurer, or
28 cashier of such corporation, or the officer performing corresponding

1 functions under another name, or a director or managing agent of such
2 corporation, personally without the state. Proof of such personal
3 service without the state shall be filed with the clerk of the court in
4 which the action is pending within thirty days after such service, and
5 such service shall be complete ten days after proof thereof is filed.

6 § 11-660 Limitations of time. The provisions of the civil practice law
7 and rules relative to the limitation of time enforcing a civil remedy
8 shall not apply to any proceeding or action taken to levy, appraise,
9 assess, determine or enforce the collection of any tax or penalty
10 prescribed by this subchapter, provided, however, that as to real estate
11 in the hands of persons who are owners thereof who would be purchasers
12 in good faith but for such tax or penalty and as to the lien on real
13 estate of mortgages held by persons who would be holders thereof in good
14 faith but for such tax or penalty, all such taxes and penalties shall
15 cease to be a lien on such real estate as against such purchasers or
16 holders after the expiration of ten years from the date such taxes
17 became due and payable. The limitations herein provided for shall not
18 apply to any transfer from a corporation to a person or corporation with
19 intent to avoid payment of any taxes, or where with like intent the
20 transfer is made to a grantee corporation, or any subsequent grantee
21 corporation, controlled by such grantor or which has any community of
22 interest with it, either through stock ownership or otherwise.

23 § 2. Subparagraph (A) of paragraph 2 of subdivision (f) of section
24 11-508 of the administrative code of the city of New York, as added by
25 chapter 485 of the laws of 1994, is amended to read as follows:

26 (A) In the case of an issuer or obligor subject to tax under subchap-
27 ter two or three-A of chapter six of this title, or subject to tax as a
28 utility corporation under chapter eleven of this title, the issuer's

1 allocation percentage shall be the percentage of the appropriate measure
2 (as defined hereinafter) which is required to be allocated within the
3 city on the report or reports, if any, required of the issuer or obligor
4 under chapter six or eleven of this title for the preceding year. The
5 appropriate measure referred to in the preceding sentence shall be: in
6 the case of an issuer or obligor subject to subchapter two or three-A of
7 chapter six of this title, entire capital; and in the case of an issuer
8 or obligor subject to chapter eleven of this title as a utility corpo-
9 ration, gross income.

10 § 3. The administrative code of the city of New York is amended by
11 adding a new section 11-602.1 to read as follows:

12 § 11-602.1 Application of this subchapter. 1. For taxable years begin-
13 ning on or after January first, two thousand fifteen, the tax imposed
14 under this subchapter shall only apply to a corporation that (a) has an
15 election in effect under subsection (a) of section thirteen hundred
16 sixty-two of the internal revenue code of 1986, as amended, or (b) is a
17 qualified subchapter S subsidiary within the meaning of paragraph three
18 of subsection (b) of section thirteen hundred sixty-one of the internal
19 revenue code of 1986, as amended.

20 2. For taxable years beginning on or after January first, two thousand
21 fifteen, the tax imposed under this subchapter shall not apply to a
22 corporation that is not described in subdivision one of this section
23 except to the extent provided in subchapter three-A of this chapter.

24 3. Cross-Reference. For the taxation of corporations that are not
25 described in subdivision one of this section, that were taxable under
26 this subchapter for tax years beginning before January first, two thou-
27 sand fifteen, see subchapter three-A of this chapter.

1 § 4. Subdivision (a) of section 11-639 of the administrative code of
2 the city of New York is amended to read as follows:

3 (a) (1) For the privilege of doing business in the city in a corporate
4 or organized capacity, a tax, computed under section 11-643 of this
5 part, is hereby annually imposed on every banking corporation for each
6 of its taxable years, or any part thereof, beginning on or after January
7 first, nineteen hundred seventy-three and ending December thirty-first,
8 two thousand fourteen.

9 (2) For the privilege of doing business in the city in a corporate or
10 organized capacity, a tax, computed under section 11-643 of this part,
11 is hereby annually imposed on every banking corporation for each taxable
12 year, or any part thereof, commencing on or after January first, two
13 thousand fifteen, where such banking corporation (i) has an election in
14 effect under subsection (a) of section thirteen hundred sixty-two of the
15 internal revenue code of 1986, as amended, or (ii) is a qualified
16 subchapter S subsidiary within the meaning of paragraph three of
17 subsection (b) of section thirteen hundred sixty-one of the internal
18 revenue code of 1986, as amended.

19 § 5. Section 11-639 of the administrative code of the city of New York
20 is amended by adding a new subdivision (d) to read as follows:

21 (d) Cross-Reference. For the taxation of corporations that are not
22 described in paragraph two of subdivision (a) of this section, that were
23 taxable under this subchapter for tax years beginning before January
24 first, two thousand fifteen, see subchapter three-A of this chapter.

25 § 6. Paragraph 2 of subdivision (b) of section 11-641 of the adminis-
26 trative code of the city of New York, as amended by chapter 525 of the
27 laws of 1988, is amended to read as follows:

1 (2) taxes on or measured by income or profits paid or accrued within
2 the taxable year to the United States, or any of its possessions or to
3 any foreign country and taxes imposed under article nine, nine-A, thir-
4 teen-A or thirty-two of the tax law as in effect on December thirty-
5 first, two thousand fourteen and any tax imposed under this part or
6 subchapter two or three-A of this chapter;

7 § 7. Subdivision 1 and paragraph (a) of subdivision 2 of section
8 11-671 of the administrative code of the city of New York are amended to
9 read as follows:

10 1. General. The provisions of this subchapter shall apply to the
11 administration of and the procedures with respect to the taxes imposed
12 by subchapters two, three, three-A and four of this chapter.

13 (a) the term "named subchapters" means subchapters two, threeor
14 three-A and four of this chapter;

15 § 8. Paragraph (a) of subdivision 5 and subdivisions 7, 8 and 9 of
16 section 11-672 of the administrative code of the city of New York, para-
17 graph (a) of subdivision 5 as amended by chapter 525 of the laws of
18 1988, and paragraph (b) of subdivision 9 as amended by chapter 808 of
19 the laws of 1992, are amended to read as follows:

20 (a) If the taxpayer fails to comply with subchapter two [or], three or
21 three-A of this chapter in not reporting a change or correction or rene-
22 gotiation, or computation or recomputation of tax, increasing or
23 decreasing its federal or New York state taxable income, alternative
24 minimum taxable income or other basis of tax as reported on its federal
25 or New York state income tax return or in not reporting a change or
26 correction or renegotiation, or computation or recomputation of tax,
27 which is treated in the same manner as if it were a deficiency for
28 federal or New York state income tax purposes or in not filing an

1 amended return or in not reporting the execution of a notice of waiver
2 executed pursuant to subsection (d) of section six thousand two hundred
3 thirteen of the internal revenue code or pursuant to subdivision (f) of
4 section one thousand eighty-one of the tax law, instead of the mode and
5 time of assessment provided for in subdivision two of this section, the
6 commissioner of finance may assess a deficiency based upon such
7 increased or decreased federal or New York state taxable income, alter-
8 native minimum taxable income or other basis of tax by mailing to the
9 taxpayer a notice of additional tax due specifying the amount of the
10 deficiency, and such deficiency, together with the interest, additions
11 to tax and penalties stated in such notice, shall be deemed assessed on
12 the date such notice is mailed unless within thirty days after the mail-
13 ing of such notice a report of the federal or New York state change or
14 correction or renegotiation, or computation or recomputation of tax, or
15 an amended return, where such return was required by subchapter two
16 [or], three or three-A, is filed accompanied by a statement showing
17 wherein such federal or New York state determination and such notice of
18 additional tax due are erroneous.

19 7. Two or more corporations. In case of a combined return under
20 subchapter two or three-A or a consolidated return under subchapter
21 three of two or more corporations, the commissioner of finance may
22 determine a deficiency of tax under subchapter two [or subchapter],
23 three or three-A of this chapter with respect to the entire tax due upon
24 such return against any taxpayer included therein. In the case of a
25 taxpayer which might have been included in such a return under subchap-
26 ter two [or subchapter], three or three-A of this chapter when the tax
27 was originally reported, the commissioner of finance may determine a
28 deficiency of tax under subchapter two [or], three or three-A of this

1 chapter against such taxpayer and against any other taxpayers which
2 might have been included in such a return.

3 8. Deficiency defined. For the purposes of this subchapter, a defi-
4 ciency means the amount of the tax imposed by the named subchapters, or
5 any of them, less: (a) the amount shown as the tax upon the taxpayer's
6 return (whether the return was made or the tax computed by it or by the
7 commissioner of finance), and less (b) the amounts previously assessed
8 (or collected without assessment) as a deficiency and plus (c) the
9 amount of any rebates. For the purpose of this definition, the tax
10 imposed by subchapter two [or], three or three-A of this chapter and the
11 tax shown on the return shall both be determined without regard to any
12 payment of estimated tax; and a rebate means so much of an abatement,
13 credit, refund or other repayment (whether or not erroneous) as was made
14 on the ground that the amounts entering into the definition of a defi-
15 ciency showed a balance in favor of the taxpayer.

16 9. Exception where change or correction of sales and compensating use
17 tax liability is not reported.

18 (a) If a taxpayer fails to comply with subchapter two or three-A of
19 this chapter in not reporting a change or correction of its sales and
20 compensating use tax liability or in not filing a copy of an amended
21 return or report relating to its sales and compensating use tax liabil-
22 ity, instead of the mode and time of assessment provided for in subdivi-
23 sion two of this section, the commissioner of finance may assess a defi-
24 ciency based upon such changed or corrected sales and compensating use
25 tax liability, as same relates to credits claimed under subchapter two
26 or three-A of this chapter, by mailing to the taxpayer a notice of addi-
27 tional tax due specifying the amount of the deficiency, and such defi-
28 ciency, together with the interest, additions to tax and penalties stat-

1 ed in such notice, shall be deemed assessed on the date such notice is
2 mailed unless within thirty days after the mailing of such notice a
3 report of the state change or correction or a copy of an amended return
4 or report, where such copy was required by subchapter two or three-A, is
5 filed accompanied by a statement showing wherein such state determi-
6 nation and such notice of additional tax due are erroneous.

7 (b) Such notice shall not be considered as a notice of deficiency for
8 the purposes of this section, subdivision six of section 11-678 (limit-
9 ing credits or refunds after petition to the tax appeals tribunal), or
10 subdivision two of section 11-680 (authorizing the filing of a petition
11 with the tax appeals tribunal based on a notice of deficiency), nor
12 shall such assessment or the collection thereof be prohibited by the
13 provisions of subdivision three of this section.

14 (c) If the taxpayer has terminated its existence, a notice of addi-
15 tional tax due may be mailed to its last known address in or out of the
16 city, and such notice shall be sufficient for purposes of this subchap-
17 ter. If the commissioner of finance has received notice that a person is
18 acting for the taxpayer in a fiduciary capacity, a copy of such notice
19 shall also be mailed to the fiduciary named in such notice.

20 § 9. Subdivisions 1 and 3 of section 11-673 of the administrative code
21 of the city of New York, the first undesignated paragraph of subdivision
22 1 as amended by chapter 808 of the laws of 1992, are amended to read as
23 follows:

24 1. Assessment date. The amount of tax which a return shows to be due,
25 or the amount of tax which a return would have shown to be due but for a
26 mathematical error, shall be deemed to be assessed on the date of filing
27 of the return (including any amended return showing an increase of tax).
28 If a notice of deficiency has been mailed, the amount of the deficiency

1 shall be deemed to be assessed on the date specified in subdivision two
2 of section 11-672 of this subchapter if no petition is both served on
3 the commissioner of finance and filed with the tax appeals tribunal, or
4 if a petition is so served and filed, then upon the date when a decision
5 of the tax appeals tribunal establishing the amount of the deficiency
6 becomes final. If a report or an amended return filed pursuant to
7 subchapter two [or], three or three-A of this chapter concedes the accu-
8 racy of a federal or New York state adjustment or change or correction
9 or renegotiation or computation or recomputation of tax, any deficiency
10 in tax under subchapter two [or], three or three-A of this chapter
11 resulting therefrom shall be deemed to be assessed on the date of filing
12 such report or amended return, and such assessment shall be timely
13 notwithstanding section 11-674 of this chapter.

14 If a report filed pursuant to subchapter two or three-A of this chap-
15 ter concedes the accuracy of a state change or correction of sales and
16 compensating use tax liability, any deficiency in tax under subchapter
17 two or three-A of this chapter resulting therefrom shall be deemed
18 assessed on the date of filing such report, and such assessment shall be
19 timely notwithstanding section 11-674 of this chapter.

20 If a notice of additional tax due, as prescribed in subdivision five
21 of section 11-672 of this chapter, has been mailed, the amount of the
22 deficiency shall be deemed to be assessed on the date specified in such
23 subdivision unless within thirty days after the mailing of such notice a
24 report of the federal or New York state adjustment or change or
25 correction or renegotiation or computation or recomputation of tax, or
26 an amended return, where such return was required by subchapter two
27 [or], three or three-A of this chapter, is filed accompanied by a state-

1 ment showing wherein such federal or New York state determination and
2 such notice of additional tax due are erroneous.

3 If a notice of additional tax due, as prescribed in subdivision nine
4 of section 11-672 of this subchapter, has been mailed, the amount of the
5 deficiency shall be deemed to be assessed on the date specified in such
6 subdivision unless within thirty days after the mailing of such notice a
7 report of the state change or correction, or a copy of an amended return
8 or report, where such copy was required by subchapter two or three-A of
9 this chapter, is filed accompanied by a statement showing wherein such
10 state determination and such notice of additional tax due are erroneous.

11 Any amount paid as a tax or in respect of a tax, other than amounts
12 paid as estimated tax, shall be deemed to be assessed upon the date of
13 receipt of payment notwithstanding any other provisions.

14 3. Estimated tax. No unpaid amount of estimated tax under subchapter
15 two [or], three or three-A of this chapter shall be assessed.

16 § 10. Subdivisions 3 and 4 of section 11-674 of the administrative
17 code of the city of New York, subparagraph 3 of paragraph (a) and para-
18 graph (c) of subdivision 3 as amended by chapter 525 of the laws of 1988
19 and paragraph (d) of subdivision 3 as amended by local law number 57 of
20 the city of New York for the year 2001, are amended to read as follows:

21 3. Exceptions.

22 (a) Assessment at any time. The tax may be assessed at any time if:

23 (1) no return is filed,

24 (2) a false or fraudulent return is filed with intent to evade tax,

25 (3) in the case of the tax imposed under subchapter two [or], three or
26 three-A of this chapter, the taxpayer fails to file a report or amended
27 return required thereunder, in respect of an increase or decrease in
28 federal or New York state taxable income, alternative minimum taxable

1 income or other basis of tax or federal or New York state tax, or in
2 respect of a change or correction or renegotiation or in respect of the
3 execution of a notice of waiver report of which is required thereunder,
4 or computation or recomputation of tax, which is treated in the same
5 manner as if it were a deficiency for federal or New York state income
6 tax purposes, or

7 (4) in the case of the tax imposed under subchapter two or three-A of
8 this chapter, the taxpayer fails to file a report or amended return or
9 report required thereunder, in respect of a change or correction of
10 sales and compensating use tax liability, relating to the purchase or
11 use of items for which a sales or compensating use tax credit against
12 the tax imposed by subchapter two or three-A was claimed.

13 (b) Extension by agreement. Where, before the expiration of the time
14 prescribed in this section for the assessment of tax, both the commis-
15 sioner of finance and the taxpayer have consented in writing to its
16 assessment after such time, the tax may be assessed at any time prior to
17 the expiration of the period agreed upon. The period so agreed upon may
18 be extended by subsequent agreements in writing made before the expira-
19 tion of the period previously agreed upon.

20 (c) Report of federal or New York state change or correction. In the
21 case of the tax imposed under subchapter two [or], three or three-A of
22 this chapter, if the taxpayer files a report or amended return required
23 thereunder, in respect of an increase or decrease in federal or New York
24 state taxable income, alternative minimum taxable income or other basis
25 of tax or federal or New York state tax, or in respect of a change or
26 correction or renegotiation, or in respect of the execution of a notice
27 of waiver report of which is required thereunder, or computation or
28 recomputation of tax, which is treated in the same manner as if it were

1 a deficiency for federal or New York state income tax purposes, the
2 assessment (if not deemed to have been made upon the filing of the
3 report or amended return) may be made at any time within two years after
4 such report or amended return was filed. The amount of such assessment
5 of tax shall not exceed the amount of the increase in city tax attribut-
6 able to such federal or New York state change or correction or renegoti-
7 ation, or computation or recomputation of tax. The provisions of this
8 paragraph shall not affect the time within which or the amount for which
9 an assessment may otherwise be made.

10 (d) Deficiency attributable to carry back. If a deficiency of tax
11 under subchapter two or three-A of this chapter is attributable to the
12 application to taxpayer of a net operating loss carry back or a capital
13 loss carry back, it may be assessed at any time that a deficiency for
14 the taxable year of the loss may be assessed.

15 (e) Recovery of erroneous refund. An erroneous refund shall be consid-
16 ered an underpayment of tax on the date made, and an assessment of a
17 deficiency arising out of an erroneous refund may be made at any time
18 within two years from the making of the refund, except that the assess-
19 ment may be made within five years from the making of the refund if it
20 appears that any part of the refund was induced by fraud or misrepresen-
21 tation of a material fact.

22 (f) Request for prompt assessment. The tax shall be assessed within
23 eighteen months after written request therefor (made after the return is
24 filed) by the taxpayer or by a fiduciary representing the taxpayer, but
25 not more than three years after the return was filed, except as other-
26 wise provided in this subdivision and subdivision four. This subdivision
27 shall not apply unless:

1 (1) (A) such written request notifies the commissioner of finance that
2 the taxpayer contemplates dissolution at or before the expiration of
3 such eighteen-month period, (B) the dissolution is in good faith begun
4 before the expiration of such eighteen-month period, (C) the dissolution
5 is completed;

6 (2) (A) such written request notifies the commissioner of finance that
7 a dissolution has in good faith been begun, and (B) the dissolution is
8 completed; or

9 (3) a dissolution has been completed at the time such written request
10 is made.

11 (g) Change of the allocation of taxpayer's income or capital. [No]
12 (1) With regard to taxable years beginning before January first, two
13 thousand fifteen, no change of the allocation of income or capital upon
14 which the taxpayer's return (or any additional assessment) was based
15 shall be made where an assessment of tax is made during the additional
16 period of limitation under subparagraph three or four of paragraph (a),
17 or under paragraph (c), (d) or (i); and where any such assessment has
18 been made, or where a notice of deficiency has been mailed to the
19 taxpayer on the basis of any such proposed assessment, no change of the
20 allocation of income or capital shall be made in a proceeding on the
21 taxpayer's claim for refund of such assessment or on the taxpayer's
22 petition for redetermination of such deficiency.

23 (2) With regard to taxable years beginning on or after January first,
24 two thousand fifteen, no change of the allocation of income or capital
25 upon which the taxpayer's return (or any additional assessment) was
26 based shall be made where an assessment of tax is made during the addi-
27 tional period of limitation under subparagraph three or four of para-
28 graph (a) or under paragraph (c), (d) or (i), except to the extent such

1 assessment is based on an increase or decrease in New York state taxable
2 income or other basis of tax or New York state tax, or based on a
3 change, correction or renegotiation of tax, or based on the execution of
4 a notice of waiver report which is required thereunder, or computation
5 or recomputation of tax, which is treated in the same manner as if it
6 were a deficiency for New York state income tax purposes; and where any
7 such assessment has been made, or where a notice of deficiency has been
8 mailed to the taxpayer on the basis of any such proposed assessment, no
9 change of the allocation of income or capital shall be made in a
10 proceeding on the taxpayer's claim for refund of such assessment or on
11 the taxpayer's petition for redetermination of such deficiency, except
12 to the extent such assessment is based on an increase or decrease in New
13 York state taxable income or other basis of tax or New York state tax,
14 or based on a change or correction or renegotiation of tax, or based on
15 the execution of a notice of waiver report which is required thereunder,
16 or computation or recomputation of tax, which is treated in the same
17 manner as if it were an overpayment for New York state income tax
18 purposes.

19 (h) Report concerning waste treatment facility. Under the circum-
20 stances described in subparagraph three of paragraph (g) of subdivision
21 eight of section 11-602 of this chapter or in subparagraph three of
22 paragraph (g) of subdivision eight of section 11-652 of this chapter,
23 the tax may be assessed within three years after the filing of the
24 report containing the information required by such paragraph.

25 (i) Report of changed or corrected sales and compensating use tax
26 liability. In the case of a tax imposed under subchapter two or three-A
27 of this chapter, if the taxpayer files a report or amended return or
28 report required thereunder, in respect of a change or correction of

1 sales and compensating use tax liability, the assessment (if not deemed
2 to have been made upon the filing of the report) may be made at any time
3 within two years after such report or amended return or report was
4 filed. The amount of such assessment of tax shall not exceed the amount
5 of the increase in city tax attributable to such state change or
6 correction. The provisions of this paragraph shall not affect the time
7 within which or the amount for which an assessment may otherwise be
8 made.

9 4. Omission of income on return. The tax may be assessed at any time
10 within six years after the return was filed if a taxpayer omits from
11 gross income required to be reported on a return under any of the named
12 subchapters an amount properly includable therein which is in excess of
13 twenty-five per centum of the amount of gross income stated in the
14 return.

15 For the purposes of this subdivision:

16 (a) the term "gross income" means gross income for federal income tax
17 purposes as reportable on a return under subchapter two or three-A of
18 this chapter and "gross earnings", "gross income," "gross operating
19 income" and "gross direct premiums less return premiums," as those terms
20 are used in whichever of the named subchapters is applicable;

21 (b) there shall not be taken into account any amount which is omitted
22 in the return if such amount is disclosed in the return, or in a state-
23 ment attached to the return, in a manner adequate to apprise the commis-
24 sioner of finance of the nature and amount of such item.

25 § 11. Subdivisions 2 and 5 of section 11-675 of the administrative
26 code of the city of New York, subdivision 5 as amended by local law
27 number 57 of the city of New York for the year 2001, are amended to read
28 as follows:

1 2. Exception as to estimated tax. This section shall not apply to any
2 failure to pay estimated tax under subchapter two [or subchapter], three
3 or three-A of this chapter.

4 5. Tax reduced by carry back. If the amount of tax under subchapter
5 two or three-A for any taxable year is reduced by reason of a carryback
6 of a net operating loss or a capital loss, such reduction in tax shall
7 not affect the computation of interest under this section for the period
8 ending with the filing date for the taxable year in which the net oper-
9 ating loss or capital loss arises. Such filing date shall be determined
10 without regard to extensions of time to file.

11 § 12. Subdivision 3 of section 11-676 of the administrative code of
12 the city of New York, as amended by chapter 201 of the laws of 2009, is
13 amended to read as follows:

14 3. Failure to file declaration or underpayment of estimated tax. If
15 any taxpayer fails to file a declaration of estimated tax under subchap-
16 ter two [or], three or three-A of this chapter, or fails to pay all or
17 any part of an amount which is applied as an installment against such
18 estimated tax, it shall be deemed to have made an underpayment of esti-
19 mated tax. There shall be added to the tax for the taxable year an
20 amount at the underpayment rate set by the commissioner of finance
21 pursuant to section 11-687 of this subchapter, or, if no rate is set, at
22 the rate of seven and one-half percent per annum upon the amount of the
23 underpayment for the period of the underpayment but not beyond the
24 fifteenth day of the third month following the close of the taxable
25 year. The amount of the underpayment shall be, with respect to any
26 installment of estimated tax computed on the basis of the preceding
27 year's tax, the excess of the amount required to be paid over the
28 amount, if any, paid on or before the last day prescribed for such

1 payment or, with respect to any other installment of estimated tax, the
2 excess of the amount of the installment which would be required to be
3 paid if the estimated tax were equal to ninety percent of the tax shown
4 on the return for the taxable year (or if no return was filed, ninety
5 percent of the tax for such year) over the amount, if any, of the
6 installment paid on or before the last day prescribed for such payment.
7 In any case in which there would be no underpayment if "eighty percent"
8 were substituted for "ninety percent" each place it appears in this
9 subdivision, the addition to the tax shall be equal to seventy-five
10 percent of the amount otherwise determined. No underpayment shall be
11 deemed to exist with respect to a declaration or installment otherwise
12 due on or after the termination of existence of the taxpayer.

13 § 13. The opening paragraph of subdivision 4 of section 11-676 of the
14 administrative code of the city of New York is amended to read as
15 follows:

16 The addition to tax under subdivision three with respect to any under-
17 payment of any amount which is applied as an installment against esti-
18 mated tax under subchapter two [or], three or three-A of this chapter
19 shall not be imposed if the total amount of all payments of estimated
20 tax made on or before the last date prescribed for the payment of any
21 such amount equals or exceeds the amount which would have been required
22 to be paid on or before such date if the estimated tax were whichever of
23 the following is the least:

24 § 14. Subdivision 13 of section 11-676 of the administrative code of
25 the city of New York, as added by chapter 525 of the laws of 1988, is
26 amended to read as follows:

27 13. Failure to file report of information relating to certain interest
28 payments. In case of failure to file the report of information required

1 under either subdivision two-a of section 11-605 of this chapter or
2 subdivision two-a of section 11-655 of this chapter, unless it is shown
3 that such failure is due to reasonable cause and not due to willful
4 neglect, there shall be added to the tax a penalty of five hundred
5 dollars.

6 § 15. Subdivision 2 of section 11-677 of the administrative code of
7 the city of New York is amended to read as follows:

8 2. Credits against estimated tax. The commissioner of finance may
9 prescribe regulations providing for the crediting against the estimated
10 tax under subchapter two [or], three or three-A of this chapter for any
11 taxable year of the amount determined to be an overpayment of tax under
12 any such subchapter for a preceding taxable year. If any overpayment of
13 tax is so claimed as a credit against estimated tax for the succeeding
14 taxable year, such amount shall be considered as a payment of the tax
15 under subchapter two [or], three or three-A of this chapter for the
16 succeeding taxable year (whether or not claimed as a credit in the
17 declaration of estimated tax for such succeeding taxable year), and no
18 claim for credit or refund of such overpayment shall be allowed for the
19 taxable year for which the overpayment arises.

20 § 16. Subdivisions 3, 4, 9 and 11 of section 11-678 of the administra-
21 tive code of the city of New York, subdivision 3 as amended by chapter
22 241 of the laws of 1989 and subdivision 4 as amended by local law number
23 57 of the city of New York for the year 2001, are amended to read as
24 follows:

25 3. Notice of change or correction of federal or New York state income
26 or other basis of tax. If a taxpayer is required by subchapter two [or],
27 three or three-A of this chapter to file a report or amended return in
28 respect of (a) a decrease or increase in federal or New York state taxa-

1 ble income, alternative minimum taxable income or other basis of tax or
2 federal or New York state tax, (b) a federal or New York state change or
3 correction or renegotiation, or computation or recomputation of tax,
4 which is treated in the same manner as if it were an overpayment for
5 federal or New York state income tax purposes, claim for credit or
6 refund of any resulting overpayment of tax shall be filed by the taxpay-
7 er within two years from the time such report or amended return was
8 required to be filed with the commissioner of finance. If the report or
9 amended return required by subchapter two [or], three or three-A of this
10 chapter is not filed within the ninety day period therein specified, no
11 interest shall be payable on any claim for credit or refund of the over-
12 payment attributable to the federal or New York state change or
13 correction. The amount of such credit or refund:

14 (c) shall, (i) for taxable years beginning before January first, two
15 thousand fifteen, be computed without change of the allocation of income
16 or capital upon which the taxpayer's return (or any additional assess-
17 ment) was based, and, (ii) for taxable years beginning on or after Janu-
18 ary first, two thousand fifteen, be computed without change of the allo-
19 cation of income or capital upon which the taxpayer's return (or any
20 additional assessment) was based to the extent that the claim for refund
21 arises from a decrease or increase in federal taxable income or other
22 basis of tax or federal tax, or from a federal change, correction, rene-
23 gotiation, computation or recomputation of tax, which is treated in the
24 same manner as if it were an overpayment for federal income tax
25 purposes, and

26 (d) shall not exceed the amount of the reduction in tax attributable
27 to such decrease or increase in federal or New York state taxable
28 income, alternative minimum taxable income or other basis of tax or

1 federal or New York state tax or to such federal or New York state
2 change or correction or renegotiation, or computation or recomputation
3 of tax.

4 This subdivision shall not affect the time within which or the amount
5 for which a claim for credit or refund may be filed apart from this
6 subdivision.

7 4. Overpayment attributable to net operating loss carry back or capi-
8 tal loss carry back. A claim for credit or refund of so much of an over-
9 payment under subchapter two or three-A of this chapter as is attribut-
10 able to the application to the taxpayer of a net operating loss carry
11 back or a capital loss carry back shall be filed within three years from
12 the time the return was due (including extensions thereof) for the taxa-
13 ble year of the loss, or within the period prescribed in subdivision two
14 in respect of such taxable year, or within the period prescribed in
15 subdivision three, where applicable, in respect to the taxable year to
16 which the net operating loss or capital loss is carried back, whichever
17 expires the latest. Where such claim for credit or refund is filed after
18 the expiration of the period prescribed in subdivision one or in subdivi-
19 sion two where applicable, in respect to the taxable year to which the
20 net operating loss or capital loss is carried back, the amount of such
21 credit or refund shall be computed without change of the allocation of
22 income or capital upon which the taxpayer's return (or any additional
23 assessment) was based.

24 9. Prepaid tax. For purposes of this section, any tax paid by the
25 taxpayer before the last day prescribed for its payment (including any
26 amount paid by the taxpayer as estimated tax for a taxable year) shall
27 be deemed to have been paid by it on the fifteenth day of the third
28 month following the close of the taxable year the income of which is the

1 basis for tax under subchapter two [or], three or three-A of this chap-
2 ter, or on the last day prescribed in part one of subchapter three or
3 subchapter four for the filing of a final return for such taxable year,
4 or portion thereof, determined in all cases without regard to any exten-
5 sion of time granted the taxpayer.

6 11. Notice of change or correction of sales and compensating use tax
7 liability. (a) If a taxpayer is required by subchapter two or three-A of
8 this chapter to file a report or amended return in respect of a change
9 or correction of its sales and compensating use tax liability, claim for
10 credit or refund of any resulting overpayment of tax shall be filed by
11 the taxpayer within two years from the time such report or amended
12 return was required to be filed with the commissioner of finance. The
13 amount of such credit or refund shall be computed without change of the
14 allocation of income or capital upon which the taxpayer's return (or any
15 additional assessment) was based, and shall not exceed the amount of the
16 reduction in tax attributable to such change or correction of sales and
17 compensating use tax liability.

18 (b) This subdivision shall not affect the time within which or the
19 amount for which a claim for credit or refund may be filed apart from
20 this subdivision.

21 § 17. Subdivisions 4 and 6 of section 11-679 of the administrative
22 code of the city of New York, subdivision 4 as amended by local law
23 number 57 of the city of New York for the year 2001 and subdivision 6 as
24 amended by chapter 241 of the laws of 1989, are amended to read as
25 follows:

26 4. Refund of tax caused by carryback. For purposes of this section, if
27 any overpayment of tax imposed by subchapter two or three-A of this
28 chapter results from a carryback of a net operating loss or a net capi-

1 tal loss, such overpayment shall be deemed not to have been made prior
2 to the filing date for the taxable year in which such net operating loss
3 or net capital loss arises. Such filing date shall be determined without
4 regard to extensions of time to file. For purposes of subdivision three
5 of this section any overpayment described herein shall be treated as an
6 overpayment for the loss year and such subdivision shall be applied with
7 respect to such overpayment by treating the return for the loss year as
8 not filed before claim for such overpayment is filed. The term "loss
9 year" means the taxable year in which such loss arises.

10 6. Cross reference. For provision with respect to interest after fail-
11 ure to file a report of federal or New York state change or correction
12 or amended return under subchapter two [or], three or three-A, see
13 subdivision three of section 11-678 of this subchapter.

14 § 18. Paragraph (d) of subdivision 4 of section 11-680 of the adminis-
15 trative code of the city of New York, as amended by chapter 808 of the
16 laws of 1992, is amended to read as follows:

17 (d) Restriction on further notices of deficiency. If the taxpayer
18 files a petition with the tax appeals tribunal under this section, no
19 notice of deficiency under section 11-672 of this subchapter may there-
20 after be issued by the commissioner of finance for the same taxable
21 year, except in case of fraud or with respect to an increase or decrease
22 in federal or New York state taxable income, alternative minimum taxable
23 income or other basis of tax or federal or New York state tax or a
24 federal or New York state change or correction or renegotiation, or
25 computation or recomputation of tax, which is treated in the same manner
26 as if it were a deficiency for federal or New York state income tax
27 purposes, required to be reported under subchapter two [or], three or
28 three-A of this chapter or with respect to a state change or correction

1 of sales and compensating use tax liability required to be reported
2 under subchapter two or three-A of this chapter.

3 § 19. Paragraph (c) of subdivision 5 of section 11-680 of the adminis-
4 trative code of the city of New York, as amended by chapter 808 of the
5 laws of 1992, is amended to read as follows:

6 (c) whether the petitioner is liable for any increase in a deficiency
7 where such increase is asserted initially after a notice of deficiency
8 was mailed and a petition under this section filed, unless such increase
9 in deficiency is the result of an increase or decrease in federal or New
10 York state taxable income, alternative minimum taxable income or other
11 basis of tax or federal or New York state tax or a federal or New York
12 state change or correction or renegotiation, or computation or recompu-
13 tation of tax, which is treated in the same manner as if it were a defi-
14 ciency for federal or New York state income tax purposes, required to be
15 reported under subchapter two [or], three or three-A of this chapter,
16 and of which increase, decrease, change or correction or renegotiation,
17 or computation or recomputation, the commissioner of finance had no
18 notice at the time he or she mailed the notice of deficiency or unless
19 such increase in deficiency is the result of a change or correction of
20 sales and compensating use tax liability required to be reported under
21 subchapter two or three-A of this chapter, and of which change or
22 correction the commissioner of finance had no notice at the time he or
23 she mailed the notice of deficiency; and

24 § 20. Paragraph (a) of subdivision 5 of section 11-687 of the adminis-
25 trative code of the city of New York, as amended by chapter 201 of the
26 laws of 2009, is amended to read as follows:

27 (a) Authority to set interest rates. The commissioner of finance shall
28 set the overpayment and underpayment rates of interest to be paid pursu-

1 ant to sections 11-606, 11-608, 11-645, 11-647, 11-656, 11-658, 11-675,
2 11-676, and 11-679 of this chapter, but if no such rate or rates of
3 interest are set, such overpayment rate shall be deemed to be set at six
4 percent per annum and such underpayment rate shall be deemed to be set
5 at seven and one-half percent per annum. Such overpayment and underpay-
6 ment rates shall be the rates prescribed in paragraph (b) of this subdi-
7 vision but the underpayment rate shall not be less than seven and one-
8 half percent per annum. Any such rates set by the commissioner of
9 finance shall apply to taxes, or any portion thereof, which remain or
10 become due or overpaid on or after the date on which such rates become
11 effective and shall apply only with respect to interest computed or
12 computable for periods or portions of periods occurring in the period
13 during which such rates are in effect.

14 § 21. Subdivision 7 of section 11-688 of the administrative code of
15 the city of New York, as added by section 22 of part M of chapter 686 of
16 the laws of 2003, is amended to read as follows:

17 7. Notwithstanding anything in subdivision one of this section, the
18 commissioner of finance may disclose to a taxpayer or a taxpayer's
19 related member, as defined in paragraph (n) of subdivision eight of
20 section 11-602, paragraph (n) of subdivision eight of section 11-652 or
21 paragraph one of subdivision (q) of section 11-641 of this chapter,
22 information relating to any royalty paid, incurred or received by such
23 taxpayer or related member to or from the other, including the treatment
24 of such payments by the taxpayer or the related member in any report or
25 return transmitted to the commissioner of finance under this title.

26 § 22. Paragraph 4 of subdivision (f) of section 11-704 of the adminis-
27 trative code of the city of New York, as amended by chapter 831 of the
28 laws of 1992, is amended to read as follows:

1 (4) No tenant shall be authorized to receive a reduction in base rent
2 subject to tax under the provisions of this subdivision, until the prem-
3 ises with respect to which it is claiming a reduction in base rent meet
4 the requirements in the definition of eligible premises and until it has
5 obtained a certification of eligibility from the mayor or an agency
6 designated by the mayor, and an annual certification from the mayor or
7 an agency designated by the mayor as to the number of eligible aggregate
8 employment shares maintained by such tenant which may qualify for
9 obtaining a base rent reduction for the tenant's tax year. Any written
10 documentation submitted to the mayor or such agency or agencies in order
11 to obtain any such certification shall be deemed a written instrument
12 for purposes of section 175.00 of the penal law. Application fees for
13 such certifications shall be determined by the mayor or such agency or
14 agencies. No certification of eligibility shall be issued to an eligible
15 business on or after July first, nineteen hundred ninety-nine unless
16 such business meets the requirements of either subparagraph (a) or (b)
17 below:

18 (a) (1) prior to such date such business has purchased, leased or
19 entered into a contract to purchase or lease particular premises or a
20 parcel on which will be constructed such premises or already owned such
21 premises or parcel;

22 (2) prior to such date improvements have been commenced on such prem-
23 ises or parcel which improvements will meet the requirements of subdivi-
24 sion (e) of section 22-621 of this code relating to expenditures for
25 improvements;

26 (3) prior to such date such business submits a preliminary application
27 for a certification of eligibility to such mayor or such agency or agen-

1 cies with respect to a proposed relocation to such particular premises;
2 and

3 (4) such business relocates to such particular premises not later than
4 thirty-six months or, in a case in which the expenditures made for the
5 improvements specified in clause two of this subparagraph are in excess
6 of fifty million dollars within seventy-two months from the date of
7 submission of such preliminary application; or

8 (b) (1) not later than June thirtieth, two thousand two, such business
9 has purchased, leased or entered into a contract to purchase or lease
10 particular premises wholly contained in a building in which at least an
11 aggregate of forty per centum or two hundred thousand square feet,
12 whichever is less, of the nonresidential floor area of such building has
13 been purchased or leased by a business or businesses which meet or will
14 meet the requirements of subparagraph (a) of this paragraph with respect
15 to such floor area and which are or will become certified as eligible to
16 receive a credit under section 22-622 of this code with respect to such
17 floor area;

18 (2) not later than June thirtieth, two thousand two, such business
19 submits a preliminary application for a certification of eligibility to
20 such mayor or such agency or agencies with respect to a proposed relo-
21 cation to such particular premises; and

22 (3) not later than June thirtieth, two thousand two, such business
23 relocates to such particular premises.

24 Any tenant subject to a tax imposed under chapter five, or subchapter
25 two [or], three or three-A of chapter six, of this title obtaining a
26 certification of eligibility pursuant to subdivision (b) of section
27 22-622 of the code shall be deemed to have obtained the certification of
28 eligibility required by this paragraph.

1 § 23. Subdivision (a) and the opening paragraph of subdivision (o) of
2 section 22-621 of the administrative code of the city of New York,
3 subdivision (a) as amended by chapter 149 of the laws of 1999 and the
4 opening paragraph of subdivision (o) as added by chapter 143 of the laws
5 of 2004, are amended to read as follows:

6 (a) "Eligible Business." Any person subject to a tax imposed under
7 chapter five, or subchapter two [or], three or three-A of chapter six,
8 or chapter eleven, of title eleven of the code, that: (1) has been
9 conducting substantial business operations at one or more business
10 locations outside the eligible area for the twenty-four consecutive
11 months immediately preceding the taxable year during which such eligible
12 business relocates as defined in subdivision (j) of this section; and
13 (2) on or after May twenty-seventh, nineteen hundred eighty-seven relo-
14 cates as defined in subdivision (j) of this section all or part of such
15 business operations; and (3) either (i) on or after May twenty-seventh,
16 nineteen hundred eighty-seven first enters into a contract to purchase
17 or lease the premises to which it relocates as defined in subdivision
18 (j) of this section, or a parcel on which will be constructed such prem-
19 ises, or (ii) as of May twenty-seventh, nineteen hundred eighty-seven
20 owns such parcel or premises and has not prior to such date made appli-
21 cation for benefits pursuant to part four of subchapter two of chapter
22 two of title eleven of the code.

23 "Total attributed eligible aggregate employment shares" means, for any
24 relocation, the sum of the number of eligible aggregate employment
25 shares apportioned to such relocation pursuant to paragraph one of this
26 subdivision, less any excess shares determined with respect to such
27 relocation pursuant to paragraph two of this subdivision, plus any
28 excess shares attributed to such relocation pursuant to paragraph three

1 of this subdivision. Except as provided in paragraph four of this subdivi-
2 vision, any eligible aggregate employment shares that are attributed to
3 a relocation to particular premises pursuant to paragraph three of this
4 subdivision shall be treated as eligible aggregate employment shares
5 that are maintained with respect to such premises and shall be subject
6 to all provisions of this chapter and the provisions for a credit
7 against a tax imposed under chapter five or subchapter two [or], three
8 or three-A of chapter six or chapter eleven of title eleven of the code
9 as such provisions pertain to such relocation.

10 § 24. Subdivisions (a) and (d) of section 22-622 of the administrative
11 code of the city of New York, subdivision (a) as amended and subdivision
12 (d) as added by chapter 149 of the laws of 1999, are amended to read as
13 follows:

14 (a) An eligible business that relocates as defined in subdivision (j)
15 of section 22-621 of the code shall be allowed to receive a credit
16 against a tax imposed by chapter five, or subchapter two [or], three or
17 three-A of chapter six, or chapter eleven, of title eleven of the code,
18 as described in subdivision (i) of section 11-503, subdivision seventeen
19 of section 11-604, subdivision seventeen of section 11-654, section
20 11-643.7 and section 11-1105.2 of the code, and a reduction in base rent
21 subject to tax as described in subdivision f of section 11-704 of the
22 code, provided, however, notwithstanding any other provision of law to
23 the contrary, no such credit shall be allowed against the tax imposed
24 under such chapter eleven for a relocation taking place prior to January
25 first, nineteen hundred ninety-nine.

26 (d) An eligible business other than a utility company subject to the
27 supervision of the department of public service shall not be authorized
28 to receive a credit against the gross receipts tax imposed under chapter

1 eleven of title eleven of the code, unless such eligible business elects
2 to take the credit authorized by this section against the tax imposed by
3 such chapter on an application filed with respect to the first relo-
4 cation of such business that qualifies or will qualify under this
5 section, with the mayor or the agency designated by such mayor pursuant
6 to subdivision (b) of this section. The election authorized by this
7 subdivision may not be withdrawn after the issuance of such certif-
8 ication of eligibility. No taxpayer that has previously received a
9 certification of eligibility to receive such credit against any tax
10 imposed by chapter five or subchapter two [or], three or three-A of
11 chapter six of title eleven of the code may make the election authorized
12 by this subdivision. No taxpayer that makes the election provided in
13 this subdivision shall be authorized to take such credit against any tax
14 imposed by chapter five or subchapter two [or], three or three-A of
15 chapter six of title eleven of the code.

16 § 25. Subdivisions (a) and (1) of section 22-623 of the administrative
17 code of the city of New York, subdivision (a) as added by chapter 143 of
18 the laws of 2004 and subdivision (1) as added by section 10 of part E of
19 chapter 2 of the laws of 2005, are amended to read as follows:

20 (a) "Eligible business" means any person subject to a tax imposed
21 under chapter five, or subchapter two [or], three or three-A of chapter
22 six, or chapter eleven, of title eleven of the code, that:

23 (1) has been conducting substantial business operations at one or more
24 business locations outside the city of New York for the twenty-four
25 consecutive months immediately preceding the taxable year during which
26 such eligible business relocates as defined in subdivision (j) of this
27 section but has not maintained employment shares at premises in the city
28 of New York at any time during the period beginning January first, two

1 thousand two and ending on the date it enters into a lease or a contract
2 to purchase the premises that will qualify as eligible premises pursuant
3 to this chapter; and

4 (2) on or after July first, two thousand three relocates as defined in
5 subdivision (j) of this section all or part of such business operations.

6 (1) "Special eligible business" means any person subject to a tax
7 imposed under chapter five, or subchapter two [or], three or three-A of
8 chapter six, or chapter eleven, of title eleven of the code, that: (1)
9 has been conducting substantial business operations at one or more busi-
10 ness locations outside the city of New York for the twenty-four consec-
11 utive months immediately preceding the taxable year during which such
12 eligible business relocates as defined in subdivision (m); (2) main-
13 tained employment shares at premises in Manhattan in the city of New
14 York at some time during the period beginning January first, two thou-
15 sand two, and ending on the date it enters into a lease or a contract to
16 purchase the premises that will qualify as eligible premises pursuant to
17 this section, and (3) on or after June thirtieth, two thousand five,
18 relocates as defined in subdivision (m) of this section all or part of
19 such business operations.

20 § 26. Subdivisions (a) and (d) of section 22-624 of the administrative
21 code of the city of New York, subdivision (a) as amended by section 11
22 of part E of chapter 2 of the laws of 2005 and subdivision (d) as
23 amended by section 12 of part E of chapter 2 of the laws of 2005, are
24 amended to read as follows:

25 (a) An eligible business that relocates as defined in subdivision (j)
26 of section 22-623 of this chapter or a special eligible business that
27 relocates as defined in subdivision (m) of section 22-623 of this chap-
28 ter shall be allowed to receive a credit against a tax imposed by chap-

1 ter five, or subchapter two [or], three or three-A of chapter six, or
2 chapter eleven, of title eleven of the code, as described in subdivision
3 (1) of section 11-503, subdivision nineteen of section 11-604, subdivi-
4 sion nineteen of section 11-654, section 11-643.9 or section 11-1105.3
5 of the code.

6 (d) An eligible business or special eligible business other than a
7 utility company subject to the supervision of the department of public
8 service shall not be authorized to receive a credit against the gross
9 receipts tax imposed under chapter eleven of title eleven of the code
10 unless such eligible business or special eligible business elects to
11 take the credit authorized by this section against the tax imposed by
12 such chapter on its application filed with the mayor or the agency
13 designated by such mayor pursuant to subdivision (b) of this section.
14 The election authorized by this subdivision may not be withdrawn after
15 the issuance of such certification of eligibility. No taxpayer that has
16 previously received a certification of eligibility to receive such cred-
17 it against any tax imposed by chapter five or subchapter two [or], three
18 or three-A of chapter six of title eleven of the code may make the
19 election authorized by this subdivision. No taxpayer that makes the
20 election provided in this subdivision shall be authorized to take such
21 credit against any tax imposed by chapter five or subchapter two [or], three
22 or three-A of chapter six of title eleven of the code.

23 § 27. This act shall take effect immediately and shall apply to taxa-
24 ble years beginning on or after January 1, 2015.

25 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
26 sion, section or part of this act shall be adjudged by any court of
27 competent jurisdiction to be invalid, such judgment shall not affect,
28 impair, or invalidate the remainder thereof, but shall be confined in

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

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