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I N A S S E M B L Y

January 19, 2010

A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to increasing the rate of the cigarette tax under article 20 of the tax law (Part A); to amend the tax law, in relation to the statutory limitation on the biofuel production credit and the qualified emerging technology company facilities, operations and training credits (Part B); to amend the tax law, in relation to the inclusion of certain past employment related income in the calculation of the New York source income of nonresidents (Part C); to amend the tax law, in relation to clarifying that certain income constitutes New York source income of nonresident shareholders of an S corporation (Part D); to amend the tax law, in relation to information reporting of payments made in settlement of payment card and third party network transactions (Part E); to amend the tax law and the administrative code of the city of New York, in relation to the penalties imposed upon tax return preparers failing to electronically file returns and other tax documents when required by law to do so, to authorize reasonable correction periods for electronic tax filings and payments (Part F); to amend the multiple dwelling law, in relation to owner obligations; to amend chapter 349 of the laws of 1982 amending the multiple dwelling law relating to legalization of interim multiple dwellings in cities over one million, in relation to the effectiveness thereof; and to amend chapter 405 of the laws of 1999 amending the real property tax law relating to improving the administration of the school tax relief (STAR) program, in relation to the lottery game of Quick Draw (Part G); to amend the tax law and the administrative code of the city of New York, in relation to allowing recognition of marriages performed outside New York state (Part H); to amend the public housing law, in relation to providing a credit against income tax for persons or entities investing in low-income housing (Part I); to amend chapter 60 of the laws of 2004, amending the tax law relating to the empire state film production credit, in relation to the empire state film production credit and in relation to

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

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the effectiveness of such provisions; and to amend the tax law, in relation to the empire state film production credit (Part J); to amend the general municipal law, in relation to the decertification of business entities located in empire zones; to amend the tax law, in

relation to a refund or credit provided to certain zone businesses and to a report on empire zone businesses produced by the department of taxation and finance, and to amend chapter 57 of the laws of 2009, amending the general municipal law and the tax law relating to enacting reforms to the empire zones program, in relation to the effectiveness thereof (Part K); to amend chapter 298 of the laws of 1985, amending the tax law relating to the franchise tax on banking corporations imposed by the tax law, authorized to be imposed by any city having a population of one million or more by chapter 772 of the laws of 1966 and imposed by the administrative code of the city of New York and relating to other provisions of the tax law, chapter 883 of the laws of 1975 and the administrative code of the city of New York which relates to such franchise tax, to amend chapter 817 of the laws of 1987, amending the tax law and the environmental conservation law, constituting the business tax reform and rate reduction act of 1987, and to amend chapter 525 of the laws of 1988, amending the tax law and the administrative code of the city of New York relating to the imposition of taxes in the city of New York, in relation to the effectiveness of certain provisions of such chapters; and to extend the Gramm-Leach-Bliley transitional provisions under the franchise taxes on banking corporations under the tax law and the administrative code of the city of New York (Part L); to amend the tax law, in relation to making technical corrections to certain tax enforcement and sales tax avoidance provisions; and to amend chapter 57 of the laws of 2009 amending the criminal procedure law, the penal law, and the tax law relating to creating the offense of "tax fraud act", in relation to the effectiveness thereof (Subpart A); to amend the tax law, in relation to defining certain terms (Subpart B); and to amend the general municipal law and the public authorities law, in relation to statements of industrial agencies and their agents and project operators (Subpart C) (Part M); to amend the tax law, in relation to the amount of the unified credit against the estate tax (Part N); to amend the tax law and the administrative code of the city of New York, in relation to the taxicab ride tax imposed in the metropolitan commuter transportation district by article 29-A of the tax law (Part O); to amend the tax law, in relation to sales and compensating use taxes on the transportation, transmission and distribution of gas or electricity; and to repeal section 1105-c of such law relating to reduced tax rates with respect to certain gas service and electric service (Part P); to amend the tax law, in relation to little cigars (Part Q); to repeal subdivision (n) of section 1115 of the tax law relating to exemptions from sales and use taxes of certain promotional materials (Part R); to amend the tax law, in relation to providing exemptions from sales and use taxes (Part S); to amend the tax law and the administrative code of the city of New York, in relation to modifying the New York itemized deduction (Part T); to amend the tax law and the administrative code of the city of New York, in relation to ensuring payment of sales tax due on rent for hotel room occupancy by providers of hotel rooms (Part U); to amend the environmental conservation law, in relation to creating a hazardous waste landfill special assessment (Part V); to amend the general municipal law and the tax law, in relation to empire innovation zones (Part W); and to amend the tax

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law, in relation to clarifying the application of the credit for the rehabilitation of historic properties and historic homes; and to amend chapter 239 of the laws of 2009 amending the tax law and other laws relating to providing a tax credit for the rehabilitation of historic properties, in relation to making permanent the provisions thereof (Part X)

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 2010-2011
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through X. 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.

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PART A

13 Section 1. Subdivision 1 of section 471 of the tax law, as amended by
14 section 1 of part RR-1 of chapter 57 of the laws of 2008, is amended to
15 read as follows:

16 1. There is hereby imposed and shall be paid a tax on all cigarettes
17 possessed in the state by any person for sale, except that no tax shall
18 be imposed on cigarettes sold under such circumstances that this state
19 is without power to impose such tax or sold to the United States or sold
20 to or by a voluntary unincorporated organization of the armed forces of
21 the United States operating a place for the sale of goods pursuant to
22 regulations promulgated by the appropriate executive agency of the
23 United States, to the extent provided in such regulations and policy
24 statements of such an agency applicable to such sales. Such tax on ciga-
25 rettes shall be at the rate of [two] THREE dollars and seventy-five
26 cents for each twenty cigarettes or fraction thereof, provided, however,
27 that if a package of cigarettes contains more than twenty cigarettes,
28 the rate of tax on the cigarettes in such package in excess of twenty
29 shall be [sixty-eight] NINETY-THREE and three-quarters cents for each
30 five cigarettes or fraction thereof. Such tax is intended to be imposed
31 upon only one sale of the same package of cigarettes. It shall be
32 presumed that all cigarettes within the state are subject to tax until
33 the contrary is established, and the burden of proof that any cigarettes
34 are not taxable hereunder shall be upon the person in possession there-
35 of.

36 S 2. Section 471-a of the tax law, as amended by section 2 of part
37 RR-1 of chapter 57 of the laws of 2008, is amended to read as follows:

38 S 471-a. Use tax on cigarettes. There is hereby imposed and shall be
39 paid a tax on all cigarettes used in the state by any person, except
40 that no tax shall be imposed (1) if the tax provided in section four
41 hundred seventy-one of this article is paid, (2) on the use of ciga-
42 rettes which are exempt from the tax imposed by said section, or (3) on
43 the use of four hundred or less cigarettes, brought into the state on,
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1 or in the possession of, any person. Such tax on cigarettes shall be at
2 the rate of [two] THREE dollars and seventy-five cents for each twenty
3 cigarettes or fraction thereof, provided, however, that if a package of
4 cigarettes contains more than twenty cigarettes, the rate of tax on the
5 cigarettes in such package in excess of twenty shall be [sixty-eight]
6 NINETY-THREE and three-quarters cents for each five cigarettes or frac-
7 tion thereof. Within twenty-four hours after liability for the tax
8 accrues, each such person shall file with the commissioner a return in
9 such form as the commissioner may prescribe together with a remittance
10 of the tax shown to be due thereon. For purposes of this article, the
11 word "use" means the exercise of any right or power actual or construc-

12 tive and shall include but is not limited to the receipt, storage or any
13 keeping or retention for any length of time, but shall not include
14 possession for sale. All other provisions of this article if not incon-
15 sistent shall apply to the administration and enforcement of the tax
16 imposed by this section in the same manner as if the language of said
17 provisions had been incorporated in full into this section.

18 S 3. Section 482 of the tax law, as amended by section 125-b of part C
19 of chapter 58 of the laws of 2009, is amended to read as follows:

20 S 482. Deposit and disposition of revenue. (a) All taxes, fees, inter-
21 est and penalties collected or received by the commissioner under this
22 article and article twenty-A of this chapter shall be deposited and
23 disposed of pursuant to the provisions of section one hundred seventy-
24 one-a of this chapter. (b) From the taxes, interest and penalties
25 collected or received by the commissioner under sections four hundred
26 seventy-one and four hundred seventy-one-a of this article, effective on
27 and after March first, two thousand, forty-nine and fifty-five
28 hundredths, and effective on and after February first, two thousand two,
29 forty-three and seventy hundredths; and effective on and after May
30 first, two thousand two, sixty-four and fifty-five hundredths; and
31 effective on and after April first, two thousand three, sixty-one and
32 twenty-two hundredths percent; and effective on and after June third,
33 two thousand eight, seventy and sixty-three hundredths percent; AND
34 EFFECTIVE ON AND AFTER JUNE FIRST, TWO THOUSAND TEN, SEVENTY-FIVE
35 PERCENT collected or received under those sections must be deposited to
36 the credit of the tobacco control and insurance initiatives pool to be
37 established and distributed by the commissioner of health in accordance
38 with section twenty-eight hundred seven-v of the public health law. (c)
39 From the fees collected or received by the commissioner under subdivi-
40 sion two of section four hundred eighty-a of this article, effective on
41 or after September first, two thousand nine, any monies collected or
42 received under that section in excess of three million dollars must be
43 deposited to the credit of the tobacco control and insurance initiatives
44 pool to be distributed by the commissioner of health in accordance with
45 section twenty-eight hundred seven-v of the public health law.

46 S 4. Notwithstanding any other provision of law to the contrary, the
47 tax due on cigarettes possessed in New York state as of the close of
48 business on June 1, 2010 by any person for sale solely attributable to
49 the increase imposed by the amendments to section 471 of the tax law, as
50 amended by section one of this act, shall be paid by August 20, 2010,
51 subject to such terms and conditions as the commissioner of taxation and
52 finance shall prescribe.

53 S 5. This act shall take effect June 2, 2010, and shall apply to all
54 cigarettes possessed in the state by any person for sale and all ciga-
55 rettes used in the state by any person on or after June 2, 2010.

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PART B

2 Section 1. Subdivision (a) of section 28 of the tax law, as added by
3 section 1 of part X of chapter 62 of the laws of 2006, is amended to
4 read as follows:

5 (a) General. A taxpayer subject to tax under article nine, nine-A or
6 twenty-two of this chapter shall be allowed a credit against such tax
7 pursuant to the provisions referenced in subdivision (d) of this
8 section. The credit (or pro rata share of earned credit in the case of a
9 partnership) for each gallon of biofuel produced at a biofuel plant on
10 or after January first, two thousand six shall equal fifteen cents per
11 gallon after the production of the first forty thousand gallons per year
12 presented to market. The credit under this section shall be capped at
13 two and one-half million dollars per taxpayer per taxable year for up to
14 no more than four consecutive taxable years per biofuel plant. IF THE

15 TAXPAYER IS A PARTNER IN A PARTNERSHIP OR SHAREHOLDER OF A NEW YORK S
16 CORPORATION, THEN THE CAP IMPOSED BY THE PRECEDING SENTENCE SHALL BE
17 APPLIED AT THE ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT ALLOWED TO ALL
18 THE PARTNERS OR SHAREHOLDERS OF EACH SUCH ENTITY IN THE TAXABLE YEAR
19 DOES NOT EXCEED TWO AND ONE-HALF MILLION DOLLARS.

20 S 2. Paragraph (f) of subdivision 12-G of section 210 of the tax law,
21 as amended by section 1-a of part A of chapter 63 of the laws of 2005,
22 is amended to read as follows:

23 (f) An eligible taxpayer may claim credits under this subdivision for
24 four consecutive taxable years, except, if a taxpayer is located in an
25 academic incubator facility and relocates within New York state to a
26 nonacademic incubator site, then the taxpayer (i) may make a revocable
27 election to defer the credit provided under this subdivision to the
28 first taxable year beginning after the taxpayer relocates from an
29 academic incubator facility, and (ii) shall be eligible for such credit
30 for five consecutive taxable years. In no case shall the credit allowed
31 by this subdivision to a taxpayer exceed two hundred and fifty thousand
32 dollars per year. IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR
33 SHAREHOLDER OF A NEW YORK S CORPORATION, THEN THE LIMIT IMPOSED BY THE
34 PRECEDING SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE
35 AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH
36 SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED TWO HUNDRED AND FIFTY
37 THOUSAND DOLLARS.

38 S 3. Paragraph 6 of subsection (nn) of section 606 of the tax law, as
39 amended by section 1-a of part A of chapter 63 of the laws of 2005, is
40 amended to read as follows:

41 (6) An eligible taxpayer may claim credits under this subsection for
42 four consecutive taxable years, except, if a taxpayer is located in an
43 academic incubator facility and relocates within New York state to a
44 nonacademic incubator site, then the taxpayer (i) may make a revocable
45 election to defer the credit provided under this subsection to the first
46 taxable year beginning after the taxpayer relocates from an academic
47 incubator facility, and (ii) shall be eligible for such credit for five
48 consecutive years. In no case shall the credit allowed by this
49 subsection to a taxpayer exceed two hundred fifty thousand dollars per
50 year. IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR SHAREHOLDER OF A
51 NEW YORK S CORPORATION, THEN THE LIMIT IMPOSED BY THE PRECEDING SENTENCE
52 SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT
53 ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH SUCH ENTITY IN THE
54 TAXABLE YEAR DOES NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS.

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1 S 4. This act shall take effect immediately and apply to taxable years
2 beginning on or after January 1, 2010.

3 PART C

4 Section 1. Subparagraph (E) of paragraph 1 of subsection (b) of
5 section 631 of the tax law, as added by section 1 of part H of chapter
6 60 of the laws of 2004, is amended and a new subparagraph (F) is added
7 to read as follows:

8 (E) gains from the sale, conveyance or other disposition of shares of
9 stock in a cooperative housing corporation in connection with the grant
10 or transfer of a proprietary leasehold by the owner thereof and subject
11 to the provisions of article thirty-one of this chapter, whether such
12 shares are held by a partnership, trust or otherwise[.]; OR

13 (F) INCOME RECEIVED BY NONRESIDENTS RELATED TO A BUSINESS, TRADE,
14 PROFESSION OR OCCUPATION PREVIOUSLY CARRIED ON IN THIS STATE, WHETHER OR
15 NOT AS AN EMPLOYEE, INCLUDING BUT NOT LIMITED TO, COVENANTS NOT TO
16 COMPETE AND TERMINATION AGREEMENTS. INCOME RECEIVED BY NONRESIDENTS
17 RELATED TO A BUSINESS, TRADE, PROFESSION OR OCCUPATION PREVIOUSLY

18 CARRIED ON PARTLY WITHIN AND PARTLY WITHOUT THE STATE SHALL BE ALLOCATED
19 IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION.

20 S 2. This act shall take effect immediately and apply to taxable years
21 on or after January 1, 2010.

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PART D

23 Section 1. Legislative findings. The legislature finds that it is
24 necessary to correct a decision of the tax appeals tribunal and a deter-
25 mination of the division of tax appeals that erroneously overturned the
26 longstanding policies of department of taxation and finance that nonres-
27 ident subchapter S shareholders who sell their interest in an S corpo-
28 ration pursuant to an election under section 338(h)(10) or section
29 453(h)(1)(A) of the Internal Revenue Code, respectively, are taxed in
30 accordance with that election and the transaction is treated as an asset
31 sale producing New York source income. Section two of this act is
32 intended to clarify the concept of federal conformity in the personal
33 income tax and is necessary to prevent confusion in the preparation of
34 returns, unintended refunds, and protracted litigation of issues that
35 have been properly administered up to now.

36 S 2. Paragraph 2 of subsection (a) of section 632 of the tax law, as
37 amended by section 65 of part A of chapter 389 of the laws of 1997, is
38 amended to read as follows:

39 (2) In determining New York source income of a nonresident shareholder
40 of an S corporation where the election provided for in subsection (a) of
41 section six hundred sixty of this article is in effect, there shall be
42 included only the portion derived from or connected with New York sour-
43 ces of such shareholder's pro rata share of items of S corporation
44 income, loss and deduction entering into his federal adjusted gross
45 income, increased by reductions for taxes described in paragraphs two
46 and three of subsection (f) of section thirteen hundred sixty-six of the
47 internal revenue code, as such portion shall be determined under regu-
48 lations of the commissioner consistent with the applicable methods and
49 rules for allocation under article nine-A or thirty-two of this chapter,
50 REGARDLESS OF WHETHER OR NOT SUCH ITEM OR REDUCTION IS INCLUDED IN
51 ENTIRE NET INCOME UNDER ARTICLE NINE-A OR THIRTY-TWO FOR THE TAX YEAR.
52 IF A NONRESIDENT IS A SHAREHOLDER IN AN S CORPORATION WHERE THE ELECTION
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1 PROVIDED FOR IN SUBSECTION (A) OF SECTION SIX HUNDRED SIXTY OF THIS
2 ARTICLE IS IN EFFECT, AND THE S CORPORATION HAS DISTRIBUTED AN INSTALL-
3 MENT OBLIGATION UNDER SECTION 453(H)(1)(A) OF THE INTERNAL REVENUE CODE,
4 THEN ANY GAIN RECOGNIZED ON THE RECEIPT OF PAYMENTS FROM THE INSTALLMENT
5 OBLIGATION FOR FEDERAL INCOME TAX PURPOSES WILL BE TREATED AS NEW YORK
6 SOURCE INCOME ALLOCATED IN A MANNER CONSISTENT WITH THE APPLICABLE METH-
7 ODS AND RULES FOR ALLOCATION UNDER ARTICLE NINE-A OR THIRTY-TWO OF THIS
8 CHAPTER IN THE YEAR THAT THE ASSETS WERE SOLD. IN ADDITION, IF THE
9 SHAREHOLDERS OF THE S CORPORATION HAVE MADE AN ELECTION UNDER SECTION
10 338(H)(10) OF THE INTERNAL REVENUE CODE, THEN ANY GAIN RECOGNIZED ON THE
11 DEEMED ASSET SALE FOR FEDERAL INCOME TAX PURPOSES WILL BE TREATED AS NEW
12 YORK SOURCE INCOME ALLOCATED IN A MANNER CONSISTENT WITH THE APPLICABLE
13 METHODS AND RULES FOR ALLOCATION UNDER ARTICLE NINE-A OR THIRTY-TWO OF
14 THIS CHAPTER IN THE YEAR THAT THE SHAREHOLDER MADE THE SECTION
15 338(H)(10) ELECTION. FOR PURPOSES OF A SECTION 338(H)(10) ELECTION, WHEN
16 A NONRESIDENT SHAREHOLDER EXCHANGES HIS OR HER S CORPORATION STOCK AS
17 PART OF THE DEEMED LIQUIDATION, ANY GAIN OR LOSS RECOGNIZED SHALL BE
18 TREATED AS THE DISPOSITION OF AN INTANGIBLE ASSET AND WILL NOT INCREASE
19 OR OFFSET ANY GAIN RECOGNIZED ON THE DEEMED ASSETS SALE AS A RESULT OF
20 THE SECTION 338(H)(10) ELECTION.

21 S 3. Paragraph 1 of subsection (b) of section 631 of the tax law is
22 amended by adding a new subparagraph (E-1) to read as follows:

23 (E-1) IN THE CASE OF AN S CORPORATION FOR WHICH AN ELECTION IS IN
24 EFFECT PURSUANT TO SUBSECTION (A) OF SECTION SIX HUNDRED SIXTY OF THIS
25 ARTICLE THAT TERMINATES ITS TAXABLE STATUS IN NEW YORK, ANY INCOME OR
26 GAIN RECOGNIZED ON THE RECEIPT OF PAYMENTS FROM AN INSTALLMENT SALE
27 CONTRACT ENTERED INTO WHEN THE S CORPORATION WAS SUBJECT TO TAX IN NEW
28 YORK, ALLOCATED IN A MANNER CONSISTENT WITH THE APPLICABLE METHODS AND
29 RULES FOR ALLOCATION UNDER ARTICLE NINE-A OR THIRTY-TWO OF THIS CHAPTER,
30 IN THE YEAR THAT THE S CORPORATION SOLD ITS ASSETS.

31 S 4. This act shall take effect immediately; provided however, that
32 section two of this act shall apply to all tax years for which the stat-
33 ute of limitations for seeking a refund or assessing additional tax are
34 still open, and section three of this act shall apply to taxable years
35 beginning on or after January 1, 2010.

36

PART E

37 Section 1. The tax law is amended by adding a new section 1703 to read
38 as follows:

39 S 1703. INFORMATION RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF
40 PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS. 1. (A) EVERY PAYMENT
41 SETTLEMENT ENTITY, THIRD PARTY SETTLEMENT ORGANIZATION, ELECTRONIC
42 PAYMENT FACILITATOR OR OTHER THIRD PARTY ACTING ON BEHALF OF A PAYMENT
43 SETTLEMENT ENTITY, ALL AS DEFINED IN SECTION 6050W OF THE INTERNAL
44 REVENUE CODE AND REFERRED TO HEREIN AS "A REPORTING ENTITY," REQUIRED TO
45 FILE INFORMATION RETURNS PURSUANT TO THAT SECTION SHALL, WITHIN THIRTY
46 DAYS OF THE FILING THEREOF, FILE WITH THE DEPARTMENT IN SUCH FORM AND
47 MANNER AS PRESCRIBED BY THE COMMISSIONER EITHER (I) A DUPLICATE OF ALL
48 SUCH INFORMATION RETURNS OR (II) A DUPLICATE OF SUCH INFORMATION RETURNS
49 RELATED TO PARTICIPATING PAYEES, AS DEFINED IN SECTION 6050W OF THE
50 INTERNAL REVENUE CODE, WITH A NEW YORK STATE ADDRESS OR NEW YORK STATE
51 TAXPAYERS. THE COMMISSIONER MAY REQUIRE THAT SUCH RETURNS BE FILED ELEC-
52 TRONICALLY.

53 (B) TO FACILITATE ACCURATE REPORTING BY THE ENTITIES REQUIRED TO FILE
54 INFORMATION RETURNS PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL
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1 PROVIDE A LIST OR DATABASE OF NEW YORK STATE TAXPAYERS NO LATER THAN
2 FORTY-FIVE DAYS PRIOR TO THE INFORMATION REPORTING DEADLINE, IN SUCH
3 FORM AND MANNER AS PRESCRIBED BY THE COMMISSIONER. THE INFORMATION
4 INCLUDED IN SUCH LIST OR DATABASE SHALL NOT BE USED BY A REPORTING ENTI-
5 TY FOR ANY PURPOSE OTHER THAN PRODUCING AND FILING INFORMATION RETURNS
6 PURSUANT TO THIS SECTION.

7 (C) ANY INFORMATION RECEIVED BY THE DEPARTMENT ON AN INFORMATION
8 RETURN FILED PURSUANT TO THIS SECTION, CONCERNING A PERSON WHO IS NOT
9 SUBJECT TO TAX IN NEW YORK, OR IS NOT SUBJECT TO ANY REQUIREMENT IMPOSED
10 BY OR PURSUANT TO THE AUTHORITY OF THIS CHAPTER, MAY NOT BE USED BY THE
11 DEPARTMENT. THE DEPARTMENT SHALL NOT REDISCLOSE ANY INFORMATION RECEIVED
12 ON AN INFORMATION RETURN FILED PURSUANT TO THIS SECTION.

13 2. (A) ANY REPORTING ENTITY FAILING TO FILE AN INFORMATION RETURN
14 REQUIRED PURSUANT TO SUBDIVISION ONE OF THIS SECTION WITHIN THE TIME
15 PRESCRIBED WILL BE SUBJECT TO A PENALTY OF FIFTY DOLLARS FOR EACH FAIL-
16 URE, IF FAILURE IS FOR NOT MORE THAN ONE MONTH, WITH AN ADDITIONAL FIFTY
17 DOLLARS FOR EACH MONTH OR FRACTION THEREOF DURING WHICH EACH FAILURE
18 CONTINUES. HOWEVER, THE TOTAL AMOUNT OF PENALTY IMPOSED ON A REPORTING
19 ENTITY MAY NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS ANNUALLY.

20 (B) THE COMMISSIONER MAY WAIVE ALL OR ANY PORTION OF ANY PENALTY
21 IMPOSED BY THIS SUBDIVISION WITH RESPECT TO ANY VIOLATION IF (I) THE
22 COMMISSIONER DETERMINES THAT THE FAILURE TO TIMELY FILE A RETURN, WAS
23 DUE TO REASONABLE CAUSE AND NOT DUE TO WILLFUL NEGLIGENCE, OR (II) RESCIND-
24 ING THE PENALTY WOULD PROMOTE COMPLIANCE WITH THE REQUIREMENTS OF THIS
25 CHAPTER AND EFFECTIVE TAX ADMINISTRATION.

26 S 2. This act shall take effect immediately.

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PART F

28 Section 1. Paragraph 1 of subdivision (e) of section 29 of the tax
29 law, as added by section 1 of part UU-1 of chapter 57 of the laws of
30 2008, is amended to read as follows:

31 (1) If a tax return preparer is required to file authorized tax docu-
32 ments electronically pursuant to subdivision (b) of this section, and
33 that preparer fails to file one or more of those documents electron-
34 ically, then that preparer will be subject to a penalty of fifty dollars
35 for each failure to electronically file an authorized tax document,
36 unless it is shown that the failure is due to reasonable cause and not
37 due to willful neglect. [For purposes of this paragraph, reasonable
38 cause shall include, but not be limited to, a taxpayer's election not to
39 electronically file the authorized tax document.]

40 S 2. The tax law is amended by adding a new section 33 to read as
41 follows:

42 S 33. CORRECTION PERIODS FOR ELECTRONIC TAX DOCUMENTS AND PAYMENTS.

43 (A) FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS HAVE THE SPECIFIED
44 MEANINGS:

45 (1) "ELECTRONIC FUNDS WITHDRAWAL" MEANS THE PROCESS BY WHICH THE
46 DEPARTMENT, WITH A TAXPAYER'S PERMISSION, ORIGINATES AN ELECTRONIC ORDER
47 FROM ITS BANK TO THE TAXPAYER'S BANK TO WITHDRAW FUNDS FROM THE TAXPAY-
48 ER'S BANK ACCOUNT SO THAT THE TAXPAYER MAY PAY A TAX LIABILITY ASSOCI-
49 ATED WITH A TAX DOCUMENT.

50 (2) "ELECTRONIC POSTMARK" MEANS A RECORD OF THE DATE AND TIME (IN A
51 PARTICULAR TIME ZONE) THAT AN AUTHORIZED ELECTRONIC TRANSMITTER RECEIVES
52 THE TRANSMISSION OF A TAXPAYER'S ELECTRONICALLY FILED TAX DOCUMENT ON
53 ITS HOST SYSTEM.

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1 (3) "ELECTRONIC TRANSMITTER" MEANS A PERSON OR ENTITY THAT IS AUTHOR-
2 IZED TO SUBMIT ELECTRONIC TAX DOCUMENTS DIRECTLY TO THE DEPARTMENT OR
3 DIRECTLY TO THE INTERNAL REVENUE SERVICE FOR FORWARDING TO THE DEPART-
4 MENT.

5 (4) "REJECT" OR "REJECTED" MEANS THAT AN ELECTRONICALLY FILED TAX
6 DOCUMENT OR AN AUTHORIZATION FOR AN ELECTRONIC FUNDS WITHDRAWAL IS NOT
7 ACCEPTED FOR PROCESSING.

8 (5) "SUBMIT" OR "SUBMITTED" MEANS THE DATE OF THE ELECTRONIC POSTMARK
9 ASSIGNED BY AN ELECTRONIC TRANSMITTER TO AN ELECTRONICALLY FILED TAX
10 DOCUMENT OR AUTHORIZATION FOR AN ELECTRONIC FUNDS WITHDRAWAL. HOWEVER,
11 IF AN ELECTRONIC TRANSMITTER DOES NOT ASSIGN AN ELECTRONIC POSTMARK,
12 THEN AN ELECTRONICALLY FILED TAX DOCUMENT OR AUTHORIZATION FOR AN ELEC-
13 TRONIC FUNDS WITHDRAWAL SHALL BE DEEMED SUBMITTED ON THE EARLIER OF THE
14 DATE THE INTERNAL REVENUE SERVICE RECEIVES THE ELECTRONICALLY FILED TAX
15 DOCUMENT OR AUTHORIZATION FOR AN ELECTRONIC FUNDS WITHDRAWAL, OR THE
16 DATE THE DEPARTMENT RECEIVES THE ELECTRONICALLY FILED TAX DOCUMENT OR
17 AUTHORIZATION FOR AN ELECTRONIC FUNDS WITHDRAWAL. IN ANY OF THE AFORE-
18 MENTIONED CASES, IF THE TAXPAYER CAN ESTABLISH THAT THE TIME OF
19 SUBMISSION, ADJUSTED FOR THE TAXPAYER'S TIME ZONE, WAS TIMELY, THE TIME
20 OF SUBMISSION SHALL BE BASED ON THE TAXPAYER'S TIME ZONE.

21 (6) "TAX" MEANS ANY TAX, FEE, SPECIAL ASSESSMENT OR OTHER IMPOSITION
22 ADMINISTERED BY THE COMMISSIONER.

23 (7) "TAX DOCUMENT" MEANS ANY RETURN, REPORT OR OTHER DOCUMENT RELATING
24 TO A TAX.

25 (B) IF A TAX DOCUMENT IS REQUIRED OR PERMITTED TO BE FILED WITH THE
26 DEPARTMENT ELECTRONICALLY (WHETHER DIRECTLY, DIRECTLY THROUGH A RETURN
27 TRANSMITTER OR THROUGH THE INTERNAL REVENUE SERVICE), THE TAX DOCUMENT
28 IS SUBMITTED ELECTRONICALLY ON OR BEFORE THE DUE DATE FOR SUCH DOCUMENT
29 (INCLUDING ANY EXTENSION OF TIME), AND THE ELECTRONICALLY FILED TAX

30 DOCUMENT IS REJECTED, THEN THE COMMISSIONER MAY, BY INSTRUCTION, PROVIDE
31 FOR A REASONABLE PERIOD OF TIME DURING WHICH THE TAX DOCUMENT MAY BE
32 CORRECTED AND RE-SUBMITTED. IF THE CORRECTED TAX DOCUMENT IS RE-SUBMIT-
33 TED ON OR BEFORE THE EXPIRATION DATE OF THE EXTENDED TIME PERIOD, AND
34 SUCH DOCUMENT IS ACCEPTED BY THE DEPARTMENT FOR PROCESSING, THEN THE
35 RE-SUBMITTED TAX DOCUMENT SHALL BE DEEMED TO HAVE BEEN TIMELY FILED EVEN
36 THOUGH THE DEPARTMENT RECEIVES IT AFTER THE APPLICABLE DUE DATE (INCLUD-
37 ING ANY EXTENSION OF TIME).

38 (C) (1) IF A TAXPAYER HAS SUBMITTED AN AUTHORIZATION FOR AN ELECTRONIC
39 FUNDS WITHDRAWAL ON OR BEFORE THE DUE DATE FOR PAYMENT (INCLUDING ANY
40 EXTENSION OF TIME), AND SUCH AUTHORIZATION IS REJECTED BY THE DEPART-
41 MENT, THEN THE COMMISSIONER MAY, BY INSTRUCTION, PROVIDE FOR A REASON-
42 ABLE PERIOD OF TIME, COMMENCING FROM THE DATE OF REJECTION, FOR THE
43 TAXPAYER TO RE-SUBMIT THE AUTHORIZATION FOR THE ELECTRONIC FUNDS WITH-
44 DRAWAL. IF THE AUTHORIZATION FOR THE ELECTRONIC FUNDS WITHDRAWAL IS
45 RE-SUBMITTED ON OR BEFORE THE EXPIRATION DATE OF THE EXTENDED TIME PERI-
46 OD, THEN THE ELECTRONIC FUNDS WITHDRAWAL SHALL BE DEEMED TO HAVE BEEN
47 TIMELY PAID EVEN THOUGH THE DEPARTMENT RECEIVES IT AFTER THE APPLICABLE
48 DUE DATE (INCLUDING ANY EXTENSION OF TIME).

49 (2) ANY REASONABLE PERIOD OF TIME PROVIDED FOR BY THE COMMISSIONER FOR
50 RE-SUBMISSION OF AN AUTHORIZATION FOR AN ELECTRONIC FUNDS WITHDRAWAL MAY
51 DIFFER FROM THE REASONABLE TIME PERIOD, IF ANY, PROVIDED FOR BY THE
52 COMMISSIONER WITH RESPECT TO THE ELECTRONICALLY FILED TAX DOCUMENT WITH
53 WHICH THE TAXPAYER'S ELECTRONIC FUNDS WITHDRAWAL IS ASSOCIATED.

54 (3) IN LIEU OF RE-SUBMITTING AN AUTHORIZATION FOR AN ELECTRONIC FUNDS
55 WITHDRAWAL, THE COMMISSIONER MAY PERMIT A TAXPAYER TO INSTEAD PAY BY
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1 SUBSTITUTE MEANS, AS DEFINED BY INSTRUCTION. ANY SUCH INSTRUCTION SHALL
2 ADDRESS THE TIMELINESS OF PAYMENT BY SUBSTITUTE MEANS.

3 (D) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO TAXPAYERS
4 PARTICIPATING IN THE ELECTRONIC FUNDS TRANSFER PROGRAMS PRESCRIBED BY
5 SECTIONS NINE AND TEN OF THIS ARTICLE.

6 S 3. Intentionally omitted.

7 S 4. Paragraph 5 of subsection (u) of section 685 of the tax law, as
8 added by section 2 of part Q of chapter 61 of the laws of 2005, is
9 amended to read as follows:

10 (5) Failure to electronically file. If a tax return preparer is
11 required to file returns electronically pursuant to paragraph ten of
12 subsection (g) of section six hundred fifty-eight of this article, and
13 such preparer fails to file one or more of such returns electronically,
14 then such preparer shall be subject to a penalty of fifty dollars for
15 each such failure to electronically file a return, unless it is shown
16 that such failure is due to reasonable cause and not due to willful
17 neglect. [For purposes of this paragraph, reasonable cause shall
18 include, but not be limited to, a taxpayer's election not to electron-
19 ically file his or her return.]

20 S 5. Paragraph 5 of subdivision (t) of section 11-1785 of the adminis-
21 trative code of the city of New York, as added by section 4 of part Q of
22 chapter 61 of the laws of 2005, is amended to read as follows:

23 (5) Failure to electronically file. If a tax return preparer is
24 required to file returns electronically pursuant to paragraph ten of
25 subdivision (g) of section 11-1758, and such preparer fails to file one
26 or more of such returns electronically, then such preparer shall be
27 subject to a penalty of fifty dollars for each such failure to electron-
28 ically file a return, unless it is shown that such failure is due to
29 reasonable cause and not due to willful neglect. [For purposes of this
30 paragraph, reasonable cause shall include, but not be limited to, a
31 taxpayer's election not to electronically file his or her return.]

32 S 6. This act shall take effect immediately, provided, however, that
33 sections one, four and five of this act shall apply to tax returns and

34 other tax documents required to be filed electronically by tax return
35 preparers on or after December 31, 2010, and section two of this act
36 shall apply to electronic returns and payments made for tax years begin-
37 ning after December 31, 2010.

38

PART G

39 Section 1. Section 3 of chapter 349 of the laws of 1982 amending the
40 multiple dwelling law relating to the legalization of interim multiple
41 dwellings in cities over one million, as amended by section 1 of part
42 PP-1 of chapter 57 of the laws of 2008, is amended to read as follows:

43 S 3. Effective date [and termination]. This act shall take effect
44 immediately. [The provisions of this act and all regulations, orders and
45 requirements thereunder shall terminate at the close of the calendar day
46 May 31, 2010.]

47 S 2. Paragraph (v) of subdivision 1 of section 284 of the multiple
48 dwelling law, as amended by section 2 of part PP-1 of chapter 57 of the
49 laws of 2008, is amended to read as follows:

50 (v) An owner of an interim multiple dwelling who has not complied with
51 the requirements of paragraph (i), (ii), (iii) or (iv) of this subdivi-
52 sion by the effective date of this paragraph as provided in chapter
53 eighty-five of the laws of two thousand two shall hereafter be deemed in
54 compliance with this subdivision provided that such owner filed an
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1 alteration application by September first, nineteen hundred ninety-nine,
2 took all reasonable and necessary action to obtain an approved alter-
3 ation permit by March first, two thousand, achieves compliance with the
4 standards of safety and fire protection set forth in article seven-B of
5 this chapter for the residential portions of the building by May first,
6 two thousand [ten] TWELVE or within twelve months from obtaining an
7 approved alteration permit whichever is later, and takes all reasonable
8 and necessary action to obtain a certificate of occupancy as a class A
9 multiple dwelling for the residential portions of the building or struc-
10 ture by May thirty-first, two thousand [ten] TWELVE or within one month
11 from achieving compliance with the aforementioned standards for the
12 residential portions of the building, whichever is later.

13 S 3. Section 1 of part J of chapter 405 of the laws of 1999 amending
14 the real property tax law relating to improving the administration of
15 the school tax relief (STAR) program, as amended by section 3 of part
16 PP-1 of chapter 57 of the laws of 2008, is amended to read as follows:

17 Section 1. Notwithstanding the provisions of article 5 of the general
18 construction law, the provisions of the tax law amended by sections
19 94-a, 94-d and 94-g of chapter 2 of the laws of 1995 are hereby revived
20 and shall continue in full force and effect as they existed on March 31,
21 1999 [through May 31, 2010, when upon such date they shall expire and be
22 repealed]. Sections 1, 2, 3, 4, and 5, and such part of section 10 of
23 chapter 336 of the laws of 1999 as relates to providing for the effec-
24 tiveness of such sections 1, 2, 3, 4 and 5 shall be nullified in effect
25 on the effective date of this section, except that the amendments made
26 to: paragraph (2) of subdivision a of section 1612 of the tax law by
27 such section 1; and subdivision b of section 1612 of the tax law by such
28 section 2; and the repeal of section 152 of chapter 166 of the laws of
29 1991 made by such section 5 shall continue to remain in effect.

30 S 4. This act shall take effect immediately.

31

PART H

32 Section 1. Section 2 of the tax law is amended by adding two new
33 subdivisions 12 and 13 to read as follows:

34 12. AS USED IN THIS CHAPTER, A "STATE RECOGNIZED MARRIAGE" SHALL MEAN

35 A MARRIAGE RECOGNIZED BY NEW YORK STATE LAW, INCLUDING A MARRIAGE
36 OUTSIDE THE STATE RECOGNIZED UNDER PRINCIPLES OF COMITY.

37 13. AS USED IN THIS CHAPTER, "MARRIED", "SPOUSE", "HUSBAND", "WIFE",
38 "WIDOW", AND OTHER SIMILAR TERMS ENCOMPASS ANY INDIVIDUALS IN A STATE
39 RECOGNIZED MARRIAGE, NOTWITHSTANDING THE TREATMENT AFFORDED SUCH
40 MARRIAGE UNDER THE LAWS OF THE UNITED STATES.

41 S 2. The tax law is amended by adding a new section 31 to read as
42 follows:

43 S 31. TREATMENT OF INDIVIDUALS IN ANY STATE RECOGNIZED MARRIAGE. (A)
44 FOR PURPOSES OF THIS CHAPTER, INDIVIDUALS IN ANY STATE RECOGNIZED
45 MARRIAGE SHALL BE TREATED AS MARRIED, AND THEIR STATUS AS "HUSBAND",
46 "WIFE", "SPOUSE", "WIDOW" OR OTHER SIMILAR TERM INDICATING MARITAL
47 STATUS AS USED IN THIS CHAPTER SHALL BE THAT OF SIMILARLY-SITUATED INDI-
48 VIDUALS IN ANY OTHER MARRIAGE RECOGNIZED UNDER FEDERAL AND STATE TAX
49 LAW, NOTWITHSTANDING THE TREATMENT AFFORDED SUCH INDIVIDUALS UNDER THE
50 LAWS OF THE UNITED STATES.

51 (B) TAX LIABILITY UNDER ARTICLES TWENTY-TWO, TWENTY-SIX, TWENTY-SIX-B,
52 THIRTY, THIRTY-A, AND THIRTY-B OF THIS CHAPTER SHALL BE COMPUTED FOR ANY
53 STATE RECOGNIZED MARRIAGE IN THE SAME WAY LIABILITY WOULD BE COMPUTED IN
54 ANY OTHER MARRIAGE RECOGNIZED UNDER FEDERAL AND STATE TAX LAW.

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1 S 3. Subsection (b) of section 607 of the tax law, as amended by chap-
2 ter 760 of the laws of 1992, is amended to read as follows:

3 (b) Marital or other status. An individual's marital or other status
4 under section six hundred one, subsection (b) of section six hundred six
5 and section six hundred fourteen shall be the same as his OR HER marital
6 or other status for purposes of establishing the applicable federal
7 income tax rates; PROVIDED HOWEVER, THAT INDIVIDUALS IN ANY STATE RECOG-
8 NIZED MARRIAGE SHALL BE TREATED AS MARRIED AND AS "HUSBAND", "WIFE",
9 "SPOUSE", "WIDOW" OR OTHER SIMILAR TERM USED IN THIS ARTICLE TO INDICATE
10 MARITAL STATUS TO THE SAME EXTENT AND IN THE SAME WAY AS ARE INDIVIDUALS
11 IN ANY OTHER LEGALLY PERFORMED MARRIAGE. IN APPLYING RELEVANT PROVISIONS
12 OF THE LAWS OF THE UNITED STATES TO THIS ARTICLE, THE TERMS "MARRIED",
13 "HUSBAND", "WIFE", "SPOUSE", "WIDOW" OR OTHER SIMILAR TERM INDICATING
14 MARITAL STATUS AS USED IN THIS ARTICLE SHALL INCLUDE ANY STATE RECOG-
15 NIZED MARRIAGE, NOTWITHSTANDING THE TREATMENT AFFORDED SUCH INDIVIDUALS
16 UNDER THE LAWS OF THE UNITED STATES.

17 S 4. Subsection (b) of section 651 of the tax law is amended by adding
18 a new paragraph 8 to read as follows:

19 (8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN INDIVIDUAL
20 IN A STATE RECOGNIZED MARRIAGE NOT RECOGNIZED BY FEDERAL LAW SHALL FILE
21 A STATE RETURN USING THE SAME FILING STATUS THAT WOULD HAVE BEEN AVAIL-
22 ABLE HAD SUCH MARRIAGE BEEN RECOGNIZED BY FEDERAL LAW.

23 S 5. Subsection (a) of section 951 of the tax law, as amended by
24 section 1 of part A of chapter 407 of the laws of 1999, is amended to
25 read as follows:

26 (a) Dates. For purposes of this article, any reference to the internal
27 revenue code means the United States Internal Revenue Code of 1986, with
28 all amendments enacted on or before July twenty-second, nineteen hundred
29 ninety-eight, and, unless specifically provided otherwise in this arti-
30 cle, any reference to December thirty-first, nineteen hundred seventy-
31 six or January first, nineteen hundred seventy-seven contained in the
32 provisions of such code which are applicable to the determination of the
33 tax imposed by this article shall be read as a reference to June thirti-
34 eth, nineteen hundred seventy-eight or July first, nineteen hundred
35 seventy-eight, respectively. Notwithstanding the foregoing, the unified
36 credit against the estate tax provided in section two thousand ten of
37 the internal revenue code shall, for purposes of this article, be the
38 amount allowed by such section under the applicable federal law in
39 effect on the decedent's date of death. Provided, however, the amount of

40 such credit allowable for purposes of this article shall not exceed the
41 amount allowable as if the federal unified credit did not exceed the tax
42 due under section two thousand one of the internal revenue code on a
43 federal taxable estate of one million dollars. PROVIDED, FURTHER, ANY
44 ELECTION TO TAKE A QUALIFIED TERMINABLE INTEREST PROPERTY DEDUCTION MADE
45 ON THE RETURN FILED UNDER THIS ARTICLE SHALL BE TREATED AS IF THE
46 ELECTION HAD BEEN MADE ON THE FEDERAL ESTATE TAX RETURN.

47 S 6. Section 1-112 of the administrative code of the city of New York
48 is amended by adding a new subdivision 22 to read as follows:

49 22. FOR PURPOSES OF CHAPTER SEVENTEEN OF TITLE ELEVEN OF THIS CODE,
50 "MARRIED", "SPOUSE", "HUSBAND", "WIFE", "WIDOW", AND OTHER SIMILAR TERMS
51 ENCOMPASS ANY STATE RECOGNIZED MARRIAGE NOTWITHSTANDING THE TREATMENT
52 AFFORDED SUCH INDIVIDUALS UNDER THE LAWS OF THE UNITED STATES.

53 S 7. Subdivision (b) of section 11-1707 of the administrative code of
54 the city of New York, as amended by chapter 333 of the laws of 1987, is
55 amended to read as follows:

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1 (b) Marital or other status. An individual's marital or other status
2 under section 11-1701 and section 11-1714 OF THIS CHAPTER shall be the
3 same as his OR HER marital or other status for purposes of establishing
4 the applicable federal income tax rates; PROVIDED HOWEVER, THAT INDIVID-
5 UALS IN ANY STATE RECOGNIZED MARRIAGE SHALL BE TREATED AS MARRIED AND AS
6 "HUSBAND", "WIFE", "SPOUSE", "WIDOW" OR OTHER SIMILAR TERM INDICATING
7 MARITAL STATUS AS USED IN THIS CHAPTER TO THE SAME EXTENT AND IN THE
8 SAME WAY AS IN ANY OTHER MARRIAGE RECOGNIZED UNDER FEDERAL AND STATE TAX
9 LAW. IN APPLYING RELEVANT PROVISIONS OF THE LAWS OF THE UNITED STATES TO
10 THIS CHAPTER, THE TERMS "MARRIED", "HUSBAND", "WIFE", "SPOUSE", "WIDOW"
11 AND OTHER SIMILAR TERMS INDICATING MARITAL STATUS AS USED IN THIS CHAP-
12 TER SHALL INCLUDE INDIVIDUALS IN ANY STATE RECOGNIZED MARRIAGE, NOTWITH-
13 STANDING THE TREATMENT AFFORDED SUCH INDIVIDUALS UNDER THE LAWS OF THE
14 UNITED STATES.

15 S 8. This act shall take effect immediately; provided however, that
16 sections three, four, six and seven of this act shall apply to taxable
17 years beginning on or after January 1, 2010.

18 PART I

19 Section 1. Subdivision 4 of section 22 of the public housing law, as
20 amended by section 1 of part J-1 of chapter 57 of the laws of 2009, is
21 amended to read as follows:

22 4. Statewide limitation. The aggregate dollar amount of credit which
23 the commissioner may allocate to eligible low-income buildings under
24 this article shall be [twenty-four] TWENTY-EIGHT million dollars. The
25 limitation provided by this subdivision applies only to allocation of
26 the aggregate dollar amount of credit by the commissioner, and does not
27 apply to allowance to a taxpayer of the credit with respect to an eligi-
28 ble low-income building for each year of the credit period.

29 S 2. This act shall take effect immediately.

30 PART J

31 Section 1. Subdivision (d) of section 7 of part P of chapter 60 of the
32 laws of 2004 amending the tax law relating to the empire state film
33 production credit, as added by section 2 of part Y-1 of chapter 57 of
34 the laws of 2009, is amended to read as follows:

35 (d) ADDITIONAL POOL 1 - The aggregate amount of tax credits allowed in
36 subdivision (a) of this section shall be increased by an additional \$350
37 million in 2009. This additional amount shall be allocated by the gover-
38 nor's office for motion picture and television development among taxpay-
39 ers in accordance with subdivision (a) of this section.

40 S 2. Section 7 of part P of chapter 60 of the laws of 2004 amending
41 the tax law relating to the empire state film production credit is
42 amended by adding a new subdivision (e) to read as follows:

43 (E) ADDITIONAL POOL 2 - THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED IN
44 SUBDIVISION (A) OF THIS SECTION SHALL BE INCREASED BY AN ADDITIONAL \$420
45 MILLION IN 2010, \$420 MILLION IN 2011, \$420 MILLION IN 2012, \$420
46 MILLION IN 2013 AND \$420 MILLION IN 2014. THIS ADDITIONAL AMOUNT SHALL
47 BE ALLOCATED BY THE GOVERNOR'S OFFICE FOR MOTION PICTURE AND TELEVISION
48 DEVELOPMENT AMONG TAXPAYERS IN ACCORDANCE WITH SUBDIVISION (A) OF THIS
49 SECTION. THE GOVERNOR'S OFFICE FOR MOTION PICTURE AND TELEVISION DEVEL-
50 OPMENT MUST NOTIFY TAXPAYERS OF THEIR ALLOCATION YEAR AND INCLUDE THE
51 ALLOCATION YEAR ON THE CERTIFICATE OF TAX CREDIT. TAXPAYERS ELIGIBLE TO
52 CLAIM A CREDIT MUST REPORT THE ALLOCATION YEAR DIRECTLY ON THEIR EMPIRE
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1 STATE FILM PRODUCTION CREDIT TAX FORM FOR EACH YEAR A CREDIT IS CLAIMED
2 AND INCLUDE A COPY OF THE CERTIFICATE WITH THEIR TAX RETURN. IN THE CASE
3 OF A QUALIFIED FILM THAT RECEIVES FUNDS FROM ADDITIONAL POOL 2, NO
4 EMPIRE STATE FILM PRODUCTION CREDIT SHALL BE CLAIMED BEFORE THE LATER OF
5 (1) THE TAXABLE YEAR THE PRODUCTION OF THE QUALIFIED FILM IS COMPLETE,
6 OR (2) THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE ALLOCATION YEAR FOR
7 WHICH THE FILM HAS BEEN ALLOCATED CREDIT BY THE GOVERNOR'S OFFICE FOR
8 MOTION PICTURE AND TELEVISION DEVELOPMENT.

9 S 3. Paragraph 1 of subdivision (a) of section 24 of the tax law, as
10 added by section 1 of part P of chapter 60 of the laws of 2004, is
11 amended to read as follows:

12 (1) Allowance of credit. A taxpayer which is a qualified film
13 production company, OR A QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY,
14 or which is a sole proprietor of OR A MEMBER OF A PARTNERSHIP WHICH IS A
15 qualified film production company OR A QUALIFIED INDEPENDENT FILM
16 PRODUCTION COMPANY, and which is subject to tax under articles nine-A or
17 twenty-two of this chapter, shall be allowed a credit against such tax,
18 pursuant to the provisions referenced in subdivision (c) of this
19 section, to be computed as hereinafter provided.

20 S 4. Paragraph 2 of subdivision (a) of section 24 of the tax law, as
21 amended by section 1 of part Y-1 of chapter 57 of the laws of 2009, is
22 amended to read as follows:

23 (2) The amount of the credit shall be the product (or pro rata share
24 of the product, in the case of a member of a partnership) of thirty
25 percent and the qualified production costs paid or incurred in the
26 production of a qualified film, provided that: (I) the qualified
27 production costs (excluding post production costs) paid or incurred
28 which are attributable to the use of tangible property or the perform-
29 ance of services at a qualified film production facility in the
30 production of such qualified film equal or exceed seventy-five percent
31 of the production costs (excluding post production costs) paid or
32 incurred which are attributable to the use of tangible property or the
33 performance of services at any film production facility within and with-
34 out the state in the production of such qualified film, AND (II) EXCEPT
35 WITH RESPECT TO A QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY OR
36 PILOT, AT LEAST TEN PERCENT OF THE TOTAL PRINCIPAL PHOTOGRAPHY SHOOTING
37 DAYS SPENT IN THE PRODUCTION OF SUCH QUALIFIED FILM MUST BE SPENT AT A
38 QUALIFIED FILM PRODUCTION FACILITY. However, if the qualified
39 production costs (excluding post production costs) which are attribut-
40 able to the use of tangible property or the performance of services at a
41 qualified film production facility in the production of such qualified
42 film is less than three million dollars, then the portion of the quali-
43 fied production costs attributable to the use of tangible property or
44 the performance of services in the production of such qualified film
45 outside of a qualified film production facility shall be allowed only if
46 the shooting days spent in New York outside of a film production facili-

47 ty in the production of such qualified film equal or exceed seventy-five
48 percent of the total shooting days spent within and without New York
49 outside of a film production facility in the production of such quali-
50 fied film. The credit shall be allowed for the taxable year in which the
51 production of such qualified film is completed. HOWEVER, IN THE CASE OF
52 A QUALIFIED FILM THAT RECEIVES FUNDS FROM ADDITIONAL POOL 2, NO CREDIT
53 SHALL BE CLAIMED BEFORE THE LATER OF (1) THE TAXABLE YEAR THE PRODUCTION
54 OF THE QUALIFIED FILM IS COMPLETE, OR (2) THE TAXABLE YEAR IMMEDIATELY
55 FOLLOWING THE ALLOCATION YEAR FOR WHICH THE FILM HAS BEEN ALLOCATED
56 CREDIT BY THE GOVERNOR'S OFFICE FOR MOTION PICTURE AND TELEVISION DEVEL-
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1 OPMENT. If the amount of the credit is at least one million dollars but
2 less than five million dollars, the credit shall be claimed over a two
3 year period beginning in the FIRST taxable year in which the [production
4 of the qualified film is completed] CREDIT MAY BE CLAIMED and in the
5 next succeeding taxable year, with one-half of the amount of credit
6 allowed being claimed in each year. If the amount of the credit is at
7 least five million dollars, the credit shall be claimed over a three
8 year period beginning in the FIRST taxable year in which the [production
9 of the qualified film is completed] CREDIT MAY BE CLAIMED and in the
10 next two succeeding taxable years, with one-third of the amount of the
11 credit allowed being claimed in each year.

12 S 5. Subdivision (a) of section 24 of the tax law is amended by adding
13 a new paragraph 4 to read as follows:

14 (4) NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBDIVISION, A
15 QUALIFIED FILM PRODUCTION COMPANY OR QUALIFIED INDEPENDENT FILM
16 PRODUCTION COMPANY, THAT HAS APPLIED FOR CREDIT UNDER THE PROVISIONS OF
17 THIS SECTION, AGREES AS A CONDITION FOR THE GRANTING OF THE CREDIT: (I)
18 TO INCLUDE IN EACH QUALIFIED FILM DISTRIBUTED BY DVD, OR OTHER MEDIA FOR
19 THE SECONDARY MARKET, A NEW YORK PROMOTIONAL VIDEO APPROVED BY THE
20 GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT OR TO
21 INCLUDE IN THE END CREDITS OF EACH QUALIFIED FILM "FILMED WITH THE
22 SUPPORT OF THE NEW YORK STATE GOVERNOR'S OFFICE OF MOTION PICTURE AND
23 TELEVISION DEVELOPMENT" AND A LOGO PROVIDED BY THE GOVERNOR'S OFFICE OF
24 MOTION PICTURE AND TELEVISION DEVELOPMENT, AND (II) TO CERTIFY THAT IT
25 WILL PURCHASE TAXABLE TANGIBLE PROPERTY AND SERVICES, DEFINED AS QUALI-
26 FIED PRODUCTION COSTS PURSUANT TO PARAGRAPH ONE OF SUBDIVISION (B) OF
27 THIS SECTION, ONLY FROM COMPANIES REGISTERED TO COLLECT AND REMIT STATE
28 AND LOCAL SALES AND USE TAXES PURSUANT TO ARTICLES TWENTY-EIGHT AND
29 TWENTY-NINE OF THIS CHAPTER.

30 S 6. Paragraph 1 of subdivision (b) of section 24 of the tax law, as
31 added by section 1 of part P of chapter 60 of the laws of 2004, is
32 amended to read as follows:

33 (1) "Qualified production costs" means production costs only to the
34 extent such costs are attributable to the use of tangible property or
35 the performance of services within the state directly and predominantly
36 in the production (including pre-production and post production) of a
37 qualified film, PROVIDED, HOWEVER, THAT QUALIFIED PRODUCTION COSTS SHALL
38 NOT INCLUDE POST PRODUCTION COSTS UNLESS THE PORTION OF THE POST
39 PRODUCTION COSTS PAID OR INCURRED THAT IS ATTRIBUTABLE TO THE USE OF
40 TANGIBLE PROPERTY OR THE PERFORMANCE OF SERVICES IN NEW YORK IN THE
41 PRODUCTION OF SUCH QUALIFIED FILM EQUALS OR EXCEEDS SEVENTY-FIVE PERCENT
42 OF THE TOTAL POST PRODUCTION COSTS SPENT WITHIN AND WITHOUT NEW YORK IN
43 THE PRODUCTION OF SUCH QUALIFIED FILM.

44 S 7. Paragraph 4 of subdivision (b) of section 24 of the tax law, as
45 added by section 1 of part P of chapter 60 of the laws of 2004, is
46 amended to read as follows:

47 (4) "Film production facility" shall mean a building and/or complex of
48 buildings and their improvements and associated back-lot facilities in
49 which films are or are intended to be regularly produced and which

50 contain at least one sound stage, PROVIDED, HOWEVER, THAT AN ARMORY
51 OWNED BY THE STATE OR CITY OF NEW YORK LOCATED IN THE CITY OF NEW YORK
52 SHALL NOT BE CONSIDERED TO BE A "FILM PRODUCTION FACILITY" UNLESS IT
53 MEETS THE CRITERIA CONTAINED IN PARAGRAPH FIVE OF THIS SUBDIVISION OR
54 UNLESS SUCH FACILITY IS USED BY A QUALIFIED INDEPENDENT FILM PRODUCTION
55 COMPANY.

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1 S 8. Paragraph 5 of subdivision (b) of section 24 of the tax law, as
2 added by section 1 of part P of chapter 60 of the laws of 2004, is
3 amended to read as follows:

4 (5) "Qualified film production facility" shall mean a film production
5 facility in the state, which contains at least one sound stage having a
6 minimum of seven thousand square feet of contiguous production space,
7 PROVIDED, HOWEVER, THAT EXCEPT WITH RESPECT TO A QUALIFIED FILM
8 PRODUCTION FACILITY BEING USED BY A QUALIFIED INDEPENDENT FILM
9 PRODUCTION COMPANY: (I) A FILM PRODUCTION FACILITY IN THE CITY OF NEW
10 YORK MUST CONTAIN AT LEAST ONE SOUND STAGE HAVING A MINIMUM OF SEVEN
11 THOUSAND SQUARE FEET OF CONTIGUOUS PRODUCTION SPACE THAT IS SOUND PROOF
12 WITH A NOISE CRITERIA ("NC") OF 30 OR BETTER, HAS SUFFICIENT HEATING AND
13 AIR CONDITIONING FOR SHOOTING WITHOUT THE NEED FOR SUPPLEMENTAL UNITS,
14 INCORPORATES A PERMANENT GRID AND SUFFICIENT BUILT-IN ELECTRIC SERVICE
15 FOR SHOOTING WITHOUT THE NEED FOR GENERATORS, AND IS COLUMN-FREE WITH A
16 CLEAR HEIGHT OF AT LEAST SIXTEEN FEET UNDER THE PERMANENT GRID; AND (II)
17 AN ARMORY OWNED BY THE STATE OR CITY OF NEW YORK LOCATED IN THE CITY OF
18 NEW YORK THAT DOES NOT SATISFY THE CRITERIA OF SUBPARAGRAPH (I) OF THIS
19 PARAGRAPH SHALL BE TREATED AS A QUALIFIED FILM PRODUCTION FACILITY UPON
20 CERTIFICATION BY THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION
21 DEVELOPMENT OF A PETITION SUBMITTED TO THAT OFFICE BY A QUALIFIED FILM
22 PRODUCTION COMPANY ESTABLISHING THAT NO QUALIFIED FILM PRODUCTION FACIL-
23 ITY IS AVAILABLE IN THE CITY OF NEW YORK THAT HAS STAGE SPACE AVAILABLE
24 FOR SHOOTING SUCH COMPANY'S FILM. SUCH PETITION SHALL BE SUBMITTED NO
25 LATER THAN NINETY DAYS PRIOR TO THE START OF PRINCIPAL PHOTOGRAPHY FOR
26 THE QUALIFIED FILM AND THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELE-
27 VISION DEVELOPMENT SHALL HAVE TEN DAYS TO CERTIFY OR REJECT THE PETI-
28 TION. A STAGE WILL BE DEEMED UNAVAILABLE IF CONSIDERATION HAS BEEN PAID
29 FOR ITS USE OR SUCH STAGE IS CURRENTLY UNDER AN AGREEMENT WITH AN OPTION
30 FOR USE AND, IN EITHER CIRCUMSTANCE, SUCH PERIOD OF USE INCLUDES THE
31 PETITIONER'S ESTIMATED START DATE OF PRINCIPAL PHOTOGRAPHY.

32 S 9. Subdivision (b) of section 24 of the tax law is amended by adding
33 a new paragraph 7 to read as follows:

34 (7) "QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY" IS A CORPORATION,
35 PARTNERSHIP, LIMITED PARTNERSHIP, OR OTHER ENTITY OR INDIVIDUAL, THAT OR
36 WHO (I) IS PRINCIPALLY ENGAGED IN THE PRODUCTION OF A QUALIFIED FILM
37 WITH A MAXIMUM BUDGET OF FIFTEEN MILLION DOLLARS, AND (II) CONTROLS THE
38 QUALIFIED FILM DURING PRODUCTION, AND (III) EITHER IS NOT A PUBLICLY
39 TRADED ENTITY, OR NO MORE THAN FIVE PERCENT OF THE BENEFICIAL OWNERSHIP
40 OF WHICH IS OWNED, DIRECTLY OR INDIRECTLY, BY A PUBLICLY TRADED ENTITY.

41 S 10. Section 24 of the tax law is amended by adding a new subdivision
42 (d) to read as follows:

43 (D) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, EMPLOYEES AND OFFI-
44 CERS OF THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOP-
45 MENT AND THE DEPARTMENT SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND
46 EXCHANGE INFORMATION REGARDING THE CREDITS APPLIED FOR, ALLOWED, OR
47 CLAIMED PURSUANT TO THIS SECTION AND TAXPAYERS WHO ARE APPLYING FOR
48 CREDITS OR WHO ARE CLAIMING CREDITS, INCLUDING INFORMATION CONTAINED IN
49 OR DERIVED FROM CREDIT CLAIM FORMS SUBMITTED TO THE DEPARTMENT AND
50 APPLICATIONS FOR CREDIT SUBMITTED TO THE GOVERNOR'S OFFICE OF MOTION
51 PICTURE AND TELEVISION DEVELOPMENT.

52 S 11. Section 9 of part P of chapter 60 of the laws of 2004 amending
53 the tax law relating to the empire state film production credit, as

54 amended by section 5 of part WW-1 of chapter 57 of the laws of 2008, is
55 amended to read as follows:

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1 S 9. This act shall take effect immediately and shall apply to taxable
2 years beginning on or after January 1, 2004, with respect to "qualified
3 production costs" paid or incurred on or after such effective date,
4 providing final applications are approved on or after the effective
5 date, regardless of whether the initial application relating to such
6 qualified film was first submitted before such date, [provided further
7 that this act shall expire and be deemed repealed January 1, 2014,
8 provided further that the expiration and repeal of this act shall not
9 affect the carry over of any credit allowed pursuant to this act and,
10 subsequent to the expiration and repeal of this act, such carry over
11 credits shall be allowed as provided by and pursuant to the provisions
12 of this act, and] provided further that the IMB credit for energy taxes
13 under subsection (t-1) of section 606 of the tax law contained in
14 section three of this act shall expire on the same date as provided in
15 subdivision (a) of section 49 of part Y of chapter 63 of the laws of
16 2000.

17 S 12. This act shall take effect immediately; provided that sections
18 one through nine of this act shall apply to applications for credit
19 awarded under additional pool 2 authorized by section two of this act.

20

PART K

21 Section 1. It is the intent of the legislature to clarify and confirm
22 that the amendments made to the general municipal law by chapter 57 of
23 the laws of 2009 that require the revocation of certification of certain
24 business entities previously certified under the empire zones program
25 are intended to be effective for the taxable year in which the revoca-
26 tion of certification occurs and for all subsequent taxable years,
27 notwithstanding that any such business entity may subsequently apply for
28 certification pursuant to part 11 of title 5 of the New York state
29 codes, rules and regulations, and that such revocations of certification
30 that occur in 2009 are deemed to be in effect for the taxable year
31 commencing on or after January 1, 2008 and before January 1, 2009.

32 S 2. Subdivision (a) of section 959 of the general municipal law, as
33 amended by section 3 of part S-1 of chapter 57 of the laws of 2009, is
34 amended to read as follows:

35 (a) After consultation with the director of the budget, the commis-
36 sioner of labor, and the commissioner of taxation and finance, promul-
37 gate regulations, which, notwithstanding any provisions to the contrary
38 in the state administrative procedure act, may be adopted on an emergen-
39 cy basis, governing (i) criteria of eligibility for empire zone desig-
40 nation, provided, however, that such criteria be approved by the direc-
41 tor of the budget; (ii) the application process; (iii) the certification
42 by the commissioner as to the eligibility of business enterprises for
43 benefits referred to in section nine hundred sixty-six of this article,
44 which shall be governed by criteria including, but not limited to: (1)
45 whether the business enterprise, if certified, is reasonably likely to
46 create new employment or prevent a loss of employment in the zone, (2)
47 whether such new employment opportunities will be for individuals who
48 will perform a substantial part of their employment activities in the
49 zone, (3) whether certification will have the undesired effect of caus-
50 ing individuals to transfer from existing employment with another busi-
51 ness enterprise to similar employment with the business enterprise so
52 certified, and transferring existing employment from one or more other
53 municipalities, towns or villages in the state, or transferring existing
54 employment from one or more other businesses in the zone, (4) whether

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1 such enterprise is likely to enhance the economic climate of the zone,
2 (5) whether the commissioner of labor establishes that such business
3 enterprise, during the three years preceding the submission of an appli-
4 cation for certification, has engaged in a substantial violation or a
5 pattern of violations of laws regulating unemployment insurance, workers
6 compensation, public work, child labor, employment of minorities and
7 women, safety and health, or other laws for the protection of workers as
8 determined by final judgment of a judicial or administrative proceeding;
9 (6) whether such business meets the requirements of the cost benefit
10 analysis as established in paragraph (p) of section nine hundred fifty-
11 seven of this article, and (7) if the commissioner of labor establishes
12 that the business enterprise has been found in a criminal proceeding to
13 have violated, in the previous three years, any of the laws referred to
14 in subparagraph five of this paragraph or regulations promulgated pursu-
15 ant to such laws, the conditions of any permit issued thereunder, or
16 similar statute, regulation, order or permit condition of any other
17 government agency, foreign or domestic, such business shall not be
18 certified; provided, however, that a business enterprise that has shift-
19 ed its operations, or some portions thereof, from an area within New
20 York state not designated as an empire zone or zone equivalent area to
21 an area so designated shall not be certified to receive such benefits
22 except where such shift is entirely within a municipality and has been
23 approved by the local governing body of such municipality or in situ-
24 ations where it has been established, after a public hearing, that
25 extraordinary circumstances exist which warrant the relocation of a
26 business, in whole or part, into an empire zone or a zone equivalent
27 area from another municipality and the municipality from which the busi-
28 ness is relocating approves of such relocation; or where such shift in
29 operations is from a business incubator facility operated by a munici-
30 pality or by a public or private not-for-profit entity which provides
31 space and business support services to newly established firms; and (iv)
32 the decertification by the commissioner, upon the recommendation of the
33 commissioner of labor, so as to revoke the certification of business
34 enterprises for benefits referred to in section nine hundred sixty-six
35 of this article with respect to an empire zone or zone equivalent area
36 upon a finding that the business enterprise has committed substantial
37 violations of laws for the protection of workers including all federal,
38 state and local labor laws, rules or regulations; and (v) the decertif-
39 ication by the commissioner so as to revoke the certification of busi-
40 ness enterprises for benefits referred to in section nine hundred
41 sixty-six of this article with respect to an empire zone or zone equiv-
42 alent area upon a finding of any one of the following: (1) the business
43 enterprise made material misrepresentations of fact on its application
44 for certification or in any of its business annual reports, or the busi-
45 ness enterprise failed to disclose facts in its application for certifi-
46 cation that would constitute grounds for not issuing a certification;
47 (2) the business enterprise has failed to construct, expand, rehabili-
48 tate or operate or invest in its facility substantially in accordance
49 with the representations contained in its application for certification;
50 (3) the business enterprise has failed to create new employment or
51 prevent a loss of employment in the empire zone or zone equivalent area;
52 (4) where applicable, the business enterprise has failed to submit an
53 annual report after it has applied for zone tax benefits or program
54 assistance based on new hires or investments or failed to submit other
55 information when due; (5) the business enterprise, if first certified
56 pursuant to this article prior to the first day of August, two thousand
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1 two, caused individuals to transfer from existing employment with another
2 business enterprise with similar ownership and located in New York

3 state to similar employment with the certified business enterprise or if
4 the enterprise acquired, purchased, leased, or had transferred to it
5 real property previously owned by an entity with similar ownership,
6 regardless of form of incorporation or organization; (6) the business
7 enterprise has failed to provide economic returns to the state in the
8 form of total remuneration to its employees (i.e. wages and benefits)
9 and investments in its facility greater in value to the tax benefits the
10 business enterprise used and had refunded to it; or (7) the business
11 enterprise has changed ownership or moved its operations out of the
12 empire zone; said regulations shall provide that whenever any business
13 enterprise is decertified with respect to an empire zone: (A) the date
14 determined to be the earliest event constituting grounds for revoking
15 certification shall be the effective date of decertification; (B) its
16 certified single enterprise, if any, may also be decertified; and (C)
17 the commissioner shall notify the commissioner of taxation and finance
18 that such decertification has occurred, and such notification should
19 include the effective date of such decertification and the zone or zone
20 equivalent area to which such decertification applies; WITH RESPECT TO
21 ANY BUSINESS ENTERPRISE WHOSE CERTIFICATION HAS BEEN REVOKED PURSUANT TO
22 SUBPARAGRAPH FIVE OR SIX OF THIS PARAGRAPH, THAT REVOCATION (I) WILL BE
23 EFFECTIVE FOR A TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO
24 THOUSAND EIGHT AND BEFORE JANUARY FIRST, TWO THOUSAND NINE AND FOR
25 SUBSEQUENT TAXABLE YEARS, UNLESS THE BUSINESS ENTERPRISE IS SUBSEQUENTLY
26 RE-CERTIFIED PURSUANT TO PART 11 OF TITLE 5 OF THE NEW YORK STATE CODES,
27 RULES AND REGULATIONS FOR A BUSINESS ENTERPRISE FOR WHICH A REVIEW IS
28 REQUIRED TO BE CONDUCTED PURSUANT TO SUBDIVISION (W) OF THIS SECTION IN
29 CALENDAR YEAR TWO THOUSAND NINE, AND (II) THEREAFTER WILL BE EFFECTIVE
30 FOR THE TAXABLE YEAR DURING WHICH THE COMMISSIONER MAKES HIS OR HER
31 DETERMINATION (PRIOR TO ANY APPEAL) TO REVOKE THE CERTIFICATION OF A
32 BUSINESS ENTERPRISE AND FOR SUBSEQUENT TAXABLE YEARS;

33 S 3. Subdivision (w) of section 959 of the general municipal law, as
34 amended by section 3 of part S-1 of chapter 57 of the laws of 2009, is
35 amended to read as follows:

36 (w) Conduct a review during calendar year two thousand nine of all
37 business enterprises to determine whether the business enterprises
38 should be decertified pursuant to subparagraphs five and six of para-
39 graph (v) of subdivision (a) of this section and the regulations promul-
40 gated under this article. After such review, the commissioner shall
41 issue an empire zone retention certificate to each firm that the commis-
42 sioner determines is not subject to decertification under subparagraphs
43 five and six of paragraph (v) of subdivision (a) of this section. The
44 decertification referred to in subparagraph six of paragraph (v) of
45 subdivision (a) of this section shall be based upon an analysis of data
46 contained in at least three business annual reports filed by the busi-
47 ness enterprise. If any business enterprise fails the analysis described
48 in the immediately preceding sentence, or if the commissioner makes the
49 finding described in subparagraph five of paragraph (v) of subdivision
50 (a) of this section, the commissioner shall revoke the certification of
51 such business enterprise pursuant to paragraph [(iv)] (V) of subdivision
52 (a) of this section and as specified herein; provided, however, the
53 commissioner may consider, after consultation with the director of the
54 budget, and in his or her sole discretion, other economic, social and
55 environmental factors when evaluating the costs and benefits of a
56 project to the state and whether continued certification is warranted

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1 based on such factors. The commissioner shall provide written notifica-
2 tion to such business enterprise of his or her determination to revoke
3 the certification, including the reasons therefor. Such notification
4 shall state that the business enterprise may appeal the determination by
5 sending a written notice to the empire zone designation board of such

6 appeal no later than fifteen business days from the date of the commis-
7 sioner's revocation notification. Provided that the business enterprise
8 appeals the commissioner's determination within fifteen business days of
9 the commissioner's revocation notification, the business enterprise may
10 present a written submission to the empire zone designation board no
11 later than sixty days following the date the commissioner's revocation
12 notification was sent to the business enterprise explaining why its
13 certification should be continued. The empire zone designation board
14 shall consider the explanation provided by the business enterprise, but
15 shall only reverse the determination to revoke the business enterprise's
16 certification if the empire zone designation board unanimously finds
17 that there was [insufficient] SUFFICIENT evidence presented BY THE BUSI-
18 NESS ENTERPRISE demonstrating that the commissioner's finding, with
19 respect to subparagraph six of paragraph (v) of subdivision (a) of this
20 section, was in error, or that, with respect to subparagraph five of
21 paragraph (v) of subdivision (a) of this section, any extraordinary
22 circumstances occurred which would justify the continued certification
23 of the business enterprise.

24 S 4. Paragraph 6 of subdivision (d) of section 1119 of the tax law, as
25 added by section 31 of part S-1 of chapter 57 of the laws of 2009, is
26 amended to read as follows:

27 (6) Any reference in this chapter OR IN ANY LOCAL LAW, ORDINANCE OR
28 RESOLUTION ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE TWENTY-NINE OF
29 THIS CHAPTER to former subdivision (z) of section eleven hundred fifteen
30 of this article will be deemed to be a reference to this subdivision,
31 AND ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION WHICH PROVIDES THE
32 EXEMPTIONS DESCRIBED IN FORMER SUBDIVISION (Z) OF SUCH SECTION ELEVEN
33 HUNDRED FIFTEEN SHALL BE DEEMED INSTEAD TO PROVIDE THE REFUNDS AND CRED-
34 ITS DESCRIBED IN THIS SUBDIVISION.

35 S 5. Subdivision (a) of section 17 of the tax law, as added by section
36 43 of part S-1 of chapter 57 of the laws of 2009, is amended to read as
37 follows:

38 (a) The department of taxation and finance must publish an empire
39 zones tax benefits report annually by [January thirty-first] JUNE THIR-
40 TIETH. The first report must be published by [January thirty-first] JUNE
41 THIRTIETH, two thousand [thirteen] ELEVEN.

42 S 6. Subdivision (d) of section 44 of part S-1 of chapter 57 of the
43 laws of 2009, amending the general municipal law and the tax law relat-
44 ing to enacting reforms to the empire zones program, is amended to read
45 as follows:

46 (d) section forty-two of this act shall take effect on January 1,
47 [2012] 2010; and

48 S 7. Subdivision 12-B of section 210 of the tax law is amended by
49 adding two new paragraphs (g) and (h) to read as follows:

50 (G) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER
51 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, A TAXPAYER THAT IS
52 CERTIFIED AS A QUALIFIED INVESTMENT PROJECT PURSUANT TO SUCH ARTICLE
53 EIGHTEEN-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES
54 PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE
55 EIGHTEEN-B FOR PURPOSES OF THIS SUBDIVISION FOR THE REMAINDER OF THE
56 TAXABLE YEAR IN WHICH THE EXPIRATION OCCURRED AND FOR THE NEXT SUCCEED-
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1 ING NINE TAXABLE YEARS. IN ADDITION, THE AREAS DESIGNATED AS EMPIRE
2 ZONES IN WHICH THE TAXPAYER IS CERTIFIED AS A QUALIFIED INVESTMENT
3 PROJECT ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES
4 PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED EMPIRE ZONES FOR PURPOSES OF
5 THIS SUBDIVISION FOR THE REMAINDER OF THE TAXABLE YEAR IN WHICH THE
6 EXPIRATION OCCURRED AND FOR THE NEXT SUCCEEDING NINE TAXABLE YEARS.

7 (H) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER
8 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW AND EXCEPT AS PROVIDED

9 IN PARAGRAPH (G) OF THIS SUBDIVISION, A TAXPAYER THAT IS CERTIFIED AS AN
10 EMPIRE ZONE BUSINESS PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY
11 IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL
12 CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE EIGHTEEN-B FOR
13 PURPOSES OF THIS SUBDIVISION UNTIL APRIL FIRST, TWO THOUSAND FOURTEEN.
14 IN ADDITION, THE AREAS DESIGNATED AS EMPIRE ZONES IN WHICH THE TAXPAYER
15 IS CERTIFIED AS AN EMPIRE ZONE BUSINESS ON THE DAY IMMEDIATELY PRECEDING
16 THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED
17 EMPIRE ZONES FOR PURPOSES OF THIS SUBDIVISION UNTIL APRIL FIRST, TWO
18 THOUSAND FOURTEEN.

19 S 8. Subsection (j) of section 606 of the tax law is amended by adding
20 a new paragraph 7 to read as follows:

21 (7) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER
22 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, A TAXPAYER THAT IS
23 CERTIFIED AS AN EMPIRE ZONE BUSINESS PURSUANT TO SUCH ARTICLE EIGHTEEN-B
24 ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM
25 EXPIRED SHALL CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE EIGH-
26 TEEN-B FOR PURPOSES OF THIS SUBDIVISION UNTIL APRIL FIRST, TWO THOUSAND
27 FOURTEEN. IN ADDITION, THE AREAS DESIGNATED AS EMPIRE ZONES IN WHICH THE
28 TAXPAYER IS CERTIFIED AS AN EMPIRE ZONE BUSINESS ON THE DAY IMMEDIATELY
29 PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE
30 DEEMED EMPIRE ZONES FOR PURPOSES OF THIS SUBDIVISION UNTIL APRIL FIRST,
31 TWO THOUSAND FOURTEEN.

32 S 9. Subdivision 12-C of section 210 of the tax law is amended by
33 adding two new paragraphs (d) and (e) to read as follows:

34 (D) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER
35 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, A TAXPAYER THAT IS
36 CERTIFIED AS A QUALIFIED INVESTMENT PROJECT PURSUANT TO SUCH ARTICLE
37 EIGHTEEN-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES
38 PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE
39 EIGHTEEN-B FOR PURPOSES OF THIS SUBDIVISION FOR THE REMAINDER OF THE
40 TAXABLE YEAR IN WHICH THE EXPIRATION OCCURRED AND FOR THE NEXT SUCCEED-
41 ING NINE TAXABLE YEARS. IN ADDITION, THE AREAS DESIGNATED AS EMPIRE
42 ZONES IN WHICH THE TAXPAYER IS CERTIFIED AS A QUALIFIED INVESTMENT
43 PROJECT ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES
44 PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED EMPIRE ZONES FOR PURPOSES OF
45 THIS SUBDIVISION FOR THE REMAINDER OF THE TAXABLE YEAR IN WHICH THE
46 EXPIRATION OCCURRED AND FOR THE NEXT SUCCEEDING NINE TAXABLE YEARS.

47 (E) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER
48 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW AND EXCEPT AS PROVIDED
49 IN PARAGRAPH (D) OF THIS SUBDIVISION, A TAXPAYER THAT IS CERTIFIED AS AN
50 EMPIRE ZONE BUSINESS PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY
51 IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL
52 CONTINUE TO BE DEEMED IN THE EMPIRE ZONE IN WHICH THE TAXPAYER WAS
53 CERTIFIED AS AN EMPIRE ZONE BUSINESS ON THE DAY IMMEDIATELY PRECEDING
54 THE DAY THE EMPIRE ZONES PROGRAM EXPIRED FOR EACH OF THE THREE YEARS
55 NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUBDIVISION
56 TWELVE-B IS ALLOWED.

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1 S 10. Subsection (j-1) of section 606 of the tax law is amended by
2 adding a new subdivision (4) to read as follows:

3 (4) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER
4 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, A TAXPAYER THAT IS
5 CERTIFIED AS AN EMPIRE ZONE BUSINESS PURSUANT TO SUCH ARTICLE EIGHTEEN-B
6 ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM
7 EXPIRED SHALL CONTINUE TO BE DEEMED IN THE EMPIRE ZONE IN WHICH THE
8 TAXPAYER WAS CERTIFIED AS AN EMPIRE ZONE BUSINESS ON THE DAY IMMEDIATELY
9 PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED FOR EACH OF THE THREE
10 YEARS NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUBDI-
11 VISION (J) IS ALLOWED.

12 S 11. Section 14 of the tax law is amended by adding a new subdivision
13 (h) to read as follows:

14 (H) SALES AND USE TAX. (1) IN ADDITION TO THE OTHER REQUIREMENTS OF
15 THIS SECTION, FOR BUSINESS ENTERPRISES CERTIFIED PURSUANT TO ARTICLE
16 EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW PRIOR TO APRIL FIRST, TWO THOU-
17 SAND NINE, IN ORDER FOR AN EXEMPTION UNDER SUBDIVISION (Z) OF SECTION
18 ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER OR THE CREDIT OR REFUND DESCRIBED
19 IN SUBDIVISION (D) OF SECTION ELEVEN HUNDRED NINETEEN OF THIS CHAPTER OR
20 ANY LIKE EXEMPTION OR CREDIT OR REFUND IMPOSED PURSUANT TO THE AUTHORITY
21 OF ARTICLE TWENTY-NINE OF THIS CHAPTER TO APPLY WITH RESPECT TO A QUALI-
22 FIED EMPIRE ZONE ENTERPRISE, SUCH ENTERPRISE SHALL APPLY TO THE COMMIS-
23 SIONER OF TAXATION AND FINANCE FOR THE ISSUANCE OF A QUALIFIED EMPIRE
24 ZONE ENTERPRISE CERTIFICATION IN THE MANNER PRESCRIBED BY THE COMMIS-
25 SIONER. IF SUCH COMMISSIONER GRANTS SUCH CERTIFICATION, SUCH CERTIF-
26 ICATION SHALL BE SUBJECT TO CONDITIONS SPECIFIED BY SUCH COMMISSIONER.
27 NOTHING HEREIN OR IN ANY OTHER LAW SHALL BE CONSTRUED TO PROHIBIT THE
28 DISCLOSURE, IN SUCH MANNER AS THE COMMISSIONER OF TAXATION AND FINANCE
29 DEEMS APPROPRIATE, OF THE NAMES AND OTHER APPROPRIATE IDENTIFYING INFOR-
30 MATION OF THOSE PERSONS HOLDING QUALIFIED EMPIRE ZONE CERTIFICATIONS
31 PURSUANT TO THIS SUBDIVISION, THOSE PERSONS WHOSE QUALIFIED EMPIRE ZONE
32 ENTERPRISE CERTIFICATIONS HAVE BEEN REVOKED OR PERSONS WHOSE QUALIFIED
33 EMPIRE ZONE ENTERPRISE CERTIFICATIONS HAVE EXPIRED. THE COMMISSIONER
34 SHALL NOT GRANT ANY CERTIFICATIONS PURSUANT TO THIS SUBDIVISION AFTER
35 JUNE THIRTIETH, TWO THOUSAND TEN.

36 (2) A BUSINESS ENTERPRISE, CERTIFIED AS AN EMPIRE ZONE BUSINESS UNDER
37 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW PRIOR TO APRIL FIRST,
38 TWO THOUSAND NINE, AND CERTIFIED AS A QUALIFIED EMPIRE ZONE ENTERPRISE
39 BY THE COMMISSIONER OF TAXATION AND FINANCE PRIOR TO AUGUST FIRST, TWO
40 THOUSAND NINE, IS ELIGIBLE TO CLAIM THE EXEMPTION UNDER SUBDIVISION (Z)
41 OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER OR ANY LIKE EXEMPTION
42 FROM TAX IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE TWENTY-NINE OF
43 THIS CHAPTER UNTIL SEPTEMBER FIRST, TWO THOUSAND NINE, PROVIDED THAT THE
44 OTHER REQUIREMENTS OF THE STATUTE ARE MET. A BUSINESS ENTERPRISE CERTI-
45 FIED AS AN EMPIRE ZONE BUSINESS UNDER ARTICLE EIGHTEEN-B OF THE GENERAL
46 MUNICIPAL LAW PRIOR TO APRIL FIRST, TWO THOUSAND NINE, AND CERTIFIED AS
47 A QUALIFIED EMPIRE ZONE ENTERPRISE BY THE COMMISSIONER OF TAXATION AND
48 FINANCE AS OF OR PRIOR TO JUNE FIRST, TWO THOUSAND TEN, IS ELIGIBLE TO
49 CLAIM THE CREDIT OR REFUND UNDER SUBDIVISION (D) OF SECTION ELEVEN
50 HUNDRED NINETEEN OF THIS CHAPTER OR ANY LIKE CREDIT OR REFUND IMPOSED
51 PURSUANT TO THE AUTHORITY OF ARTICLE TWENTY-NINE OF THIS CHAPTER,
52 PROVIDED THAT THE OTHER REQUIREMENTS OF THE STATUTE ARE MET DURING THE
53 TERM OF ITS SALES AND USE TAX BENEFIT PERIOD NOTWITHSTANDING THE EXPIRA-
54 TION OF THE EMPIRE ZONES PROGRAM UNDER ARTICLE EIGHTEEN-B OF THE GENERAL
55 MUNICIPAL LAW.

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1 (3) DURING THE PERIOD THAT A BUSINESS ENTERPRISE IS ELIGIBLE TO APPLY,
2 OR IS QUALIFIED, FOR AN EXEMPTION OR A CREDIT OR REFUND OF THE SALES AND
3 COMPENSATING USE TAXES UNDER THIS SECTION, THE COMMISSIONER OF ECONOMIC
4 DEVELOPMENT SHALL, AT THE TIME SUCH COMMISSIONER CERTIFIES OR DECERTI-
5 FIES A BUSINESS ENTERPRISE UNDER ARTICLE EIGHTEEN-B OF THE GENERAL
6 MUNICIPAL LAW, NOTIFY THE COMMISSIONER OF TAXATION AND FINANCE OF SUCH
7 CERTIFICATION OR DECERTIFICATION, WHICH NOTIFICATION SHALL INCLUDE THE
8 FULL LEGAL NAME, ADDRESS AND FEDERAL EMPLOYER IDENTIFICATION NUMBER OF
9 SUCH ENTERPRISE. THE COMMISSIONER OF ECONOMIC DEVELOPMENT SHALL, AT THE
10 TIME OF ANY SUCH CERTIFICATION, ALSO ADVISE SUCH ENTERPRISE OF THE
11 REQUIREMENTS IN PARAGRAPH ONE OF THIS SUBDIVISION.

12 S 12. This act shall take effect immediately, provided that the amend-
13 ment to paragraph 6 of subdivision (d) of section 1119 of the tax law
14 made by section four of this act shall take effect on the same date and
15 apply in the same manner that section 31 of part S-1 of chapter 57 of

16 the laws of 2009 took effect and applied; provided that the amendments
17 to section 14 of the tax law, made by section eleven of this act shall
18 take effect immediately and be deemed to have been in full force and
19 effect on April 1, 2009.

20

PART L

21 Section 1. Section 51 of chapter 298 of the laws of 1985, amending the
22 tax law relating to the franchise tax on banking corporations imposed by
23 the tax law, authorized to be imposed by any city having a population of
24 one million or more by chapter 772 of the laws of 1966 and imposed by
25 the administrative code of the city of New York and relating to other
26 provisions of the tax law, chapter 883 of the laws of 1975 and the
27 administrative code of the city of New York which relates to such fran-
28 chise tax, as amended by section 1 of part H of chapter 60 of the laws
29 of 2007, is amended to read as follows:

30 S 51. This act shall take effect immediately and shall apply to taxa-
31 ble years beginning on or after January 1, 1985, except that:

32 (a) sections one through eight shall not apply to taxable years begin-
33 ning on or after January 1, [2010] 2011;

34 (b) sections nine, twelve, the amendment made to paragraph 9 of
35 subsection (a) of section 1452 of the tax law by section thirteen,
36 sections fifteen, sixteen, eighteen, nineteen, twenty, twenty-three,
37 twenty-seven, thirty and thirty-two, the amendment made to paragraph 9
38 of subdivision (a) of section 11-640 of the administrative code of the
39 city of New York by section thirty-three, sections thirty-five, thirty-
40 six, thirty-eight, thirty-nine, forty, and forty-five shall not apply to
41 corporations other than savings banks and savings and loan associations
42 for taxable years beginning on or after January 1, [2010] 2011;

43 (c) sections twenty-one, twenty-two, twenty-four, forty-one and
44 forty-two shall not apply to corporations other than savings banks and
45 savings and loan associations for taxable years beginning on or after
46 January 1, [2010] 2011, provided, however, that the provisions of such
47 sections which relate to the alternative minimum tax measured by taxable
48 assets shall continue to apply to all taxpayers for taxable years begin-
49 ning on or after January 1, [2010] 2011;

50 (d) the amendment to the section heading and the opening paragraph of
51 section 11-643.3 of the administrative code of the city of New York made
52 by section forty-three shall not apply to corporations other than
53 savings banks and savings and loan associations for taxable years begin-
54 ning on or after January 1, [2010] 2011 with respect to those provisions
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1 of such section 11-643.3 which relate to the basic tax measured by
2 entire net income; and

3 (e) section twenty-eight, and the addition of new section 11-643.5 of
4 the administrative code of the city of New York made by section forty-
5 four shall not apply to corporations other than savings banks and
6 savings and loan associations for taxable years beginning on or after
7 January 1, [2010] 2011, provided, however, that the provisions of such
8 sections which relate to the alternative minimum taxes measured by
9 assets, issued capital stock and one hundred twenty-five dollars shall
10 continue to apply to all taxpayers for taxable years beginning on or
11 after January 1, [2010] 2011.

12 S 2. Subdivision (f) of section 110 of chapter 817 of the laws of
13 1987, amending the tax law and the environmental conservation law,
14 constituting the business tax reform and rate reduction act of 1987, as
15 amended by section 2 of part H of chapter 60 of the laws of 2007, is
16 amended to read as follows:

17 (f) The provisions of section one hundred four of this act shall apply
18 to taxable years beginning after December 31, 1986, and shall not apply

19 to corporations other than savings banks and savings and loan associ-
20 ations for taxable years beginning on or after January 1, [2010] 2011,
21 provided, however, that the provisions of such section which relate to
22 the alternative minimum tax measured by taxable assets shall continue to
23 apply to all taxpayers for taxable years beginning on or after January
24 1, [2010] 2011.

25 S 3. Subdivision (d) of section 68 of chapter 525 of the laws of 1988,
26 amending the tax law and the administrative code of the city of New York
27 relating to the imposition of taxes in the city of New York, as amended
28 by section 3 of part H of chapter 60 of the laws of 2007, is amended to
29 read as follows:

30 (d) The provisions of section forty-six of this act shall apply to
31 taxable years beginning after December 31, 1986, and shall not apply to
32 corporations other than savings banks and savings and loan associations
33 for taxable years beginning on or after January 1, [2010] 2011,
34 provided, however, that the provisions of such section which relate to
35 the alternative minimum tax measured by taxable assets shall continue to
36 apply to all taxpayers for taxable years beginning on or after January
37 1, [2010] 2011;

38 S 4. Extension of Gramm-Leach-Bliley transitional provisions. Refer-
39 ences in subsection (m) of section 1452 of the tax law and subdivision
40 (1) of section 11-640 of the administrative code of the city of New York
41 to January 1, 2008 shall be read as January 1, 2010 and references in
42 those provisions to January 1, 2010 shall be read as January 1, 2011, as
43 if those dates were specifically referenced in those provisions of law.
44 References in subparagraph (iv) of paragraph (2) of subsection (f) of
45 section 1462 of the tax law and subparagraph (iv) of paragraph 2 of
46 subdivision (f) of section 11-646 of the administrative code of the city
47 of New York to January 1, 2010 shall be read as January 1, 2011, as if
48 that date was specifically referenced in those provisions of law. The
49 legislative bill drafting commission is hereby directed to effectuate
50 this provision, and shall be guided by a memorandum of instruction
51 setting forth the specific provisions of law to be amended. Such memo-
52 randum shall be transmitted to the legislative bill drafting commission
53 within thirty days of enactment of this provision. Such memorandum shall
54 be issued jointly by the governor, the temporary president of the
55 senate, and the speaker of the assembly, or by the delegate of each.

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25

1 S 5. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after January 1, 2010.

3

PART M

4 Section 1. This act enacts into law major components of legislation
5 relating to tax enforcement, sales tax avoidance and statements of
6 industrial agencies and their agents. Each component is wholly
7 contained within a Subpart identified as Subparts A through C. The
8 effective date for each particular provision contained within such
9 Subpart is set forth in the last section of such Subpart. Any provision
10 in any section contained within a Subpart, including the effective date
11 of the Subpart, which makes reference to a section "of this act", when
12 used in connection with that particular component, shall be deemed to
13 mean and refer to the corresponding section of the Subpart in which it
14 is found. Section three of this act sets forth the general effective
15 date of this act.

16

SUBPART A

17 Section 1. The tax law is amended by adding two new sections 1808 and
18 1809 to read as follows:

19 S 1808. PERSONAL INCOME AND EARNINGS TAXES; REPEATED FAILURE TO FILE.
20 (A) ANY PERSON WHO, WITH INTENT TO EVADE PAYMENT OF ANY TAX IMPOSED
21 UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER OR ANY RELATED INCOME OR EARN-
22 INGS TAX STATUTE, FAILS TO FILE A RETURN FOR THREE CONSECUTIVE TAXABLE
23 YEARS SHALL BE GUILTY OF A CLASS E FELONY, PROVIDED THAT SUCH PERSON HAD
24 AN UNPAID TAX LIABILITY WITH RESPECT TO EACH OF THE THREE CONSECUTIVE
25 TAXABLE YEARS.

26 (B) IN ANY PROSECUTION FOR A VIOLATION OF SUBDIVISION (A) OF THIS
27 SECTION, IT SHALL BE A DEFENSE THAT THE DEFENDANT HAD NO UNPAID TAX
28 LIABILITY FOR ANY OF THE THREE CONSECUTIVE TAXABLE YEARS.

29 (C) AS USED IN THIS SUBDIVISION, THE TERM "RETURN" SHALL MEAN A RETURN
30 REQUIRED UNDER SECTION SIX HUNDRED FIFTY-ONE OF THIS CHAPTER, SECTION
31 11-1751 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK OR SECTION
32 92-85 OR 92-105 OF THE CODES AND ORDINANCES OF THE CITY OF YONKERS. IT
33 SHALL NOT INCLUDE ANY INFORMATION RETURN REFERRED TO IN SUBSECTION (I)
34 OF SECTION SIX HUNDRED FIFTY-ONE OF THIS CHAPTER, OR SUBDIVISION (I) OF
35 SECTION 11-1751 OF SUCH CODE, OR SUBDIVISION (G) OF SECTION 92-105 OF
36 SUCH CODES AND ORDINANCES, OR SECTION SIX HUNDRED FIFTY-EIGHT OF THIS
37 CHAPTER OR SECTION 11-1758 OF SUCH CODE OR SECTION 92-111 OF SUCH CODES
38 AND ORDINANCES, OR ANY EMPLOYER'S RETURN REQUIRED BY SECTION SIX HUNDRED
39 SEVENTY-FOUR OF THIS CHAPTER OR SECTION 11-1774 OF SUCH CODE.

40 S 1809. CORPORATE TAXES; REPEATED FAILURE TO FILE. (A) ANY PERSON WHO,
41 WITH INTENT TO EVADE PAYMENT OF ANY TAX IMPOSED UNDER ARTICLE NINE
42 (OTHER THAN UNDER SECTION ONE HUNDRED EIGHTY OR ONE HUNDRED EIGHTY-ONE),
43 NINE-A, THIRTEEN, THIRTY-TWO, THIRTY-THREE OR THIRTY-THREE-A OF THIS
44 CHAPTER, FAILS TO FILE A RETURN OR REPORT FOR THREE CONSECUTIVE TAXABLE
45 YEARS SHALL BE GUILTY OF A CLASS E FELONY, PROVIDED THAT SUCH PERSON HAD
46 AN UNPAID TAX LIABILITY, IN EXCESS OF THE THRESHOLD AMOUNT WITH RESPECT
47 TO EACH OF THE THREE CONSECUTIVE TAXABLE YEARS. THE THRESHOLD AMOUNT IN
48 THE CASE OF A TAXABLE YEAR UNDER ARTICLE NINE-A OF THIS CHAPTER ENDING
49 AFTER JUNE THIRTIETH, NINETEEN HUNDRED EIGHTY-NINE IS THE APPLICABLE
50 FIXED DOLLAR MINIMUM PRESCRIBED UNDER PARAGRAPH (D) OF SUBDIVISION ONE
51 OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. IN THE EVENT SUCH FIXED
52 DOLLAR MINIMUM IS LESS THAN TWO HUNDRED FIFTY DOLLARS, THE THRESHOLD
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1 AMOUNT IN THE CASE OF SUCH TAXABLE YEAR IS TWO HUNDRED FIFTY DOLLARS. IN
2 ALL OTHER CASES THE THRESHOLD AMOUNT IS TWO HUNDRED FIFTY DOLLARS.

3 (B) IN ANY PROSECUTION FOR A VIOLATION OF SUBDIVISION (A) OF THIS
4 SECTION, IT SHALL BE A DEFENSE THAT THE DEFENDANT HAD NO UNPAID TAX
5 LIABILITY FOR ANY OF THE THREE CONSECUTIVE TAXABLE YEARS.

6 (C) AS USED IN THIS SECTION, THE TERMS "RETURN" AND "REPORT" SHALL
7 MEAN A RETURN OR REPORT REQUIRED UNDER SECTION ONE HUNDRED NINETY-TWO,
8 TWO HUNDRED ELEVEN, TWO HUNDRED NINETY-FOUR, FOURTEEN HUNDRED SIXTY-TWO,
9 FIFTEEN HUNDRED FIFTEEN OR FIFTEEN HUNDRED FIFTY-FOUR OF THIS CHAPTER.
10 IT SHALL NOT INCLUDE ANY RETURN OR REPORT REFERRED TO IN SECTION ONE
11 HUNDRED NINETY-SEVEN-A, TWO HUNDRED THIRTEEN-A, FOURTEEN HUNDRED SIXTY
12 OR FIFTEEN HUNDRED THIRTEEN OF THIS CHAPTER.

13 S 2. Paragraph (b) of subdivision 3-a of section 170 of the tax law,
14 as amended by section 1 of subpart C of part V-1 of chapter 57 of the
15 laws of 2009, is amended to read as follows:

16 (b) A request for a conciliation conference shall be applied for in
17 the manner as set forth by regulation of the commissioner and, notwith-
18 standing any provision of law to the contrary, shall suspend the running
19 of the period of limitations for the filing of a petition protesting
20 such notice and requesting a hearing. TO DISCONTINUE THE CONCILIATION
21 PROCEEDING, THE RECIPIENT OF THE NOTICE SHALL MAKE A REQUEST IN WRITING
22 AND SUCH PERSON SHALL HAVE NINETY DAYS FROM THE TIME SUCH REQUEST OF
23 DISCONTINUANCE IS MADE TO PETITION THE DIVISION OF TAX APPEALS FOR A
24 HEARING, except that the recipient of a written notice described in
25 paragraph (h) of this subdivision will have thirty days from the time

26 such request of discontinuance is made to petition the division of tax
27 appeals for a hearing. The commissioner shall notify the division of tax
28 appeals when any person requests a conference or requests to discontinue
29 such conference.

30 S 3. Paragraph (h) of subdivision 3-a of section 170 of the tax law,
31 as added by section 2 of subpart C of part V-1 of chapter 57 of the laws
32 of 2009, is amended to read as follows:

33 (h) Notwithstanding any provision of law to the contrary, any person
34 who seeks review by the bureau of conciliation and mediation services of
35 a written notice that advises that person of (i) the proposed cancella-
36 tion, revocation, or suspension of a license, permit, registration, or
37 other credential issued under the authority of this chapter EXCLUDING A
38 CERTIFICATE OF REGISTRATION OF A RETAIL DEALER UNDER SECTION FOUR
39 HUNDRED EIGHTY-A OF THIS CHAPTER, (ii) the denial of an application for
40 a license, permit, registration, or other credential issued under the
41 authority of this chapter excluding AN APPLICATION FOR REGISTRATION AS A
42 RETAIL DEALER UNDER SECTION FOUR HUNDRED EIGHTY-A OF THIS CHAPTER AND an
43 application to renew a certificate of authority filed pursuant to para-
44 graph five of subdivision (a) of section one thousand one hundred thir-
45 ty-four of this chapter and any other law, or, (iii) the imposition of a
46 fraud penalty under this chapter, must request a conciliation conference
47 within thirty days of receipt of that notice.

48 S 4. Paragraphs (a) and (b) of subdivision 2 of section 2008 of the
49 tax law, as added by section 3 of subpart C of part V-1 of chapter 57 of
50 the laws of 2009, are amended to read as follows:

51 (a) Notwithstanding any provision of law to the contrary, any person
52 who receives a written notice that advises that person of (i) the
53 proposed cancellation, revocation, or suspension of a license, permit,
54 registration, or other credential issued under the authority of this
55 chapter EXCLUDING A CERTIFICATE OF REGISTRATION OF A RETAIL DEALER UNDER
56 SECTION FOUR HUNDRED EIGHTY-A OF THIS CHAPTER, (ii) the denial of an
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1 application for a license, permit, registration, or other credential
2 issued under the authority of this chapter excluding AN APPLICATION FOR
3 REGISTRATION AS A RETAIL DEALER UNDER SECTION FOUR HUNDRED EIGHTY-A OF
4 THIS CHAPTER AND an application to renew a certificate of authority
5 filed pursuant to paragraph five of subdivision (a) of section one thou-
6 sand one hundred thirty-four of this chapter and any other law, or,
7 (iii) the imposition of a fraud penalty under this chapter, must file a
8 petition with the division of tax appeals within thirty days of receipt
9 of that notice (unless that person has requested a conciliation confer-
10 ence as provided in subdivision three-a of section one hundred seventy
11 of this chapter), or the cancellation, revocation, suspension, denial,
12 or penalty will be permanently and irrevocably fixed. An expedited hear-
13 ing must be scheduled within ten business days of receipt of the peti-
14 tion.

15 (b) In the case of any expedited hearing provided for under this
16 subdivision, the administrative law judge must render a decision within
17 thirty days from receipt of the petition. When exception is taken to an
18 administrative law judge's determination, the tax appeals tribunal must
19 issue its decision within three months from receipt of the petition. Any
20 request by [the petitioner] A PARTY that delays the expedited hearing
21 process will extend the time limitations imposed on the tribunal or the
22 administrative law judge to issue a decision or determination. The
23 tribunal or administrative law judge may not approve any postponement or
24 other delay without a showing of good cause by the moving party and must
25 render a default determination or decision against the dilatory party
26 for any unwarranted delay.

27 S 5. Section 1807 of the tax law, as added by section 21 of subpart I
28 of part V-1 of chapter 57 of the laws of 2009, is amended to read as

29 follows:

30 S 1807. Aggregation. For purposes of this article, the payments due
31 and not paid under A SINGLE article [one] of this chapter pursuant to a
32 common scheme or plan or due and not paid, within one year, may be
33 charged in a single count, and the amount of underpaid tax liability
34 incurred, within one year, may be aggregated in a single count.

35 S 6. Section 34 of subpart I of part V-1 of chapter 57 of the laws of
36 2009, amending the criminal procedure law, the penal law, and the tax
37 law relating to creating the offense of "tax fraud act", is amended to
38 read as follows:

39 S 34. This act shall take effect immediately and SECTIONS TWO THROUGH
40 THIRTY-THREE OF THIS ACT SHALL apply to offenses committed on and after
41 such effective date.

42 S 7. This act shall take effect immediately; provided however that
43 section one of this act shall apply to offenses committed on and after
44 such effective date.

45

SUBPART B

46 Section 1. Subparagraph (iv) of paragraph 4 of subdivision (b) of
47 section 1101 of the tax law, as added by chapter 93 of the laws of 1965,
48 clause (B) as amended by chapter 575 of the laws of 1965 and as renum-
49 bered by chapter 2 of the laws of 1995, is amended to read as follows:

50 (iv) (A) The term retail sale does not include:

51 [(A)] (I) The transfer of tangible personal property to a corporation,
52 solely in consideration for the issuance of its stock, pursuant to a
53 merger or consolidation effected under the law of New York or any other
54 jurisdiction.

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28

1 [(B)] (II) The distribution of property by a corporation to its stock-
2 holders as a liquidating dividend.

3 [(C)] (III) The distribution of property by a partnership to its part-
4 ners in whole or partial liquidation.

5 [(D)] (IV) The transfer of property to a corporation upon its organ-
6 ization in consideration for the issuance of its stock.

7 [(E)] (V) The contribution of property to a partnership in consider-
8 ation for a partnership interest therein.

9 (B) FOR AN EXCEPTION APPLICABLE TO THIS SUBPARAGRAPH, SEE SUBDIVISION
10 (Q) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE.

11 S 2. Paragraph 17 of subdivision (b) of section 1101 of the tax law,
12 as amended by section 1 of part N-1 of chapter 57 of the laws of 2009,
13 is amended to read as follows:

14 (17) Commercial aircraft. Aircraft used primarily (i) to transport
15 persons or property, for hire, (ii) by the purchaser of the aircraft to
16 transport such person's tangible personal property in the conduct of
17 such person's business, or (iii) for both such purposes. Transporting
18 persons for hire does not include transporting agents, employees, offi-
19 cers, members, partners, managers or directors of affiliated persons.
20 Persons are affiliated persons with respect to each other where one of
21 the persons has an ownership interest of more than five percent, whether
22 direct or indirect, in the other, or where an ownership interest of more
23 than five percent, whether direct or indirect, is held in each of the
24 persons by another person or by a group of other persons that are affil-
25 iated persons with respect to each other. FOR AN EXCEPTION TO THE
26 EXCLUSIONS FROM THE DEFINITION OF "RETAIL SALE" APPLICABLE TO AIRCRAFT,
27 SEE SUBDIVISION (Q) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE.

28 S 3. Section 1111 of the tax law is amended by adding a new subdivi-
29 sion (q) to read as follows:

30 (Q) (1) THE EXCLUSIONS FROM THE DEFINITION OF RETAIL SALE IN SUBPARA-
31 GRAPH (IV) OF PARAGRAPH FOUR OF SUBDIVISION (B) OF SECTION ELEVEN

32 HUNDRED ONE OF THIS ARTICLE SHALL NOT APPLY TO TRANSFERS, DISTRIBUTIONS,
33 OR CONTRIBUTIONS OF AN AIRCRAFT OR VESSEL, EXCEPT WHERE, IN THE CASE OF
34 THE EXCLUSION IN SUBCLAUSE (I) OF CLAUSE (A) OF SUCH SUBPARAGRAPH (IV),
35 THE TWO CORPORATIONS TO BE MERGED OR CONSOLIDATED ARE NOT AFFILIATED
36 PERSONS WITH RESPECT TO EACH OTHER. FOR PURPOSES OF THIS SUBDIVISION,
37 CORPORATIONS ARE AFFILIATED PERSONS WITH RESPECT TO EACH OTHER WHERE (I)
38 MORE THAN FIVE PERCENT OF THEIR COMBINED SHARES ARE OWNED BY MEMBERS OF
39 THE SAME FAMILY, AS DEFINED BY PARAGRAPH FOUR OF SUBSECTION (C) OF
40 SECTION TWO HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE OF NINETEEN
41 HUNDRED EIGHTY-SIX; (II) ONE OF THE CORPORATIONS HAS AN OWNERSHIP INTER-
42 EST OF MORE THAN FIVE PERCENT, WHETHER DIRECT OR INDIRECT, IN THE OTHER;
43 OR (III) ANOTHER PERSON OR A GROUP OF OTHER PERSONS THAT ARE AFFILIATED
44 PERSONS WITH RESPECT TO EACH OTHER HOLD AN OWNERSHIP INTEREST OF MORE
45 THAN FIVE PERCENT, WHETHER DIRECT OR INDIRECT, IN EACH OF THE CORPO-
46 RATIONS.

47 (2) NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, IN RELATION TO ANY
48 TRANSFER, DISTRIBUTION, OR CONTRIBUTION OF AN AIRCRAFT OR VESSEL THAT
49 QUALIFIES AS A RETAIL SALE AS A RESULT OF PARAGRAPH ONE OF THIS SUBDIVI-
50 SION, THE SALES TAX IMPOSED BY SUBDIVISION (A) OF SECTION ELEVEN HUNDRED
51 FIVE OF THIS PART SHALL BE COMPUTED BASED ON THE PRICE AT WHICH THE
52 SELLER PURCHASED THE TANGIBLE PERSONAL PROPERTY, PROVIDED THAT WHERE THE
53 SELLER OR PURCHASER AFFIRMATIVELY SHOWS THAT THE SELLER OWNED THE PROP-
54 erty FOR SIX MONTHS PRIOR TO MAKING THE TRANSFER, DISTRIBUTION OR
55 CONTRIBUTION COVERED BY PARAGRAPH ONE OF THIS SUBDIVISION, SUCH AIRCRAFT
56 OR VESSEL SHALL BE TAXED ON THE BASIS OF THE CURRENT MARKET VALUE OF THE
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1 AIRCRAFT OR VESSEL AT THE TIME OF THAT TRANSFER, DISTRIBUTION, OR
2 CONTRIBUTION. FOR THE PURPOSES OF THE PRIOR SENTENCE, "CURRENT MARKET
3 VALUE" SHALL NOT EXCEED THE COST OF THE AIRCRAFT OR VESSEL. SEE SUBDIVI-
4 SION (B) OF THIS SECTION FOR A SIMILAR RULE ON THE COMPUTATION OF ANY
5 COMPENSATING USE TAX DUE UNDER SECTION ELEVEN HUNDRED TEN OF THIS PART
6 ON SUCH TRANSFERS, DISTRIBUTIONS, OR CONTRIBUTIONS.

7 (3) A PURCHASER OF AN AIRCRAFT OR VESSEL COVERED BY PARAGRAPH ONE OF
8 THIS SUBDIVISION WILL BE ENTITLED TO A REFUND OR CREDIT AGAINST THE
9 SALES OR COMPENSATING USE TAX DUE AS A RESULT OF A TRANSFER, DISTRIB-
10 UTION, OR CONTRIBUTION OF SUCH AIRCRAFT OR VESSEL IN THE AMOUNT OF ANY
11 SALES OR USE TAX PAID TO THIS STATE OR ANY OTHER STATE ON THE SELLER'S
12 PURCHASE OR USE OF THE AIRCRAFT OR VESSEL SO TRANSFERRED, DISTRIBUTED OR
13 CONTRIBUTED, BUT NOT TO EXCEED THE TAX DUE ON THE TRANSFER, DISTRIB-
14 UTION, OR CONTRIBUTION OF THE AIRCRAFT OR VESSEL OR ON THE PURCHASER'S
15 USE IN THE STATE OF THE AIRCRAFT OR VESSEL SO TRANSFERRED, DISTRIBUTED
16 OR CONTRIBUTED. AN APPLICATION FOR A REFUND OR CREDIT UNDER THIS SUBDI-
17 VISION MUST BE FILED AND SHALL BE IN SUCH FORM AS THE COMMISSIONER MAY
18 PRESCRIBE. WHERE AN APPLICATION FOR CREDIT HAS BEEN FILED, THE APPLICANT
19 MAY IMMEDIATELY TAKE SUCH CREDIT ON THE RETURN WHICH IS DUE COINCIDENT
20 WITH OR IMMEDIATELY SUBSEQUENT TO THE TIME THE APPLICATION FOR CREDIT IS
21 FILED. HOWEVER, THE TAKING OF THE CREDIT ON THE RETURN SHALL BE DEEMED
22 TO BE PART OF THE APPLICATION FOR CREDIT. PROVIDED THAT THE COMMISSION-
23 ER MAY, IN HIS OR HER DISCRETION AND NOTWITHSTANDING ANY OTHER LAW,
24 WAIVE THE APPLICATION REQUIREMENT FOR ANY OR ALL CLASSES OF PERSONS
25 WHERE THE AMOUNT OF THE CREDIT OR REFUND IS EQUAL TO THE AMOUNT OF THE
26 TAX DUE FROM THE PURCHASER. THE PROVISIONS OF SUBDIVISIONS (A), (B),
27 AND (C) OF SECTION ELEVEN HUNDRED THIRTY-NINE OF THIS ARTICLE SHALL
28 APPLY TO APPLICATIONS FOR REFUND OR CREDIT UNDER THIS SUBDIVISION. NO
29 INTEREST SHALL BE ALLOWED OR PAID ON ANY REFUND MADE OR CREDIT ALLOWED
30 UNDER THIS SUBDIVISION. IF A REFUND IS GRANTED OR A CREDIT ALLOWED UNDER
31 THIS PARAGRAPH, THE SELLER OR PURCHASER SHALL NOT BE ELIGIBLE FOR A
32 REFUND OR CREDIT PURSUANT TO SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED
33 EIGHTEEN OF THIS ARTICLE WITH REGARD TO THE SAME PURCHASE OR USE.

34 S 4. Subdivision 2 of section 1118 of the tax law, as amended by

35 section 2 of part N-1 of chapter 57 of the laws of 2009, is amended to
36 read as follows:

37 (2) In respect to the use of property or services purchased by the
38 user while a nonresident of this state, except in the case of tangible
39 personal property or services which the user, in the performance of a
40 contract, incorporates into real property located in the state. A person
41 while engaged in any manner in carrying on in this state any employment,
42 trade, business or profession, shall not be deemed a nonresident with
43 respect to the use in this state of property or services in such employ-
44 ment, trade, business or profession. This exemption does not apply to
45 the use of qualified property where the qualified property is purchased
46 primarily to carry individuals, whether or not for hire, who are agents,
47 employees, officers, shareholders, members, managers, partners, or
48 directors of (A) the purchaser, where any of those individuals was a
49 resident of this state when the qualified property was purchased or (B)
50 any affiliated person that was a resident when the qualified property
51 was purchased. For purposes of this subdivision: (i) persons are affil-
52 iated persons with respect to each other where one of the persons has an
53 ownership interest of more than five percent, whether direct or indi-
54 rect, in the other, or where an ownership interest of more than five
55 percent, whether direct or indirect, is held in each of the persons by
56 another person or by a group of other persons that are affiliated
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1 persons with respect to each other; (ii) "qualified property" means
2 aircraft, vessels and motor vehicles; and (iii) "carry" means to take
3 any person from one point to another, whether for the business purposes
4 or pleasure of that person. FOR AN EXCEPTION TO THE EXCLUSIONS FROM THE
5 DEFINITION OF "RETAIL SALE" APPLICABLE TO AIRCRAFT AND VESSELS, SEE
6 SUBDIVISION (Q) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE.

7 S 5. This act shall take effect on June 1, 2010, and shall apply to
8 sales made and uses occurring on or after such date in accordance with
9 the applicable transitional provisions in sections 1106 and 1217 of the
10 tax law, provided that sales or use tax paid on the seller's purchase or
11 use of the aircraft or vessel transferred, distributed or contributed
12 may be refunded or credited as authorized by the new subdivision (q) of
13 section 1111 of the tax law, as added by section three of this act,
14 regardless of the date on which the seller purchased or used the
15 aircraft or vessel.

16 SUBPART C

17 Section 1. Section 874 of the general municipal law is amended by
18 adding a new subdivision 9 to read as follows:

19 (9) WITHIN THIRTY DAYS OF THE DATE THAT THE AGENCY DESIGNATES A
20 PROJECT OPERATOR OR OTHER PERSON TO ACT AS AGENT OF THE AGENCY FOR
21 PURPOSES OF PROVIDING FINANCIAL ASSISTANCE CONSISTING OF ANY SALES AND
22 COMPENSATING USE TAX EXEMPTION TO SUCH PERSON, THE AGENCY SHALL FILE A
23 STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE RELATING THERETO,
24 ON A FORM AND IN SUCH MANNER AS IS PRESCRIBED BY THE COMMISSIONER OF
25 TAXATION AND FINANCE, IDENTIFYING EACH SUCH AGENT SO NAMED BY THE AGEN-
26 CY, SETTING FORTH THE TAXPAYER IDENTIFICATION NUMBER OF EACH SUCH AGENT,
27 GIVING A BRIEF DESCRIPTION OF THE PROPERTY AND/OR SERVICES INTENDED TO
28 BE EXEMPTED FROM SUCH TAXES AS A RESULT OF SUCH APPOINTMENT AS AGENT,
29 INDICATING THE AGENCY'S ROUGH ESTIMATE OF THE VALUE OF THE PROPERTY
30 AND/OR SERVICES TO WHICH SUCH APPOINTMENT AS AGENT RELATES, INDICATING
31 THE DATE WHEN SUCH DESIGNATION AS AGENT BECAME EFFECTIVE AND INDICATING
32 THE DATE UPON WHICH SUCH DESIGNATION AS AGENT SHALL CEASE.

33 S 2. Section 1963 of the public authorities law is amended by adding
34 two new subdivisions 3 and 4 to read as follows:

35 3. AGENTS OF THE AUTHORITY AND PROJECT OPERATORS SHALL ANNUALLY FILE A

36 STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE, ON A FORM AND IN
37 SUCH A MANNER AS IS PRESCRIBED BY THE COMMISSIONER OF TAXATION AND
38 FINANCE, OF THE VALUE OF ALL SALES AND USE TAX EXEMPTIONS CLAIMED BY
39 SUCH AGENTS OR AGENTS OF SUCH AGENTS OR PROJECT OPERATORS, INCLUDING,
40 BUT NOT LIMITED TO, CONSULTANTS OR SUBCONTRACTORS OF SUCH AGENTS OR
41 PROJECT OPERATORS, UNDER THE AUTHORITY GRANTED PURSUANT TO THIS SECTION.
42 THE PENALTY FOR FAILURE TO FILE SUCH STATEMENT SHALL BE THE REMOVAL OF
43 THE AUTHORITY TO ACT AS AN AGENT OF THE AUTHORITY OR AS A PROJECT OPERA-
44 TOR.

45 4. WITHIN THIRTY DAYS OF THE DATE THAT THE AUTHORITY DESIGNATES A
46 PROJECT OPERATOR OR OTHER PERSON TO ACT AS AGENT OF THE AUTHORITY FOR
47 PURPOSES OF PROVIDING FINANCIAL ASSISTANCE CONSISTING OF ANY SALES AND
48 COMPENSATING USE TAX EXEMPTION TO SUCH PERSON, THE AGENCY SHALL FILE A
49 STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE RELATING THERETO,
50 ON A FORM AND IN SUCH MANNER AS IS PRESCRIBED BY THE COMMISSIONER OF
51 TAXATION AND FINANCE, IDENTIFYING EACH SUCH AGENT SO NAMED BY THE
52 AUTHORITY, SETTING FORTH THE TAXPAYER IDENTIFICATION NUMBER OF EACH SUCH
53 AGENT, GIVING A BRIEF DESCRIPTION OF THE PROPERTY AND/OR SERVICES
54 INTENDED TO BE EXEMPTED FROM SUCH TAXES AS A RESULT OF SUCH APPOINTMENT

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1 AS AGENT, INDICATING THE AUTHORITY'S ROUGH ESTIMATE OF THE VALUE OF THE
2 PROPERTY AND/OR SERVICES TO WHICH SUCH APPOINTMENT AS AGENT RELATES,
3 INDICATING THE DATE WHEN SUCH DESIGNATION AS AGENT BECAME EFFECTIVE AND
4 INDICATING THE DATE UPON WHICH SUCH DESIGNATION AS AGENT SHALL CEASE.

5 S 3. Section 2326 of the public authorities law is amended by adding
6 two new subdivisions 3 and 4 to read as follows:

7 3. AGENTS OF THE AUTHORITY AND PROJECT OPERATORS SHALL ANNUALLY FILE A
8 STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE, ON A FORM AND IN
9 SUCH A MANNER AS IS PRESCRIBED BY THE COMMISSIONER OF TAXATION AND
10 FINANCE, OF THE VALUE OF ALL SALES AND USE TAX EXEMPTIONS CLAIMED BY
11 SUCH AGENTS OR AGENTS OF SUCH AGENTS OR PROJECT OPERATORS, INCLUDING,
12 BUT NOT LIMITED TO, CONSULTANTS OR SUBCONTRACTORS OF SUCH AGENTS OR
13 PROJECT OPERATORS, UNDER THE AUTHORITY GRANTED PURSUANT TO THIS SECTION.
14 THE PENALTY FOR FAILURE TO FILE SUCH STATEMENT SHALL BE THE REMOVAL OF
15 THE AUTHORITY TO ACT AS AN AGENT OF THE AUTHORITY OR AS A PROJECT OPERA-
16 TOR.

17 4. WITHIN THIRTY DAYS OF THE DATE THAT THE AUTHORITY DESIGNATES A
18 PROJECT OPERATOR OR OTHER PERSON TO ACT AS AGENT OF THE AUTHORITY FOR
19 PURPOSES OF PROVIDING FINANCIAL ASSISTANCE CONSISTING OF ANY SALES AND
20 COMPENSATING USE TAX EXEMPTION TO SUCH PERSON, THE AGENCY SHALL FILE A
21 STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE RELATING THERETO,
22 ON A FORM AND IN SUCH MANNER AS IS PRESCRIBED BY THE COMMISSIONER OF
23 TAXATION AND FINANCE, IDENTIFYING EACH SUCH AGENT SO NAMED BY THE
24 AUTHORITY, SETTING FORTH THE TAXPAYER IDENTIFICATION NUMBER OF EACH SUCH
25 AGENT, GIVING A BRIEF DESCRIPTION OF THE PROPERTY AND/OR SERVICES
26 INTENDED TO BE EXEMPTED FROM SUCH TAXES AS A RESULT OF SUCH APPOINTMENT
27 AS AGENT, INDICATING THE AUTHORITY'S ROUGH ESTIMATE OF THE VALUE OF THE
28 PROPERTY AND/OR SERVICES TO WHICH SUCH APPOINTMENT AS AGENT RELATES,
29 INDICATING THE DATE WHEN SUCH DESIGNATION AS AGENT BECAME EFFECTIVE AND
30 INDICATING THE DATE UPON WHICH SUCH DESIGNATION AS AGENT SHALL CEASE.

31 S 4. This act shall take effect immediately, provided, however, that:

32 (a) section one of this act shall be deemed to have been in full force
33 and effect on and after January 31, 2008;

34 (b) sections two and three of this act shall be deemed to have been in
35 full force and effect on and after January 1, 2010; and

36 (c) any statement of an industrial development agency or authority to
37 the department of taxation and finance required by this act with respect
38 to having appointed an agent or project operator before the effective
39 date of this act shall be deemed timely if it is filed within 90 days of
40 such date.

41 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
42 sion, section or part of this act shall be adjudged by any court of
43 competent jurisdiction to be invalid, such judgment shall not affect,
44 impair, or invalidate the remainder thereof, but shall be confined in
45 its operation to the clause, sentence, paragraph, subdivision, section
46 or part thereof directly involved in the controversy in which such judg-
47 ment shall have been rendered. It is hereby declared to be the intent of
48 the legislature that this act would have been enacted even if such
49 invalid provisions had not been included herein.

50 S 3. This act shall take effect immediately provided, however, that
51 the applicable effective date of Subparts A through C of this act shall
52 be as specifically set forth in the last section of such Subparts.

53

PART N

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32

1 Section 1. Subsection (a) of section 951 of the tax law, as amended by
2 section 1 of part A of chapter 407 of the laws of 1999, is amended to
3 read as follows:

4 (a) Dates. For purposes of this article, any reference to the internal
5 revenue code means the United States Internal Revenue Code of 1986, with
6 all amendments enacted on or before July twenty-second, nineteen hundred
7 ninety-eight, and, unless specifically provided otherwise in this arti-
8 cle, any reference to December thirty-first, nineteen hundred seventy-
9 six or January first, nineteen hundred seventy-seven contained in the
10 provisions of such code which are applicable to the determination of the
11 tax imposed by this article shall be read as a reference to June thirti-
12 eth, nineteen hundred seventy-eight or July first, nineteen hundred
13 seventy-eight, respectively. Notwithstanding the foregoing, the unified
14 credit against the estate tax provided in section two thousand ten of
15 the internal revenue code shall, for purposes of this article, be the
16 amount [allowed by such section under the applicable federal law in
17 effect on the decedent's date of death. Provided, however, the amount of
18 such credit allowable for purposes of this article shall not exceed the
19 amount] allowable as if the federal [unified credit did not exceed the
20 tax due under section two thousand one of the internal revenue code on a
21 federal taxable estate of] APPLICABLE EXCLUSION AMOUNT WERE one million
22 dollars.

23 S 2. This act shall take effect immediately and shall apply to estates
24 of decedents dying on or after January 1, 2010.

25

PART O

26 Section 1. The article heading of article 29-A of the tax law, as
27 added by section 1 of part E of chapter 25 of the laws of 2009, is
28 amended to read as follows:

TAX ON MEDALLION TAXICAB [RIDES] TRIPS

IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT

29
30
31 S 2. Subdivisions (d), (e), (f) and (h) of section 1280 of the tax
32 law, as added by section 1 of part E of chapter 25 of the laws of 2009,
33 are amended and six new subdivisions (i), (j), (k), (l), (m) and (n) are
34 added to read as follows:

35 (d) "Taxicab" means a motor vehicle [carrying passengers for hire in
36 the city, duly] licensed by the [taxi and limousine commission of the
37 city] TLC TO CARRY PASSENGERS FOR HIRE and [permitted] AUTHORIZED to
38 accept hails from prospective passengers in the street.

39 (e) "Taxicab [ride] TRIP" means a taxicab [ride] TRIP provided to one
40 or more passengers [to a given destination] REGARDLESS OF THE NUMBER OF
41 STOPS, FOR WHICH THE TAXIMETER IS REQUIRED TO BE IN THE RECORDING OR
42 HIRED POSITION.

43 (f) "Taxicab owner" OR "OWNER" means a person [owning a taxicab and

44 shall include a purchaser under a reserve title contract, conditional
45 sales agreement or vendor's lien agreement. In addition, an owner shall
46 be deemed to include any lessee, licensee or bailee having the exclusive
47 use of a taxicab, under a lease or otherwise, for a period of thirty
48 days or more] LICENSED BY THE TLC TO OWN AND OPERATE A MEDALLION
49 TAXICAB.

50 (h) "Taximeter" [shall include any device which, when affixed to a
51 motor vehicle, is so constructed as to operate as a fare indicator and a
52 time and distance register for the purpose of automatically determining
53 the charge for which a passenger becomes liable] MEANS AN INSTRUMENT OR
54 DEVICE APPROVED BY THE TLC BY WHICH THE CHARGE TO A PASSENGER FOR HIRE
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1 OF A LICENSED TAXICAB IS AUTOMATICALLY CALCULATED AND ON WHICH SUCH
2 CHARGE IS PLAINLY INDICATED.

3 (I) "TLC" MEANS THE TAXI AND LIMOUSINE COMMISSION OF THE CITY.

4 (J) "AGENT" MEANS A PERSON THAT ACTS, BY EMPLOYMENT, CONTRACT, OR
5 OTHERWISE, ON BEHALF OF ONE OR MORE TAXICAB OWNERS TO OPERATE OR PROVIDE
6 FOR THE OPERATION OF A LICENSED MEDALLION TAXICAB IN ACCORDANCE WITH THE
7 TLC'S RULES. "AGENT" SHALL NOT INCLUDE AN ATTORNEY OR REPRESENTATIVE
8 WHO APPEARS ON BEHALF OF ONE OR MORE OWNERS BEFORE THE TLC, THE TLC
9 HEARING TRIBUNAL, THE COMMISSIONER, OR THE NEW YORK STATE DIVISION OF
10 TAX APPEALS, AND TAXICAB DRIVERS LICENSED PURSUANT TO CHAPTER FIVE OF
11 TITLE NINETEEN OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK WHEN
12 ACTING IN THAT CAPACITY.

13 (K) "MEDALLION" MEANS A PLATE ISSUED BY THE TLC AS THE PHYSICAL
14 EVIDENCE OF A TAXICAB LICENSE, AND AFFIXED TO THE OUTSIDE OF SUCH TAXI-
15 CAB.

16 (L) "TAXICAB LICENSE" MEANS THE AUTHORITY GRANTED BY THE TLC TO AN
17 OWNER TO OPERATE A DESIGNATED VEHICLE AS A TAXICAB IN THE CITY.

18 (M) "TRIP RECORD," ALSO KNOWN AS A TRIP SHEET OR TRIP LOG, MEANS THE
19 WRITTEN, COMPUTERIZED, AUTOMATED OR ELECTRONIC ACCOUNTING OF A TAXICAB
20 RIDE. THE TRIP DATA TO BE TRANSMITTED OR RECORDED SHALL INCLUDE THE
21 TAXICAB LICENSE NUMBER (MEDALLION NUMBER); THE TAXICAB DRIVER'S LICENSE
22 NUMBER; THE LOCATION OF TRIP INITIATION; THE TIME OF TRIP INITIATION;
23 THE NUMBER OF PASSENGERS; THE LOCATION OF TRIP TERMINATION; THE TIME OF
24 TRIP TERMINATION; THE ITEMIZED METERED FARE FOR THE TRIP (TOLLS,
25 SURCHARGE, AND TIP IF PAID BY CREDIT OR DEBIT CARD); THE DISTANCE OF THE
26 TRIP, THE TRIP NUMBER, THE METHOD OF PAYMENT, THE TOTAL NUMBER OF
27 PASSENGERS, AS WELL AS SUCH OTHER INFORMATION AS MAY BE REQUIRED BY THE
28 TLC.

29 (N) "MEDALLION TAXICAB" MEANS A TAXICAB TO WHICH A MEDALLION HAS BEEN
30 AFFIXED IN ACCORDANCE WITH APPLICABLE LAW AND REGULATIONS.

31 S 3. Section 1281 of the tax law, as added by section 1 of part E of
32 chapter 25 of the laws of 2009, is amended to read as follows:

33 S 1281. Imposition of tax. In addition to any other tax imposed by
34 this chapter or other law, there is hereby imposed on every taxicab
35 owner a tax of fifty cents per taxicab [ride] TRIP on every [ride] TRIP
36 that originates in the city and terminates anywhere within the territo-
37 rial boundaries of the MCTD.

38 S 4. Section 1282 of the tax law, as added by section 1 of part E of
39 chapter 25 of the laws of 2009, is amended to read as follows:

40 S 1282. Presumption of taxability. For the purpose of the proper
41 administration of this article and to prevent evasion of the tax imposed
42 by this article, it shall be presumed that every taxicab [ride] TRIP
43 that originates in the city is subject to the tax imposed by this arti-
44 cle. This presumption shall prevail until the contrary is proven, and
45 the burden of proving the contrary shall be on the person liable for
46 [payment of the] tax.

47 S 5. Section 1283 of the tax law, as added by section 1 of part E of
48 chapter 25 of the laws of 2009, is amended to read as follows:

49 S 1283. [Special] LIABILITY FOR TAX; SPECIAL provisions. Notwithstand-
50 ing any [provisions] PROVISION of [this article] LAW to the contrary:
51 (a) [If a taxicab owner subject to the tax imposed by this article leas-
52 es, rents or otherwise furnishes a taxicab to an unrelated person who
53 uses the taxicab to provide taxicab rides originating in the city, then:
54 (1) the owner is deemed to provide such taxicab rides during the day or
55 other period that the unrelated person uses the taxicab to provide such
56 rides; (2) the tax imposed by this article shall be imposed on such
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1 owner; and (3) the owner must pay the tax imposed by this article on the
2 number of rides subject to such tax provided by such unrelated person
3 during the day or other period] THE TAXICAB OWNER SHALL BE LIABLE FOR
4 THE TAX IMPOSED BY THIS ARTICLE. IF THE OWNER HAS DESIGNATED AN AGENT,
5 THEN THE AGENT SHALL BE JOINTLY LIABLE WITH THE OWNER FOR THE TAX ON
6 TRIPS OCCURRING DURING THE PERIOD THAT SUCH DESIGNATION IS IN EFFECT.
7 EVEN IF THE TLC HAS SPECIFIED THAT THE OWNER'S AGENT CANNOT OPERATE AS
8 AN AGENT, THAT AGENT SHALL BE JOINTLY LIABLE WITH THE OWNER IF THE AGENT
9 HAS ACTED FOR THE OWNER. DURING THE PERIOD THAT AN OWNER'S DESIGNATION
10 OF AN AGENT IS IN EFFECT, THE AGENT SHALL FILE THE RETURNS REQUIRED BY
11 THIS ARTICLE AND PAY ANY TAX DUE WITH SUCH RETURN, BUT THE OWNER SHALL
12 NOT BE RELIEVED OF LIABILITY FOR TAX, PENALTY OR INTEREST DUE UNDER THIS
13 ARTICLE, OR FOR THE FILING OF RETURNS REQUIRED TO BE FILED, UNLESS THE
14 AGENT HAS TIMELY FILED ACCURATE RETURNS AND TIMELY PAID THE TAX REQUIRED
15 TO BE PAID UNDER THIS ARTICLE. IF AN OWNER HAS DESIGNATED AN AGENT, THEN
16 THE AGENT MUST PERFORM ANY ACT THIS ARTICLE REQUIRES AN OWNER TO
17 PERFORM, BUT THE FAILURE OF SUCH AGENT TO PERFORM ANY SUCH ACT SHALL NOT
18 RELIEVE THE OWNER FROM THE OBLIGATION TO PERFORM SUCH ACT OR FROM ANY
19 LIABILITY THAT MAY ARISE FROM FAILURE TO PERFORM THE ACT.

20 (b) [Notwithstanding any law to the contrary:] (1) Although the tax is
21 imposed on the taxicab owner, the [taxicab owner must pass along the]
22 CITY OR THE TLC SHALL ADOPT OR AMEND ORDINANCES OR REGULATIONS TO ENSURE
23 THAT THE economic incidence of the tax IS PASSED THROUGH to [the passen-
24 ger] PASSENGERS, SUCH AS by [adjusting the fare for the ride, and the]
25 INCREASING TAXICAB TRIP FARES. THE passing along of such economic inci-
26 dence may not be construed by any court or administrative body as impos-
27 ing the tax on [the] ANY person [or entity that pays the fare for a
28 ride] OTHER THAN THE TAXICAB OWNER. [A] THE city [that regulates taxi-
29 cabs or taxicab fares] OR THE TLC must adjust [the] TRIP fares [author-
30 ized] to include therein the PASS-THROUGH OF THE ECONOMIC INCIDENCE OF
31 THE tax imposed by this article, as the rate of such tax may from time
32 to time change, and must timely require that any taximeter in a taxicab
33 used to provide [rides] TRIPS THAT ORIGINATE in the city be adjusted to
34 include the [tax] PASS-THROUGH.

35 (2) A taxicab owner in such city must timely adjust the taximeter in
36 any of such person's taxicabs so that it reflects [the tax imposed by
37 this article] SUCH PASS-THROUGH as such [rate] PASS-THROUGH AMOUNT may
38 from time to time change.

39 (3) Neither the failure of such city OR THE TLC to adjust fares nor
40 the failure of a taxicab owner OR OTHER PERSON to adjust a taximeter
41 will relieve any person liable for the tax imposed by this article from
42 the obligation to pay such tax timely, at the correct rate.

43 [(c) For purposes of this section, "unrelated person" means a person
44 other than a related person as defined for purposes of section fourteen
45 of this chapter.]

46 S 6. Section 1284 of the tax law, as added by section 1 of part E of
47 chapter 25 of the laws of 2009, is amended to read as follows:

48 S 1284. Returns. Every person liable for the tax imposed by this arti-
49 cle shall file a return quarterly with the commissioner. Each return
50 shall show the number of [rides] TRIPS in the quarter for which the
51 return is filed, together with such other information as the commission-

52 er may require. The returns required by this section shall be filed for
53 quarterly periods ending on the last day of March, June, September, and
54 December of each year, and each return shall be filed within twenty days
55 after the end of the quarterly period covered thereby. Every such person
56 shall also file a return with the commissioner for the period of Novem-
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1 ber and December two thousand nine, by January twentieth, two thousand
2 ten, containing the information described above. If the commissioner
3 deems it necessary in order to ensure the payment of the tax imposed by
4 this article, the commissioner may require returns to be made for short-
5 er periods than prescribed by the foregoing provisions of this section,
6 and upon such dates as the commissioner may specify. The form of returns
7 shall be prescribed by the commissioner and shall contain such informa-
8 tion as the commissioner may deem necessary for the proper adminis-
9 tration of this article. The commissioner may require amended returns to
10 be filed within twenty days after notice and to contain the information
11 specified in the notice. The commissioner may require that the returns
12 be filed electronically.

13 S 7. Section 1285 of the tax law, as added by section 1 of part E of
14 chapter 25 of the laws of 2009, is amended to read as follows:

15 S 1285. Payment of tax. Every person required to file a return under
16 this article shall, at the time of filing such return, pay to the
17 commissioner the total of all tax imposed by this article, on the
18 correct number of [rides] TRIPS subject to tax under this article. The
19 amount so payable to the commissioner for the period for which a return
20 is required to be filed shall be due and payable to the commissioner on
21 the date limited for the filing of the return for such period, without
22 regard to whether a return is filed or whether the return which is filed
23 correctly shows the correct number of [rides] TRIPS or the amount of tax
24 due thereon. The commissioner may require that the tax be paid electron-
25 ically.

26 S 8. Section 1286 of the tax law, as added by section 1 of part E of
27 chapter 25 of the laws of 2009, is amended to read as follows:

28 S 1286. Records to be kept. (A) Every person [required to pay] LIABLE
29 FOR any tax imposed by this article shall keep:

- 30 (1) records of every [ride] TAXICAB TRIP originating in the city and
31 of all amounts paid, charged or due thereon and of the tax payable ther-
32 eon, in such form as the commissioner may require[. Every such person
33 shall also keep];
- 34 (2) a true and complete copy of every contract, agreement, or arrange-
35 ment concerning the lease, rental, or license to use a taxicab for which
36 the person is required to remit the tax on [rides] TRIPS imposed by this
37 article on such person;
- 38 (3) A TRUE AND COMPLETE COPY OF EVERY CONTRACT, AGREEMENT, OR ARRANGE-
39 MENT CONCERNING THE APPOINTMENT OF AN AGENT;
- 40 (4) TRUE AND COMPLETE COPIES OF ANY RECORDS REQUIRED TO BE KEPT BY THE
41 TLC; AND
- 42 (5) SUCH OTHER RECORDS AND INFORMATION AS THE COMMISSIONER MAY REQUIRE
43 TO PERFORM HIS OR HER DUTIES UNDER THIS ARTICLE.

44 [Such] (B) THE records REQUIRED TO BE KEPT BY THIS SECTION shall be
45 available for inspection and examination at any time upon demand by the
46 commissioner or the commissioner's duly authorized agent or employee and
47 shall be preserved for a period of three years, except that the commis-
48 sioner may consent to their destruction within that period or may
49 require that they be kept longer. Such records may be kept within the
50 meaning of this section when reproduced on any photographic, photostat-
51 ic, microfilm, micro-card, miniature photographic or other process which
52 actually reproduces the original record. If those records are maintained
53 in an electronic format, they must be made available and accessible to
54 the commissioner in electronic format.

1 S 9. Subdivision (b) of section 1287 of the tax law, as added by
2 section 1 of part E of chapter 25 of the laws of 2009, is amended to
3 read as follows:

4 (b) Notwithstanding the provisions of subdivision (a) of this section,
5 the commissioner may, in his or her discretion, permit the proper offi-
6 cer of [a] THE city [that regulates taxicabs] or the duly authorized
7 representative of such officer, to inspect any return filed under this
8 article, or may furnish to such officer or such officer's authorized
9 representative an abstract of any such return or supply such person with
10 information concerning an item contained in any such return, or
11 disclosed by any investigation of tax liability under this article; but
12 such permission shall be granted or such information furnished only if
13 [such] THE city OR THE TLC shall have furnished the commissioner with
14 all information requested by the commissioner pursuant to this article
15 and shall have permitted the commissioner or the commissioner's author-
16 ized representative to make any inspection of any records or reports
17 concerning taxicabs [and their], TAXICAB owners [or operators], AND
18 AGENTS filed with or possessed by such city OR THE TLC which the commis-
19 sioner may have requested from such city OR THE TLC. PROVIDED, FURTHER,
20 THAT THE COMMISSIONER MAY DISCLOSE TO THE CITY OR THE TLC WHETHER OR NOT
21 A PERSON LIABLE FOR THE TAX IMPOSED BY THIS ARTICLE HAS PAID ALL OF THE
22 TAX DUE UNDER THIS ARTICLE AS OF ANY GIVEN DATE.

23 S 10. Section 1289 of the tax law, as added by section 1 of part E of
24 chapter 25 of the laws of 2009, is amended to read as follows:

25 S 1289. Cooperation by city. The city AND THE TLC shall cooperate with
26 and assist the commissioner to effect the purposes of this article and
27 the commissioner's responsibilities under this article. Such cooperation
28 shall include furnishing the names, addresses and all other information
29 concerning every TAXICAB owner, operator, and driver of taxicabs in the
30 city, AND CONCERNING EVERY AGENT AND VEHICLE OWNER, AND THE TRIP RECORDS
31 AND OTHER RECORDS OF ANY OF THEM, IN THE CITY'S POSSESSION OR IN THE
32 POSSESSION OF ANY OF ITS AGENCIES OR INSTRUMENTALITIES, together with
33 any other information the commissioner requests, all without cost to the
34 commissioner.

35 S 11. Section 1290 of the tax law, as added by section 1 of part E of
36 chapter 25 of the laws of 2009, is amended to read as follows:

37 S 1290. Practice and procedure. The provisions of article twenty-seven
38 of this chapter shall apply with respect to the administration of and
39 procedure with respect to the tax imposed by this article in the same
40 manner and with the same force and effect as if the language of such
41 article twenty-seven had been incorporated in full into this article and
42 had expressly referred to the tax under this article, except to the
43 extent that any such provision is either inconsistent with a provision
44 of this article or is not relevant to this article. [Criminal penalties
45 provided in section one thousand eight hundred twenty of this chapter
46 shall apply in the same manner and with the same force and effect with
47 respect to this article.]

48 S 12. The tax law is amended by adding a new section 1821 to read as
49 follows:

50 S 1821. MEDALLION TAXICAB OWNERS TAX IN THE METROPOLITAN COMMUTER
51 TRANSPORTATION DISTRICT. ANY WILLFUL ACT OR OMISSION BY ANY PERSON WHICH
52 CONSTITUTES A VIOLATION OF ANY PROVISION OF ARTICLE TWENTY-NINE-A OF
53 THIS CHAPTER SHALL CONSTITUTE A MISDEMEANOR.

54 S 13. Section 19-504 of the administrative code of the city of New
55 York is amended by adding a new subdivision q to read as follows:

1 Q. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, THE COMMISSION SHALL
2 NOT ISSUE OR RENEW A TAXICAB LICENSE UNLESS THE APPLICANT OR HOLDER, AS

3 THE CASE MAY BE, AVOWS UNDER PENALTY OF PERJURY THAT SUCH PERSON HAS
4 FULLY PAID ALL AND ANY TAX IMPOSED ON SUCH PERSON BY ARTICLE
5 TWENTY-NINE-A OF THE TAX LAW. THE COMMISSION MAY ASK THE COMMISSIONER OF
6 TAXATION AND FINANCE FOR CONFIRMATION THAT SUCH PERSON HAS PAID SUCH
7 TAX. NOTHING IN THIS SUBDIVISION SHALL PREVENT A PERSON TO WHOM A TAXI-
8 CAB LICENSE HAS BEEN ISSUED FROM MOVING THE MEDALLION WHICH EVIDENCES
9 THE LICENSE TO A STANDBY VEHICLE IF THE TLC'S REGULATIONS PERMIT SUCH
10 PERSON TO DO SO.

11 S 14. This act shall take effect July 1, 2010, and shall apply to
12 taxicab trips commencing on or after that date; provided that:

13 (a) the provisions of article 29-A of the tax law in existence prior
14 to that date shall continue to apply to all liabilities accrued up to
15 that date; and

16 (b) sections nine, ten, eleven and twelve of this act shall be deemed
17 to have taken effect on the same date and apply in the same manner that
18 part E of chapter 25 of the laws of 2009 took effect.

19 PART P

20 Section 1. Paragraph 3 of subdivision (b) of section 1101 of the tax
21 law, as amended by section 21 of part Y of chapter 63 of the laws of
22 2000, is amended to read as follows:

23 (3) Receipt. The amount of the sale price of any property and the
24 charge for any service taxable under this article, including gas and gas
25 service and electricity and electric service of whatever nature, valued
26 in money, whether received in money or otherwise, including any amount
27 for which credit is allowed by the vendor to the purchaser, without any
28 deduction for expenses or early payment discounts and also including any
29 charges by the vendor to the purchaser for shipping or delivery, and,
30 with respect to gas and gas service and electricity and electric
31 service, any charges [by the vendor] for transportation, transmission or
32 distribution, regardless of whether such charges are separately stated
33 in the written contract, if any, or on the bill rendered to such
34 purchaser and regardless of whether such shipping or delivery or trans-
35 portation, transmission, or distribution is provided by [such] THE
36 vendor or a third party, but excluding any credit for tangible personal
37 property accepted in part payment and intended for resale. For special
38 rules governing computation of receipts, see section eleven hundred
39 eleven.

40 S 2. Section 1105-c of the tax law is REPEALED.

41 S 3. This act shall take effect June 1, 2010, and shall apply to sales
42 made, services rendered and uses occurring on or after such date,
43 although made, rendered or occurring under a prior contract.

44 PART Q

45 Section 1. Subdivision 1 of section 470 of the tax law, as amended by
46 section 1 of part MM-1 of chapter 57 of the laws of 2008, is amended to
47 read as follows:

48 1. "Cigarette." (a) Any roll for smoking made wholly or in part of
49 tobacco or of any other substance wrapped in paper or in any other
50 substance not containing tobacco, and (b) any roll for smoking made
51 wholly or in part of tobacco wrapped in any substance containing tobacco
52 that, because of its appearance, the type of tobacco used in the filler,

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1 or its packaging and labeling, is likely to be offered to, or purchased
2 by, consumers as a cigarette described in paragraph (a) of this subdivi-
3 sion. [However, a roll will not be considered to be a cigarette for
4 purposes of paragraph (b) of this subdivision if it is not treated as a
5 cigarette for federal excise tax purposes under the applicable federal

6 statute in effect on April first, two thousand eight.]
7 S 2. Subdivision 2 of section 470 of the tax law, as amended by
8 section 1 of part MM-1 of chapter 57 of the laws of 2008, is amended to
9 read as follows:

10 2. "Tobacco products." Any cigar, INCLUDING A LITTLE CIGAR, or tobac-
11 co, other than cigarettes, intended for consumption by smoking, chewing,
12 or as snuff.

13 S 3. Section 470 of the tax law is amended by adding a new subdivision
14 2-b to read as follows:

15 2-B. "LITTLE CIGAR." ANY ROLL FOR SMOKING MADE WHOLLY OR IN PART OF
16 TOBACCO IF SUCH PRODUCT IS WRAPPED IN ANY SUBSTANCE CONTAINING TOBACCO,
17 OTHER THAN NATURAL LEAF TOBACCO WRAPPER, AND WEIGHING NOT MORE THAN
18 THREE POUNDS PER THOUSAND, PROVIDED THAT IF A PRODUCT ALSO MEETS THE
19 DEFINITION OF "CIGARETTE" UNDER THIS ARTICLE, IT SHALL BE TREATED AS A
20 CIGARETTE AND NOT AS A LITTLE CIGAR.

21 S 4. Subdivision 19 of section 470 of the tax law, as added by section
22 1 of part MM-1 of chapter 57 of the laws of 2008, is amended to read as
23 follows:

24 19. "Cigar." Any roll of tobacco wrapped in leaf tobacco or in any
25 substance containing tobacco (other than any roll of tobacco that is a
26 cigarette as defined in subdivision one of this section). [However, a
27 roll will not be considered to be a cigar for purposes of this subdivi-
28 sion if it is not treated as a cigar for federal excise tax purposes
29 under the applicable federal statute in effect on April first, two thou-
30 sand eight.] "CIGAR" SHALL INCLUDE, EXCEPT WHERE EXPRESSLY EXCLUDED, ANY
31 LITTLE CIGAR.

32 S 5. Paragraph (a) of subdivision 1 of section 471-b of the tax law,
33 as amended by section 1 of part I-1 of chapter 57 of the laws of 2009,
34 is amended to read as follows:

35 (a) Such tax on tobacco products other than snuff AND LITTLE CIGARS
36 shall be at the rate of forty-six percent of the wholesale price, and is
37 intended to be imposed only once upon the sale of any tobacco products
38 other than snuff AND LITTLE CIGARS.

39 S 6. Subdivision 1 of section 471-b of the tax law is amended by
40 adding a new paragraph (c) to read as follows:

41 (C) SUCH TAX ON LITTLE CIGARS SHALL BE AT THE SAME RATE IMPOSED ON
42 CIGARETTES UNDER THIS ARTICLE, AS THIS ARTICLE MAY BE AMENDED FROM TIME
43 TO TIME, AND IS INTENDED TO BE IMPOSED ONLY ONCE UPON THE SALE OF ANY
44 LITTLE CIGARS.

45 S 7. Paragraph (i) of subdivision (a) of section 471-c of the tax law,
46 as amended by section 2 of part I-1 of chapter 57 of the laws of 2009,
47 is amended to read as follows:

48 (i) Such tax on tobacco products other than snuff AND LITTLE CIGARS
49 shall be at the rate of forty-six percent of the wholesale price.

50 S 8. This act shall take effect July 1, 2010.

51 PART R

52 Section 1. Subdivision (n) of section 1115 of the tax law is REPEALED.

53 S 2. This act shall take effect June 1, 2010.

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1 PART S

2 Section 1. Subparagraph 3 of paragraph (i) of subdivision (d) of
3 section 1105 of the tax law, as amended by section 1 of part DD of chap-
4 ter 407 of the laws of 1999, is amended to read as follows:

5 (3) in those instances where the sale is made through a vending
6 machine that is activated by use of coin, currency, credit card or debit
7 card [(except the sale of drinks in a heated state made through such a
8 vending machine)] or is for consumption off the premises of the vendor,

9 except where food (other than sandwiches) or drink or both are (A) sold
10 in an unheated state and, (B) are of a type commonly sold for consump-
11 tion off the premises and in the same form and condition, quantities and
12 packaging, in establishments which are food stores other than those
13 principally engaged in selling foods prepared and ready to be eaten.

14 S 2. Paragraph 1 of subdivision (a) of section 1115 of the tax law, as
15 amended by section 1 of part 0 of chapter 63 of the laws of 2000, is
16 amended to read as follows:

17 (1) Food, food products, beverages, dietary foods and health supple-
18 ments, sold for human consumption but not including (i) candy and
19 confectionery, (ii) fruit drinks which contain less than seventy percent
20 of natural fruit juice, (iii) soft drinks, sodas and beverages such as
21 are ordinarily dispensed at soda fountains or in connection therewith
22 (other than coffee, tea and cocoa) and (iv) beer, wine or other alcohol-
23 ic beverages, all of which shall be subject to the retail sales and
24 compensating use taxes, whether or not the item is sold in liquid form.
25 [The food and drink excluded from the exemption provided by this para-
26 graph under subparagraphs (i), (ii) and (iii) of this paragraph shall be
27 exempt under this paragraph when sold for seventy-five cents or less
28 through any vending machine activated by the use of coin, currency,
29 credit card or debit card. With the exception of the provision in this
30 paragraph providing for an exemption for certain food or drink sold for
31 seventy-five cents or less through vending machines, nothing] NOTHING
32 herein shall be construed as exempting food or drink from the tax
33 imposed under subdivision (d) of section eleven hundred five.

34 S 3. This act shall take effect immediately.

35

PART T

36 Section 1. Paragraph 1 of subsection (c) of section 615 of the tax
37 law, as amended by chapter 497 of the laws of 1997, is amended to read
38 as follows:

39 (1) STATE AND LOCAL GENERAL SALES TAXES AS DEFINED IN SUBSECTION (B)
40 OF SECTION ONE HUNDRED SIXTY-FOUR OF THE INTERNAL REVENUE CODE OR income
41 taxes imposed by this state or any other taxing jurisdiction, except
42 city earnings taxes on nonresidents that are imposed upon and paid by
43 taxpayers for taxable years beginning after December thirty-first, nine-
44 teen hundred seventy and before January first, two thousand, pursuant to
45 the authority of FORMER section twenty-five-m of the general city law,
46 to the extent that the amount of such tax exceeds the tax computed as if
47 the rates were one-fourth of one percent of wages subject to tax and
48 three-eighths of one percent of net earnings from self-employment
49 subject to tax;

50 S 2. Paragraph 1 of subdivision (c) of section 11-1715 of the adminis-
51 trative code of the city of New York, as amended by chapter 497 of the
52 laws of 1997, is amended to read as follows:

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1 (1) STATE AND LOCAL GENERAL SALES TAXES AS DEFINED IN SUBSECTION (B)
2 OF SECTION ONE HUNDRED SIXTY-FOUR OF THE INTERNAL REVENUE CODE OR income
3 taxes imposed by this city or any other taxing jurisdiction, except city
4 earnings taxes on nonresidents that are imposed upon and paid by taxpay-
5 ers for taxable years beginning after December thirty-first, nineteen
6 hundred seventy and before January first, two thousand, pursuant to the
7 authority of FORMER section twenty-five-m of the general city law, to
8 the extent that the amount of such tax exceeds the tax computed as if
9 the rates were one-fourth of one percent of wages subject to tax and
10 three-eighths of one percent of net earnings from self-employment
11 subject to tax;

12 S 3. This act shall take effect immediately and shall apply to taxable
13 years beginning on or after January 1, 2011.

15 Section 1. Paragraphs 2 and 3 of subdivision (c) of section 1101 of
16 the tax law, as added by chapter 93 of the laws of 1965, are amended to
17 read as follows:

18 (2) Occupancy. The use or possession, or the right to the use or
19 possession, of any room in a hotel. "RIGHT TO THE USE OR POSSESSION"
20 INCLUDES THE RIGHTS OF AN OCCUPANCY PROVIDER AS DESCRIBED IN SUBDIVISION
21 (A) OF SECTION ELEVEN HUNDRED FIVE-D OF THIS ARTICLE.

22 (3) Occupant. A person who, for a consideration, uses, possesses, or
23 has the right to use or possess, any room in a hotel under any lease,
24 concession, permit, right of access, license to use or other agreement,
25 or otherwise. "RIGHT TO USE OR POSSESS" INCLUDES THE RIGHTS OF AN OCCU-
26 PANCY PROVIDER AS DESCRIBED IN SUBDIVISION (A) OF SECTION ELEVEN HUNDRED
27 FIVE-D OF THIS ARTICLE.

28 S 2. The tax law is amended by adding a new section 1105-D to read as
29 follows:

30 S 1105-D. SPECIAL RULES REGARDING SALES TAX ON RENT FOR OCCUPANCY OF A
31 ROOM IN A HOTEL. NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE OR OTHER
32 LAW TO THE CONTRARY:

33 (A) "OCCUPANCY PROVIDER" MEANS A PERSON HAVING AN AGREEMENT AUTHORIZ-
34 ING SUCH PERSON TO RESERVE, ARRANGE FOR, OR CONVEY THE RIGHT TO, FOR
35 CONSIDERATION, AN OCCUPANCY FOR ANOTHER PERSON IN AN OPERATOR'S HOTEL
36 WHERE THE PERSON HAVING SUCH AGREEMENT HAS THE RIGHT TO DETERMINE THE
37 AMOUNT, HOWEVER DENOMINATED, OF RENT FOR THE OCCUPANCY OF THE OTHER
38 PERSON. AN OCCUPANCY PROVIDER SHALL NOT BE A PERMANENT RESIDENT WITH
39 RESPECT TO SUCH OCCUPANCY FOR PURPOSES OF THE TAXES IMPOSED BY OR PURSU-
40 ANT TO THIS ARTICLE AND SUBPART B OF PART I OF ARTICLE TWENTY-NINE OF
41 THIS CHAPTER.

42 (B) THE SALES TAX ON RENT IMPOSED BY SUBDIVISION (E) OF SECTION ELEVEN
43 HUNDRED FIVE OF THIS ARTICLE SHALL BE COMPUTED ON ONE HUNDRED TWENTY
44 PERCENT OF THE RENT PAID, NO MATTER HOW DENOMINATED, BY THE OCCUPANCY
45 PROVIDER TO THE OPERATOR OF A HOTEL OR ANOTHER OCCUPANCY PROVIDER.

46 (C)(1) AN OCCUPANCY PROVIDER SHALL BE ALLOWED A REFUND OR CREDIT
47 AGAINST THE AMOUNT OF TAX COLLECTED AND REQUIRED TO BE REMITTED PURSUANT
48 TO SECTION ELEVEN HUNDRED THIRTY-SEVEN OF THIS ARTICLE IN THE AMOUNT OF
49 THE TAX IT PAID TO AN OPERATOR OF A HOTEL OR ANOTHER OCCUPANCY PROVIDER
50 UNDER SECTION ELEVEN HUNDRED FOUR OF THIS ARTICLE, WHERE APPLICABLE, AND
51 SUBDIVISION (B) OF THIS SECTION. PROVIDED, HOWEVER, THAT, IN ORDER TO
52 RECEIVE A REFUND OR CREDIT UNDER THIS PARAGRAPH WITH RESPECT TO ANY
53 SALES TAX QUARTERLY PERIOD, AS DESCRIBED IN SUBDIVISION (B) OF SECTION
54 ELEVEN HUNDRED THIRTY-SIX OF THIS ARTICLE, THE OCCUPANCY PROVIDER MUST,
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1 WITH RESPECT TO SUCH QUARTER, (I) BE REGISTERED FOR SALES TAX PURPOSES
2 PURSUANT TO SECTION ELEVEN HUNDRED THIRTY-FOUR OF THIS ARTICLE AND (II)
3 COLLECT THE TAXES IMPOSED BY SECTION ELEVEN HUNDRED FOUR OF THIS ARTI-
4 CLE, WHERE APPLICABLE, AND SUBDIVISION (E) OF SECTION ELEVEN HUNDRED
5 FIVE OF THIS ARTICLE, WHETHER SUBJECT TO SUBDIVISION (B) OF THIS SECTION
6 OR NOT, AS THE CASE MAY BE, ON THE RENT FOR OCCUPANCY IT RECEIVES.

7 (2) AN OCCUPANCY PROVIDER NOT COVERED BY PARAGRAPH ONE OF THIS SUBDI-
8 VISION SHALL BE ALLOWED A REFUND OF SALES TAX TO THE EXTENT THAT THE TAX
9 IT PAID UNDER SUBDIVISION (B) OF THIS SECTION IN RESPECT TO AN OCCUPANCY
10 OF A ROOM EXCEEDS THE SALES TAX DUE FROM THE OCCUPANT PURSUANT TO SUBDI-
11 VISION (E) OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE, WHETHER
12 SUBJECT TO SUBDIVISION (B) OF THIS SECTION OR NOT, AS THE CASE MAY BE,
13 ON THE RENT THE OCCUPANCY PROVIDER CHARGED FOR THE OCCUPANCY OF SUCH
14 ROOM.

15 (3) ANY REFUND OR CREDIT AVAILABLE UNDER THIS SUBDIVISION SHALL BE
16 SUBJECT TO THE COMMISSIONER'S RIGHT OF OFFSET AGAINST ANY TAX OR OTHER

17 IMPOSITION DUE TO AND ADMINISTERED BY THE COMMISSIONER AND THE
18 PROVISIONS OF SECTIONS ELEVEN HUNDRED NINETEEN AND ELEVEN HUNDRED THIR-
19 TY-NINE OF THIS ARTICLE AS IF SUCH PROVISIONS WERE INCORPORATED IN FULL
20 INTO THIS SECTION AND HAD EXPRESSLY REFERRED TO THE REFUNDS AND CREDITS
21 AUTHORIZED BY THIS SUBDIVISION, INCLUDING THE PERIODS OF LIMITATIONS ON
22 PAYMENTS AND APPLICATIONS TO THE COMMISSIONER, EXCEPT TO THE EXTENT THAT
23 ANY SUCH PROVISION IS NOT RELEVANT TO, OR IS INCONSISTENT WITH, THIS
24 SECTION; PROVIDED THAT NO INTEREST SHALL BE ALLOWED OR PAID UPON ANY
25 REFUND MADE OR CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION.

26 (D) FOR PURPOSES OF PARTS III AND IV OF THIS ARTICLE, SUBPARTS B OF
27 PARTS I AND III OF ARTICLE TWENTY-NINE OF THIS CHAPTER, AND PART III OF
28 ARTICLE THIRTY-SEVEN OF THIS CHAPTER, AN OCCUPANCY PROVIDER SHALL BE
29 DEEMED TO BE AN OPERATOR, SHALL BE CONSIDERED TO BE OPERATING A HOTEL
30 AND SHALL COMPLY WITH ALL THE REQUIREMENTS OF THIS ARTICLE AND ARTICLE
31 TWENTY-NINE OF THIS CHAPTER WITH RESPECT TO OPERATORS, INCLUDING THE
32 DUTY TO COLLECT AND REMIT THE TAX ON ANY RENT CHARGED ANOTHER PERSON.

33 (E) WHEN OCCUPANCY IS PROVIDED IN CONJUNCTION WITH OTHER GOODS OR
34 SERVICES, FOR A SINGLE CONSIDERATION, THE ENTIRE CONSIDERATION SHALL BE
35 TREATED AS RENT SUBJECT TO SUBDIVISION (B) OF THIS SECTION, WHETHER OR
36 NOT SUCH OTHER GOODS AND SERVICES ARE SUBJECT TO TAX; PROVIDED, HOWEVER,
37 THAT WHERE THE AMOUNT OF THE RENT FOR THE OCCUPANCY IS SEPARATELY STATED
38 ON ANY SALES SLIP, INVOICE, RECEIPT OR OTHER STATEMENT OR MEMORANDUM OF
39 THE PRICE GIVEN THE OCCUPANT AND IS REASONABLE IN RELATION TO THE VALUE
40 OF THE OTHER GOODS AND SERVICES BEING PROVIDED, ONLY THE AMOUNT OF SUCH
41 RENT WILL BE SUBJECT TO SUBDIVISION (B) OF THIS SECTION.

42 S 3. Subdivisions 3 and 4 of section 11-2501 of the administrative
43 code of the city of New York are amended to read as follows:

44 3. "Occupant." A person who, for a consideration, uses, possesses, or
45 has the right to use or possess, any room or rooms in a hotel under any
46 lease, concession, permit, right of access, license to use or other
47 agreement, or otherwise. "RIGHT TO USE OR POSSESS" INCLUDES THE RIGHTS
48 OF AN OCCUPANCY PROVIDER AS DESCRIBED IN PARAGRAPH ONE OF SUBDIVISION
49 A-ONE OF SECTION 11-2502 OF THIS CHAPTER.

50 4. "Occupancy." The use or possession, or the right to the use or
51 possession of any room or rooms in a hotel, or the right to the use or
52 possession of the furnishings or to the services and accommodations
53 accompanying the use and possession of the room or rooms. "RIGHT TO THE
54 USE OR POSSESSION" INCLUDES THE RIGHTS OF AN OCCUPANCY PROVIDER AS
55 DESCRIBED IN PARAGRAPH ONE OF SUBDIVISION A-ONE OF SECTION 11-2502 OF
56 THIS CHAPTER.

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42

1 S 4. Section 11-2502 of the administrative code of the city of New
2 York is amended by adding a new subdivision a-1 to read as follows:

3 A-1. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR OTHER LAW TO
4 THE CONTRARY: (1) "OCCUPANCY PROVIDER" MEANS A PERSON HAVING AN AGREE-
5 MENT AUTHORIZING SUCH PERSON TO RESERVE, ARRANGE FOR, OR CONVEY THE
6 RIGHT TO, FOR CONSIDERATION, AN OCCUPANCY OF ANOTHER PERSON IN THE OPER-
7 ATOR'S HOTEL WHERE THE PERSON HAVING SUCH AGREEMENT HAS THE RIGHT TO
8 DETERMINE THE AMOUNT, HOWEVER DENOMINATED, OF RENT FOR THE OCCUPANCY OF
9 THE OTHER PERSON. AN OCCUPANCY PROVIDER SHALL NOT BE A PERMANENT RESI-
10 DENT WITH RESPECT TO SUCH OCCUPANCY FOR PURPOSES OF THIS CHAPTER.

11 (2) THE TAX ON RENT IMPOSED BY PARAGRAPH THREE OF SUBDIVISION A OF
12 THIS SECTION SHALL BE COMPUTED ON ONE HUNDRED TWENTY PERCENT OF THE RENT
13 PAID, NO MATTER HOW DENOMINATED, BY THE OCCUPANCY PROVIDER TO THE OPERA-
14 TOR OF A HOTEL OR ANOTHER OCCUPANCY PROVIDER.

15 (3)(A) AN OCCUPANCY PROVIDER SHALL BE ALLOWED A REFUND OR CREDIT
16 AGAINST THE TAXES COLLECTED AND REQUIRED TO BE REMITTED PURSUANT TO
17 SECTION 11-2505 OF THIS CHAPTER IN THE AMOUNT OF THE TAX IT PAID TO THE
18 OPERATOR OF THE HOTEL OR ANOTHER OCCUPANCY PROVIDER UNDER PARAGRAPH TWO
19 OF SUBDIVISION A OF THIS SECTION AND PARAGRAPH TWO OF THIS SUBDIVISION.

20 PROVIDED, HOWEVER, THAT IN ORDER TO RECEIVE A REFUND OR CREDIT UNDER
21 THIS SUBPARAGRAPH WITH RESPECT TO ANY SALES TAX QUARTERLY PERIOD, AS
22 DESCRIBED IN SUBDIVISION A OF SECTION 11-2504 OF THIS CHAPTER, THE OCCU-
23 PANCY PROVIDER MUST, WITH RESPECT TO SUCH QUARTER, (I) BE REGISTERED FOR
24 SALES TAX PURPOSES PURSUANT TO SECTION 11-2514 OF THIS CHAPTER; AND (II)
25 COLLECT THE TAXES IMPOSED BY PARAGRAPHS TWO AND THREE OF SUBDIVISION A
26 OF THIS SECTION, WHETHER SUBJECT TO PARAGRAPH TWO OF THIS SUBDIVISION OR
27 NOT, AS THE CASE MAY BE, ON THE RENT FOR OCCUPANCY IT RECEIVES.

28 (B) AN OCCUPANCY PROVIDER NOT COVERED BY SUBPARAGRAPH (A) OF THIS
29 PARAGRAPH SHALL BE ALLOWED A REFUND TO THE EXTENT THAT THE TAX IT PAID
30 UNDER PARAGRAPH TWO OF THIS SUBDIVISION FOR THE OCCUPANCY OF A ROOM
31 EXCEEDS THE TAX ON OCCUPANCY DUE FROM THE OCCUPANT UNDER PARAGRAPH THREE
32 OF SUBDIVISION A OF THIS SECTION, WHETHER SUBJECT TO PARAGRAPH TWO OF
33 THIS SUBDIVISION OR NOT, AS THE CASE MAY BE, ON THE RENT SUCH OCCUPANCY
34 PROVIDER CHARGED FOR THE OCCUPANCY OF SUCH ROOM.

35 (C) ANY REFUND OR CREDIT AVAILABLE UNDER THIS PARAGRAPH SHALL BE
36 SUBJECT TO THE COMMISSIONER OF FINANCE'S RIGHT OF OFFSET AGAINST ANY TAX
37 OR OTHER IMPOSITION DUE TO AND ADMINISTERED BY SUCH COMMISSIONER AND THE
38 PROVISIONS OF SECTION 11-2507 OF THIS CHAPTER AS IF SUCH PROVISIONS WERE
39 INCORPORATED IN FULL INTO THIS SUBDIVISION AND HAD EXPRESSLY REFERRED TO
40 THE REFUNDS AND CREDITS AUTHORIZED BY THIS PARAGRAPH, INCLUDING THE
41 PERIODS OF LIMITATIONS ON PAYMENTS AND APPLICATIONS TO THE COMMISSIONER
42 OF FINANCE, EXCEPT TO THE EXTENT THAT ANY SUCH PROVISION IS NOT RELEVANT
43 TO, OR IS INCONSISTENT WITH, THIS SUBDIVISION; PROVIDED, THAT NO INTER-
44 EST SHALL BE ALLOWED OR PAID UPON ANY REFUND MADE OR CREDIT ALLOWED
45 PURSUANT TO THIS PARAGRAPH.

46 (4) "OPERATOR" AS USED IN SUBDIVISION SEVEN OF SECTION 11-2501 OF THIS
47 CHAPTER, OTHER SUBDIVISIONS OF THIS SECTION AND THE FOLLOWING SECTIONS
48 OF THIS CHAPTER INCLUDES AN OCCUPANCY PROVIDER AND THE OCCUPANCY PROVID-
49 ER SHALL BE CONSIDERED TO BE OPERATING A HOTEL AND SHALL COMPLY WITH ALL
50 THE REQUIREMENTS OF THIS CHAPTER WITH RESPECT TO OPERATORS, INCLUDING
51 THE DUTY TO COLLECT AND REMIT THE TAX ON ANY RENT CHARGED ANOTHER
52 PERSON.

53 (5) WHEN OCCUPANCY IS PROVIDED IN CONJUNCTION WITH OTHER GOODS OR
54 SERVICES FOR A SINGLE CONSIDERATION, THE ENTIRE CONSIDERATION SHALL BE
55 TREATED AS RENT SUBJECT TO PARAGRAPH TWO OF THIS SUBDIVISION, WHETHER OR
56 NOT SUCH OTHER GOODS AND SERVICES ARE SUBJECT TO TAX; PROVIDED, HOWEVER,
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1 THAT WHERE THE AMOUNT OF THE RENT FOR THE OCCUPANCY IS SEPARATELY STATED
2 ON ANY SALES SLIP, INVOICE, RECEIPT OR OTHER STATEMENT OR MEMORANDUM OF
3 THE PRICE GIVEN THE OCCUPANT AND IS REASONABLE IN RELATION TO THE VALUE
4 OF THE OTHER GOODS AND SERVICES BEING PROVIDED, ONLY THE AMOUNT OF SUCH
5 RENT WILL BE SUBJECT TO PARAGRAPH TWO OF THIS SUBDIVISION.

6 S 5. The tax law is amended by adding a new section 1244 to read as
7 follows:

8 S 1244. SPECIAL RULES REGARDING HOTEL OR MOTEL TAXES ON RENT FOR OCCU-
9 PANCY OF A ROOM. NOTWITHSTANDING ANY PROVISIONS OF THIS ARTICLE OR OTHER
10 LAW TO THE CONTRARY, A MUNICIPALITY WHICH IMPOSES A TAX UPON PERSONS
11 OCCUPYING HOTEL OR MOTEL ROOMS IN SUCH MUNICIPALITY PURSUANT TO THE
12 AUTHORITY OF SUBPART A OF PART I OF THIS ARTICLE OR AN UNCONSOLIDATED
13 LAW SHALL BE AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS,
14 ORDINANCES OR RESOLUTIONS TO MAKE THE PROVISIONS OF SECTION ELEVEN
15 HUNDRED FIVE-D OF THIS CHAPTER AND RELATED DEFINITIONS IN PARAGRAPHS TWO
16 AND THREE OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED ONE OF THIS CHAP-
17 TER APPLICABLE TO SUCH TAX IN SUCH MUNICIPALITY, AS IF SUCH PROVISIONS
18 HAD BEEN INCORPORATED INTO THE LAW AUTHORIZING SUCH MUNICIPALITY TO
19 IMPOSE SUCH TAX AND HAD EXPRESSLY REFERRED TO SUCH TAX, WITH SUCH
20 MODIFICATIONS AS ARE NECESSARY TO ADAPT THE LANGUAGE OF SUCH PROVISIONS
21 TO SUCH TAX.

22 S 6. This act shall take effect on the first day of the quarterly

23 period, as described in subdivision (b) of section 1136 of the tax law,
24 next commencing at least 30 days after the date this act shall have
25 become a law, and shall apply in accordance with the applicable transi-
26 tional provisions in sections 1106 and 1217 of the tax law.

27

PART V

28 Section 1. The section heading, the opening paragraph and paragraph a
29 of subdivision 1 of section 27-0923 of the environmental conservation
30 law, the section heading and the opening paragraph of subdivision 1 as
31 added by chapter 38 of the laws of 1985 and paragraph a of subdivision 1
32 as amended by chapter 423 of the laws of 1990, are amended and a new
33 paragraph g is added to read as follows:

34 Special assessments on hazardous wastes [generated].

35 On and after [June] JULY first, [nineteen hundred eighty-five] TWO
36 THOUSAND TEN, there is hereby imposed upon every person who is engaged
37 within the state in the generation of hazardous waste identified or
38 listed pursuant to this title a special assessment to be determined as
39 follows:

40 a. [Twenty-seven] SEVEN dollars per ton of hazardous waste generated
41 which is disposed of in a landfill on the site where the waste is gener-
42 ated or which is designated for removal or removed from the site of
43 generation for disposal in a landfill or which is designated for removal
44 or removed from the site of generation for storage prior to disposal in
45 a landfill;

46 G. FOR THE PURPOSE OF THIS SUBDIVISION, GENERATION OF HAZARDOUS WASTE
47 SHALL NOT INCLUDE RETRIEVAL OR CREATION OF HAZARDOUS WASTE WHICH MUST BE
48 DISPOSED OF UNDER AN ORDER OF OR AGREEMENT WITH THE DEPARTMENT PURSUANT
49 TO TITLE THIRTEEN OR TITLE FOURTEEN OF THIS ARTICLE OR UNDER A CONTRACT
50 WITH THE DEPARTMENT PURSUANT TO TITLE FIVE OF ARTICLE FIFTY-SIX OF THIS
51 CHAPTER.

52 S 2. Subdivision 2 of section 27-0923 of the environmental conserva-
53 tion law, as amended by chapter 423 of the laws of 1990, is amended to
54 read as follows:

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1 2. On or after [June] JULY first, [nineteen hundred eighty-five] TWO
2 THOUSAND TEN, there is hereby imposed upon persons holding permits or
3 required to hold permits for the storage, treatment or disposal of
4 hazardous waste pursuant to section 27-0913 of this title a hazardous
5 waste disposal special assessment [to be determined as follows:

6 a. Twenty-seven] OF TWENTY dollars per ton of hazardous waste which is
7 received for disposal in a landfill or for storage prior to disposal in
8 a landfill[;

9 b. Nine dollars per ton of hazardous waste which is received for
10 incineration or for storage prior to incineration;

11 c. Sixteen dollars per ton of hazardous waste which is received for
12 treatment or disposal, exclusive of disposal in a landfill or by incin-
13 eration, or for storage prior to such treatment or disposal;

14 d. No special assessment shall be imposed under this subdivision upon
15 receipt for treatment or disposal, or storage prior thereto of hazardous
16 waste where such waste was generated by persons subject to the special
17 assessment under subdivision one of this section].

18 S 3. Section 27-0923 of the environmental conservation law is amended
19 by adding a new subdivision 2-a to read as follows:

20 2-A. TEN PERCENT OF ANY SPECIAL ASSESSMENT PAID FOR LANDFILL DISPOSAL
21 SHALL GO TO THE COUNTY HEALTH DEPARTMENT OF THE COUNTY WHERE THE LAND-
22 FILL THAT IS ACCEPTING HAZARDOUS WASTE IS LOCATED. SUCH FUNDS SHALL BE
23 PAID TO THE COUNTY ON A QUARTERLY BASIS ON OR BEFORE THE TWENTIETH DAY
24 OF THE MONTH AFTER THE END OF EACH CALENDAR QUARTER. ALL MONEYS
25 COLLECTED OR RECEIVED BY THE COUNTY PURSUANT TO THIS SECTION SHALL BE

26 CREDITED TO THE COUNTY HEALTH DEPARTMENTS. COUNTY HEALTH DEPARTMENTS
27 SHALL USE SUCH MONIES FOR ASSESSMENT OF ANY POTENTIAL HEALTH OR ENVIRON-
28 MENTAL IMPACT FROM THE LANDFILL DISPOSAL FACILITY, INCLUDING SOIL AND
29 WATER TESTING. SUCH MONIES SHALL SUPPLEMENT AND IN NO CASE SUPPLANT
30 EXISTING FUNDING.

31 S 4. Paragraphs c, d and e of subdivision 3 of section 27-0923 of the
32 environmental conservation law, paragraph c as amended by section 5 of
33 part I of chapter 577 of the laws of 2004, paragraph d as added by chap-
34 ter 512 of the laws of 1986 and paragraph e as added by chapter 423 of
35 the laws of 1990, are amended to read as follows:

36 c. [For the purpose of this section, generation of hazardous waste
37 shall not include retrieval or creation of hazardous waste which must be
38 disposed of under an order of or agreement with the department pursuant
39 to title thirteen or title fourteen of this article or under a contract
40 with the department pursuant to title five of article fifty-six of this
41 chapter.

42 d.] No portion of the special assessments collected pursuant to this
43 section shall be used for any purpose if such use, under federal law,
44 would preclude the collection of such special assessment.

45 [e.] D. Notwithstanding any provision of this section to the contrary,
46 the actual method utilized to dispose of or treat any hazardous waste
47 shall govern the determination of the rate per ton applicable under the
48 special assessments imposed by this section, even if such hazardous
49 waste was designated for removal, removed, stored or received for
50 disposal or treatment by a method different than the method actually
51 utilized. Where any such special assessment with respect to any hazard-
52 ous waste is reported and paid on the basis of a rate per ton which is
53 greater than the rate per ton applicable to the actual method utilized
54 to dispose of or treat such hazardous waste, the difference between the
55 amount reported and paid and the amount due using the rate per ton
56 applicable to the actual method utilized shall be considered an overpay-

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1 ment of such special assessment. The commissioner of taxation and
2 finance shall credit or refund such overpayment in the manner provided
3 and subject to the conditions contained in article twenty-seven of the
4 tax law, as incorporated by subdivision six of this section.

5 S 5. Paragraph b of subdivision 4 of section 27-0923 of the environ-
6 mental conservation law, as added by chapter 38 of the laws of 1985, is
7 amended to read as follows:

8 b. All [moneys] MONIES collected or received by the department of
9 taxation and finance pursuant to this section shall be deposited daily
10 to the credit of the comptroller with such responsible banks, banking
11 houses or trust companies as may be designated by the comptroller. Such
12 deposits shall be kept separate and apart from all other moneys in the
13 possession of the comptroller. The comptroller shall require adequate
14 security from all such depositories. Of the revenues collected under
15 this section, the comptroller shall retain in his hands such amounts as
16 the commissioner of taxation and finance may determine to be necessary
17 for refunds under this section and the comptroller shall pay any refunds
18 to which those liable for special assessments shall be entitled under
19 the provisions of this section. The comptroller, after reserving the
20 amount to pay such refunds, shall, on or before the tenth day of each
21 month, pay all special assessments, interest and penalties collected
22 under this section and remaining to his credit in such banks, banking
23 houses or trust companies at the close of business on the last day of
24 the preceding month into the hazardous waste remedial fund created
25 pursuant to section ninety-seven-b of the state finance law. Within
26 thirty days after each quarterly reporting date, the comptroller shall
27 certify the amount of special assessments under this section deposited
28 in the hazardous waste remedial fund during the preceding quarter and

29 the cumulative amount collected since the start of the current calendar
30 year, and shall submit such certification to the governor and the chair-
31 man of the senate finance committee and the chairman of the assembly
32 ways and means committee.
33 S 6. This act shall take effect July 1, 2010.

34 PART W

35 Section 1. The general municipal law is amended by adding a new arti-
36 cle 18-D to read as follows:

37 ARTICLE 18-D
38 EMPIRE INNOVATION ZONES

39 SECTION 971. SHORT TITLE.

40 971-A. DEFINITIONS.

41 972. JOB CREATION AND INVESTMENT REQUIREMENTS.

42 972-A. RESPONSIBILITIES OF THE COMMISSIONER.

43 973. LOCAL ADMINISTRATION.

44 S 971. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
45 THE "NEW YORK STATE EMPIRE INNOVATION ZONES ACT".

46 S 971-A. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING WORDS AND
47 TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL INDI-
48 CATE ANOTHER OR DIFFERENT MEANING OR INTENT:

49 (A) "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF ECONOMIC DEVELOP-
50 MENT.

51 (B) "INNOVATION ZONE" SHALL MEAN AN AREA WITHIN THE STATE THAT HAS BEEN
52 DESIGNATED UNDER PARAGRAPH (I) OF SUBDIVISION (A) AND SUBDIVISION (D) OF
53 SECTION NINE HUNDRED FIFTY-EIGHT OF THIS CHAPTER AND SHALL BE WHOLLY
54 CONTAINED WITHIN UP TO THREE DISTINCT AND SEPARATE CONTIGUOUS AREAS.

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1 (C) "LOCAL EMPIRE INNOVATION ZONE ADMINISTRATIVE BOARD" SHALL MEAN THE
2 SAME BOARD AS AUTHORIZED AND DEFINED PURSUANT TO SECTION NINE HUNDRED
3 FIFTY-SEVEN OF THIS CHAPTER.

4 (D) "WOMEN-OWNED BUSINESS ENTERPRISE" SHALL HAVE THE SAME MEANING AS
5 PROVIDED IN SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.

6 (E) "CHIEF EXECUTIVE" SHALL MEAN (I) A COUNTY EXECUTIVE OR MANAGER OF
7 A COUNTY; (II) IN A COUNTY NOT HAVING A COUNTY EXECUTIVE OR MANAGER, THE
8 CHAIRPERSON OR OTHER PRESIDING OFFICER OF THE COUNTY LEGISLATIVE BODY;
9 (III) A MAYOR OF A CITY OR VILLAGE, EXCEPT WHERE A CITY OR VILLAGE HAS A
10 MANAGER, IT SHALL MEAN SUCH A MANAGER; OR (IV) A SUPERVISOR OF A TOWN,
11 EXCEPT WHERE A TOWN HAS A MANAGER, IT SHALL MEAN SUCH MANAGER.

12 (F) "ZONE ADMINISTRATIVE ENTITY" SHALL MEAN A COMMUNITY-BASED LOCAL
13 DEVELOPMENT CORPORATION OR ENTITY CONTRACTING WITH THE LOCAL EMPIRE ZONE
14 BOARD PURSUANT TO SECTION NINE HUNDRED SIXTY-THREE OF THIS CHAPTER OR
15 THE MUNICIPALITY IN WHICH THE ZONE IS LOCATED IN THOSE INSTANCES WHERE
16 THE MUNICIPALITY ACTIVELY PARTICIPATES IN THE LOCAL ADMINISTRATION OF
17 THE ZONE PROGRAM.

18 (G) "STRATEGIC INDUSTRY" SHALL MEAN A BUSINESS OPERATING IN CERTAIN
19 HIGH GROWTH, HIGH TECHNOLOGY INDUSTRIES AND INDUSTRY CLUSTERS, INCLUD-
20 ING, BUT NOT LIMITED TO: BIO-TECHNOLOGY/LIFE SCIENCES, INFORMATICS,
21 NANO-TECHNOLOGY, CLEAN TECHNOLOGY, GREEN TECHNOLOGY, ALTERNATIVE ENERGY,
22 SOFTWARE DEVELOPMENT AND INTERNET PUBLISHING.

23 (H) "REGIONALLY SIGNIFICANT" SHALL MEAN A BUSINESS ENTITY ENGAGING IN
24 ECONOMIC DEVELOPMENT IMPACTING MORE THAN ONE MUNICIPALITY THAT MEETS THE
25 FOLLOWING CRITERIA: A MANUFACTURER THAT CREATES FIFTY OR MORE JOBS; OR
26 AN AGRI-BUSINESS MAKING A CAPITAL INVESTMENT OF TEN MILLION DOLLARS AND
27 CREATING TWENTY OR MORE JOBS; OR A FINANCIAL OR INSURANCE SERVICES OR
28 DISTRIBUTION CENTER CREATING THREE HUNDRED OR MORE JOBS.

29 (I) "NET NEW JOBS" SHALL MEAN JOBS CREATED IN THIS STATE THAT ARE NEW
30 TO THE STATE, HAVE NOT BEEN TRANSFERRED FROM ANOTHER LOCATION IN THIS
31 STATE OR FROM A RELATED BUSINESS ENTITY IN THIS STATE, ARE EITHER FULL

32 TIME OR FULL TIME EQUIVALENT TO A FULL TIME JOB REQUIRING AT LEAST THIR-
33 TY-FIVE HOURS PER WEEK AND ARE FILLED FOR MORE THAN SIX MONTHS.

34 S 972. JOB CREATION AND INVESTMENT REQUIREMENTS. (A) THE PROVISIONS OF
35 THIS ARTICLE SHALL BE CONSIDERED IN FULL FORCE AND EFFECT BEGINNING JULY
36 FIRST, TWO THOUSAND TEN UNTIL JUNE THIRTIETH, TWO THOUSAND SEVENTEEN AND
37 ONLY APPLY TO BUSINESS ENTITIES CERTIFIED TO BE ELIGIBLE TO PARTICIPATE
38 IN THE EMPIRE INNOVATION ZONES PROGRAM PURSUANT TO THIS ARTICLE AFTER
39 JULY FIRST, TWO THOUSAND TEN AND PRIOR TO JUNE THIRTIETH, TWO THOUSAND
40 SEVENTEEN.

41 (B) NO BUSINESS ENTITY SHALL BE CERTIFIED PURSUANT TO THIS ARTICLE
42 UNLESS SUCH ENTITY IS INCLUDED IN A STRATEGIC INDUSTRY AS DEFINED IN
43 SECTION NINE HUNDRED SEVENTY-ONE-A OF THIS ARTICLE AND CREATES A NET
44 FIVE NEW JOBS OR IS CERTIFIED AS A REGIONALLY SIGNIFICANT ENTITY AND
45 MEETS ITS NET NEW JOB AND INVESTMENT REQUIREMENTS WHERE APPLICABLE AS
46 PURSUANT TO SECTION NINE HUNDRED SEVENTY-ONE-A OF THIS ARTICLE.

47 (C) ELIGIBLE BUSINESS ENTITIES MAY APPLY TO THE COMMISSIONER UPON THE
48 RECOMMENDATION OF THE LOCAL ADMINISTRATION BOARD. THE COMMISSIONER SHALL
49 PROMULGATE REGULATIONS CONCERNING THE APPLICATION PROCESS PURSUANT TO
50 SECTION NINE HUNDRED SEVENTY-TWO-A OF THIS ARTICLE.

51 (D) IN ORDER TO BE CERTIFIED BY THE COMMISSIONER, THE BUSINESS ENTITY
52 MUST MEET THE NET NEW JOB REQUIREMENTS WITHIN TWENTY-FOUR MONTHS OF THE
53 DATE OF CERTIFICATION FOLLOWING THE BUSINESS ENTITY'S APPLICATION FOR
54 ELIGIBILITY. A BUSINESS ENTITY THAT MEETS ITS NET NEW JOB REQUIREMENT
55 WITHIN THAT TWENTY-FOUR MONTH PERIOD MUST SUBMIT PROOF OF THAT JOB
56 CREATION TO THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND PROOF OF ITS
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1 ACTUAL EXPENDITURES AND OTHER REQUIRED INFORMATION AS THE COMMISSIONER
2 MAY PRESCRIBE. TO RETAIN CERTIFICATION AND CONTINUE TO RECEIVE BENEFITS
3 PURSUANT TO THIS ARTICLE, THE BUSINESS ENTITY MUST SUBMIT TO THE DEPART-
4 MENT OF ECONOMIC DEVELOPMENT PROOF OF RETAINED NET NEW JOBS AND PROOF OF
5 QUALIFIED INVESTMENTS. NO CERTIFICATION APPROVAL SHALL TAKE PLACE UNTIL
6 THE ENTITY:

7 (1) AGREES IN WRITING TO ALLOW THE DEPARTMENT OF TAXATION AND FINANCE
8 TO SHARE ITS TAX INFORMATION WITH THE DEPARTMENT OF ECONOMIC DEVELOP-
9 MENT. HOWEVER, ANY INFORMATION SHARED AS A RESULT OF THIS AGREEMENT
10 SHALL NOT BE AVAILABLE FOR DISCLOSURE OR INSPECTION UNDER THE STATE
11 FREEDOM OF INFORMATION LAW;

12 (2) ALLOWS THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND ITS AGENTS
13 ACCESS TO ANY AND ALL BOOKS AND RECORDS THE DEPARTMENT OF ECONOMIC
14 DEVELOPMENT MAY REQUIRE TO MONITOR COMPLIANCE;

15 (3) SUBMITS THE PRIOR THREE YEARS OF FEDERAL AND NEW YORK STATE INCOME
16 OR FRANCHISE TAX RETURNS AND UNEMPLOYMENT INSURANCE QUARTERLY RETURNS TO
17 THE DEPARTMENT OF ECONOMIC DEVELOPMENT. IF THE BUSINESS ENTITY HAS BEEN
18 SUBJECT TO TAX IN THIS STATE FOR LESS THAN THREE YEARS, IT MUST SUBMIT
19 RETURNS FOR ALL THE YEARS IT HAS BEEN SUBJECT TO TAX;

20 (4) PROVIDES A PLAN TO THE COMMISSIONER OUTLINING THE CREATION OF THE
21 REQUISITE NET NEW JOBS, INCLUDING DETAILS ON JOB TITLES AND EXPECTED
22 SALARIES FOR NEW POSITIONS CREATED, AND A PLAN FOR THE SUBSEQUENT FIVE
23 YEARS, OUTLINING ANY ADDITIONAL NET NEW JOBS THAT IT PLANS TO CREATE IN
24 THE FIVE YEARS FOLLOWING CERTIFICATION;

25 (5) PROVIDES A PLAN TO THE COMMISSIONER DESCRIBING THE AMOUNT AND
26 DESCRIPTION OF PROJECTED QUALIFIED INVESTMENTS THAT IT PLANS TO MAKE
27 FOLLOWING CERTIFICATION; AND

28 (6) CERTIFIES UNDER PENALTY OF PERJURY THAT IT IS IN SUBSTANTIAL
29 COMPLIANCE WITH ALL ENVIRONMENTAL, WORKER PROTECTION AND LOCAL, STATE
30 AND FEDERAL TAX LAWS.

31 (E) ELIGIBLE BUSINESS ENTITIES CERTIFIED AFTER JULY FIRST, TWO THOU-
32 SAND TEN PURSUANT TO THIS ARTICLE AND SUBJECT TO TAX UNDER ARTICLE
33 NINE-A, TWENTY-TWO, THIRTY-TWO OR THIRTY THREE OF THE TAX LAW SHALL BE
34 ELIGIBLE TO CLAIM A CREDIT PURSUANT TO SUBDIVISION NINETEEN OF SECTION

35 TWO HUNDRED TEN OF THE TAX LAW.

36 (F) AN ELIGIBLE ENTITY CERTIFIED AS A REGIONALLY SIGNIFICANT ENTER-
37 PRISE AFTER JULY FIRST, TWO THOUSAND TEN OR A BUSINESS ENTITY IN A STRA-
38 TEGIC INDUSTRY LOCATED IN AN INNOVATION ZONE AND CERTIFIED AFTER JULY
39 FIRST, TWO THOUSAND TEN PURSUANT TO THIS ARTICLE AND SUBJECT TO TAX
40 UNDER ARTICLE NINE-A, TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE OF THE TAX
41 LAW SHALL BE ELIGIBLE TO CLAIM A CREDIT PURSUANT TO SUBDIVISION NINETEEN
42 OF SECTION TWO HUNDRED TEN OF THE TAX LAW.

43 (G) AN ENTITY CERTIFIED PURSUANT TO THIS ARTICLE AFTER JULY FIRST, TWO
44 THOUSAND TEN WHICH MEETS ITS NET NEW JOB AND INVESTMENT REQUIREMENT
45 SHALL BE ELIGIBLE TO CLAIM A CREDIT EQUAL TO TEN PERCENT OF THE PORTION
46 OF THE ENTITY'S FEDERAL RESEARCH AND DEVELOPMENT TAX CREDIT THAT RELATES
47 TO THE PARTICIPANT'S RESEARCH AND DEVELOPMENT EXPENDITURES DURING THE
48 TAXABLE YEAR.

49 (H) AN ELIGIBLE ENTITY CERTIFIED AS A REGIONALLY SIGNIFICANT ENTER-
50 PRISE AFTER JULY FIRST, TWO THOUSAND TEN OR A BUSINESS ENTITY IN A STRA-
51 TEGIC INDUSTRY LOCATED IN AN INNOVATION ZONE AND CERTIFIED AFTER JULY
52 FIRST, TWO THOUSAND TEN PURSUANT TO THIS ARTICLE SHALL BE ELIGIBLE TO
53 CLAIM A REAL PROPERTY TAX CREDIT PURSUANT TO SECTION FIFTEEN OF THE TAX
54 LAW.

55 (I) AN ELIGIBLE ENTITY CERTIFIED AS A REGIONALLY SIGNIFICANT ENTER-
56 PRISE AFTER JULY FIRST, TWO THOUSAND TEN OR AN ENTITY LOCATED IN AN
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1 INNOVATION ZONE AND CERTIFIED AFTER JULY FIRST, TWO THOUSAND TEN PURSU-
2 ANT TO THIS ARTICLE SHALL BE ELIGIBLE TO CLAIM A QUALIFIED INVESTMENT
3 TAX CREDIT ON QUALIFIED INVESTMENTS MADE DURING THE TAXABLE YEAR. THE
4 CREDIT SHALL BE EQUAL TO TEN PERCENT OF THE COST OR OTHER BASIS FOR
5 FEDERAL INCOME TAX PURPOSES OF TANGIBLE PERSONAL PROPERTY AND OTHER
6 TANGIBLE PROPERTY PURSUANT TO SUBDIVISION TWELVE-B OF SECTION TWO
7 HUNDRED TEN OF THE TAX LAW.

8 (J) A BUSINESS ENTITY CERTIFIED PURSUANT TO THIS ARTICLE WHICH MEETS
9 NET NEW JOB AND INVESTMENT REQUIREMENTS AND IS A QUALIFIED EMERGING
10 TECHNOLOGY COMPANY AS DEFINED BY PARAGRAPH (C) OF SUBDIVISION ONE OF
11 SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW SHALL BE
12 ELIGIBLE TO CLAIM A QUALIFIED EMERGING TECHNOLOGY COMPANY CREDIT PURSU-
13 ANT TO SUBDIVISION TWELVE-E OF SECTION TWO HUNDRED TEN OF THE TAX LAW.

14 (K) THE TAX CREDIT COMPONENTS ESTABLISHED IN THIS SECTION SHALL BE
15 REFUNDABLE AS PROVIDED IN THE TAX LAW. IF A CERTIFIED ENTITY FAILS TO
16 SATISFY THE ELIGIBILITY CRITERIA AND LOSES CERTIFICATION IT SHALL LOSE
17 THE ABILITY TO CLAIM THE CREDIT. THE ENTITY SHALL ONLY BE ELIGIBLE TO
18 CLAIM THE CREDIT IF THE COMMISSIONER FINDS THAT THE ENTITY HAS MET ITS
19 JOB AND INVESTMENT REQUIREMENT IN SUBSEQUENT YEARS AND THE ENTITY IS
20 RECERTIFIED. AT NO TIME SHALL THE ENTITY BE RECERTIFIED IF SUCH ENTITY
21 HAS NOT MET THE NET NEW JOBS AND INVESTMENT REQUIREMENTS AS PROVIDED IN
22 THIS SECTION.

23 (L) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, EMPLOYEES AND OFFI-
24 CERS OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE DEPARTMENT OF
25 TAXATION AND FINANCE SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND
26 EXCHANGE:

27 (1) INFORMATION DERIVED FROM TAX RETURNS OR REPORTS THAT IS RELEVANT
28 TO A TAXPAYER'S ELIGIBILITY TO PARTICIPATE IN THE EMPIRE INNOVATION
29 ZONES PROGRAM;

30 (2) INFORMATION REGARDING THE COMPONENT OR COMPONENTS OF THE CREDIT
31 APPLIED FOR, ALLOWED, OR CLAIMED PURSUANT TO THIS SECTION AND TAXPAYERS
32 WHO ARE APPLYING FOR THE CREDIT OR WHO ARE CLAIMING THE CREDIT; AND

33 (3) INFORMATION CONTAINED IN OR DERIVED FROM CREDIT CLAIM FORMS
34 SUBMITTED TO THE DEPARTMENT OF TAXATION AND FINANCE AND APPLICATIONS FOR
35 ADMISSION INTO THE EMPIRE INNOVATION ZONES PROGRAM.

36 OTHER THAN THE INFORMATION REQUIRED TO BE CONTAINED IN THE REPORT
37 ISSUED PURSUANT TO SUBDIVISION (M) OF THIS SECTION, ALL INFORMATION

38 EXCHANGED BETWEEN THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE DEPART-
39 MENT OF TAXATION AND FINANCE SHALL NOT BE SUBJECT TO DISCLOSURE OR
40 INSPECTION UNDER THE STATE'S FREEDOM OF INFORMATION LAW UNDER ARTICLE
41 SIX OF THE PUBLIC OFFICERS LAW.

42 (M) (1) THE COMMISSIONER OF TAXATION AND FINANCE SHALL PUBLISH AN
43 EMPIRE INNOVATION ZONES PROGRAM TAX CREDIT REPORT ANNUALLY BY JUNE THIR-
44 TIETH. THE FIRST REPORT MUST BE PUBLISHED BY JUNE THIRTIETH, TWO THOU-
45 SAND ELEVEN.

46 (2) THE CREDIT REPORT MUST CONTAIN THE FOLLOWING INFORMATION ABOUT THE
47 EMPIRE INNOVATION ZONE PROGRAM TAX CREDIT CLAIMED UNDER THIS CHAPTER
48 DURING THE PREVIOUS CALENDAR YEAR:

49 (I) THE NAME OF EACH TAXPAYER CLAIMING A CREDIT; PROVIDED HOWEVER, IF
50 THE TAXPAYER CLAIMS A CREDIT BECAUSE THE TAXPAYER IS A MEMBER OF A
51 LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER
52 IN A SUBCHAPTER S CORPORATION, THE NAME OF EACH LIMITED LIABILITY COMPA-
53 NY, PARTNERSHIP OR SUBCHAPTER S CORPORATION EARNING ANY OF THE CREDIT
54 MUST BE INCLUDED IN THE REPORT INSTEAD OF INFORMATION ABOUT THE TAXPAYER
55 CLAIMING THE CREDIT; AND

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1 (II) THE AMOUNT OF EACH CREDIT EARNED BY EACH TAXPAYER; PROVIDED
2 HOWEVER, IF THE TAXPAYER CLAIMS A CREDIT BECAUSE THE TAXPAYER IS A
3 MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP OR A
4 SHAREHOLDER IN A SUBCHAPTER S CORPORATION, THE AMOUNT OF CREDIT EARNED
5 BY EACH ENTITY MUST BE INCLUDED IN THE REPORT INSTEAD OF INFORMATION
6 ABOUT THE TAXPAYER CLAIMING THE CREDIT.

7 (3) THE CREDIT REPORT MAY ALSO CONTAIN ANY OTHER INFORMATION RECEIVED
8 BY THE COMMISSIONER OF TAXATION AND FINANCE WITH REGARD TO THE EMPIRE
9 INNOVATION ZONES PROGRAM TAX CREDIT THAT IS DEEMED TO BE USEFUL IN EVAL-
10 UATING THE USE OF THE CREDIT. THE INFORMATION INCLUDED IN THE CREDIT
11 REPORT WILL BE BASED ON THE INFORMATION FILED WITH THE DEPARTMENT OF
12 TAXATION AND FINANCE DURING THE PREVIOUS CALENDAR YEAR, TO THE EXTENT
13 THAT IT IS PRACTICABLE TO USE THAT INFORMATION.

14 (N) IF CERTIFICATION OF A BUSINESS ENTITY BY THE COMMISSIONER UNDER
15 SECTION NINE HUNDRED SEVENTY-TWO-A OF THIS ARTICLE IS REVOKED THE AMOUNT
16 OF CREDIT DESCRIBED IN THIS SECTION AND CLAIMED BY THE TAXPAYER PRIOR TO
17 THAT REVOCATION SHALL BE ADDED BACK TO INCOME IN THE TAXABLE YEAR IN
18 WHICH ANY SUCH REVOCATION BECOMES FINAL.

19 S 972-A. RESPONSIBILITIES OF THE COMMISSIONER. AFTER CONSULTATION WITH
20 THE DIRECTOR OF THE BUDGET, THE COMMISSIONER OF LABOR AND THE COMMIS-
21 SIONER OF TAXATION AND FINANCE, THE COMMISSIONER SHALL PROMULGATE REGU-
22 LATIONS, WHICH, NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY IN THE
23 STATE ADMINISTRATIVE PROCEDURE ACT, MAY BE ADOPTED ON AN EMERGENCY
24 BASIS, GOVERNING:

25 (A) THE CERTIFICATION BY THE COMMISSIONER AS TO THE ELIGIBILITY OF
26 BUSINESS ENTERPRISES FOR BENEFITS REFERRED TO IN SECTION NINE HUNDRED
27 SEVENTY-TWO OF THIS ARTICLE, WHICH SHALL BE GOVERNED BY CRITERIA INCLUD-
28 ING, BUT NOT LIMITED TO: (1) WHETHER SUCH BUSINESS MEETS THE REQUIRE-
29 MENTS OF THE NET NEW JOBS AND/OR THE INVESTMENT CRITERIA AS PROVIDED IN
30 SECTION NINE HUNDRED SEVENTY-TWO OF THIS ARTICLE; (2) WHETHER THE
31 COMMISSIONER OF LABOR ESTABLISHES THAT SUCH BUSINESS ENTERPRISE, DURING
32 THE THREE YEARS PRECEDING THE SUBMISSION OF AN APPLICATION FOR CERTIF-
33 ICATION, HAS ENGAGED IN A SUBSTANTIAL VIOLATION OR A PATTERN OF
34 VIOLATIONS OF LAWS REGULATING UNEMPLOYMENT INSURANCE, WORKERS' COMPEN-
35 SATION, PUBLIC WORK, CHILD LABOR, EMPLOYMENT OF MINORITIES AND WOMEN,
36 SAFETY AND HEALTH, OR OTHER LAWS FOR THE PROTECTION OF WORKERS AS DETER-
37 MINED BY FINAL JUDGMENT OF A JUDICIAL OR ADMINISTRATIVE PROCEEDING IN
38 WHICH CASE, SUCH BUSINESS SHALL NOT BE CERTIFIED; AND (3) WHETHER THE
39 COMMISSIONER OF LABOR ESTABLISHES THAT THE BUSINESS ENTERPRISE HAS BEEN
40 FOUND IN A CRIMINAL PROCEEDING TO HAVE VIOLATED, IN THE PREVIOUS THREE
41 YEARS, ANY OF THE LAWS REFERRED TO IN PARAGRAPH ONE OF THIS SUBDIVISION

42 OR REGULATIONS PROMULGATED PURSUANT TO SUCH LAWS, THE CONDITIONS OF ANY
43 PERMIT ISSUED THEREUNDER, OR SIMILAR STATUTE, REGULATION, ORDER OR
44 PERMIT CONDITION OF ANY OTHER GOVERNMENT AGENCY, FOREIGN OR DOMESTIC, IN
45 WHICH CASE, SUCH BUSINESS SHALL NOT BE CERTIFIED;

46 (B) THE DECERTIFICATION BY THE COMMISSIONER, UPON THE RECOMMENDATION
47 OF THE COMMISSIONER OF LABOR, SO AS TO REVOKE THE CERTIFICATION OF BUSI-
48 NESS ENTERPRISES FOR BENEFITS REFERRED TO IN SECTION NINE HUNDRED SEVEN-
49 TY-TWO OF THIS ARTICLE WITH RESPECT TO BUSINESS ENTERPRISES UPON A FIND-
50 ING THAT THE BUSINESS ENTERPRISE HAS COMMITTED SUBSTANTIAL VIOLATIONS OF
51 LAWS FOR THE PROTECTION OF WORKERS INCLUDING ALL FEDERAL, STATE AND
52 LOCAL LABOR LAWS, RULES OR REGULATIONS;

53 (C) THE DECERTIFICATION BY THE COMMISSIONER SO AS TO REVOKE THE
54 CERTIFICATION OF BUSINESS ENTERPRISES FOR BENEFITS REFERRED TO IN
55 SECTION NINE HUNDRED SEVENTY-TWO OF THIS ARTICLE WITH RESPECT TO A BUSI-
56 NESS ENTERPRISE UPON A FINDING OF ANY ONE OF THE FOLLOWING: (1) THE
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1 BUSINESS ENTERPRISE MADE MATERIAL MISREPRESENTATIONS OF FACT ON ITS
2 APPLICATION FOR CERTIFICATION OR IN ANY OF ITS BUSINESS ANNUAL REPORTS,
3 OR THE BUSINESS ENTERPRISE FAILED TO DISCLOSE FACTS IN ITS APPLICATION
4 FOR CERTIFICATION THAT WOULD CONSTITUTE GROUNDS FOR NOT ISSUING A
5 CERTIFICATION; (2) THE BUSINESS ENTERPRISE HAS FAILED TO CONSTRUCT,
6 EXPAND, REHABILITATE OR OPERATE OR INVEST IN ITS FACILITY SUBSTANTIALLY
7 IN ACCORDANCE WITH THE REPRESENTATIONS CONTAINED IN ITS APPLICATION FOR
8 CERTIFICATION; OR (3) THE BUSINESS ENTERPRISE HAS FAILED TO CREATE NEW
9 EMPLOYMENT OR PREVENT A LOSS THEREOF; OR

10 (D) WHERE APPLICABLE, THE BUSINESS ENTERPRISE HAS FAILED TO SUBMIT AN
11 ANNUAL REPORT AFTER IT HAS APPLIED FOR ZONE TAX BENEFITS OR PROGRAM
12 ASSISTANCE BASED ON NEW HIRES OR INVESTMENTS OR FAILED TO SUBMIT OTHER
13 INFORMATION WHEN DUE.

14 S 973. LOCAL ADMINISTRATION. (A) THE LOCAL EMPIRE INNOVATION ZONE
15 ADMINISTRATIVE BOARD SHALL BE THE SAME BOARD AS AUTHORIZED PURSUANT TO
16 SECTION NINE HUNDRED SIXTY-THREE OF THIS CHAPTER, AND SHALL:

17 (1) DEVELOP SHORT-TERM GOALS FOR ZONE ACTIVITIES ON AN ANNUAL BASIS;
18 AND

19 (2) PREPARE, OR CAUSE TO BE PREPARED, AN ANNUAL REPORT AND SUBMIT
20 COPIES TO THE DEPARTMENT OF AUDIT AND CONTROL, DEPARTMENT OF TAXATION
21 AND FINANCE, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
22 ASSEMBLY AND DEPARTMENT OF ECONOMIC DEVELOPMENT ON OR BEFORE THE FIRST
23 DAY OF JULY NEXT SUCCEEDING THE YEAR TO WHICH THE REPORT PERTAINS,
24 REGARDING EMPIRE ZONE ACTIVITIES.

25 (B) THE ANNUAL REPORT OF THE LOCAL EMPIRE INNOVATION ZONE ADMINISTRA-
26 TIVE BOARD REQUIRED BY THIS SUBDIVISION SHALL INCLUDE, BUT NOT BE LIMIT-
27 ED TO, THE FOLLOWING INFORMATION WITH RESPECT TO THE YEAR IMMEDIATELY
28 PRECEDING THE YEAR WHICH IS THE SUBJECT OF THE REPORT:

29 (1) THE NUMBER OF TAXPAYERS CLAIMING EACH OF THE TAX CREDITS OR
30 REFUNDS AS DESCRIBED IN SUBDIVISIONS (E), (F), (G), (H), (I) AND (J) OF
31 SECTION NINE HUNDRED SEVENTY-TWO OF THIS ARTICLE, TOGETHER WITH THE
32 TOTAL AMOUNT OF EACH CREDIT CLAIMED BY TAXPAYERS IN THE AGGREGATE
33 AGAINST THEIR TAXES IN THE YEAR TO WHICH THE REPORT PERTAINS, RESULTING
34 FROM TAXPAYER ACTIVITY IN THE EMPIRE INNOVATION ZONE; AND

35 (2) ANY OTHER INFORMATION REGARDING EMPIRE ZONE ACTIVITIES WHICH THE
36 DEPARTMENT OF ECONOMIC DEVELOPMENT MAY REQUIRE UPON ITS OWN REQUEST OR
37 THAT OF THE DEPARTMENT OF AUDIT AND CONTROL, DEPARTMENT OF TAXATION AND
38 FINANCE, OR THE LEGISLATIVE COMMISSION ON EXPENDITURE REVIEW.

39 (C) THE COMMISSIONER SHALL PROVIDE TO THE TEMPORARY PRESIDENT OF THE
40 SENATE, THE SPEAKER OF THE ASSEMBLY AND THE COMMISSIONER OF TAXATION AND
41 FINANCE A CONSOLIDATED STATEWIDE REPORT OF THE INFORMATION REQUIRED
42 PURSUANT TO THIS SECTION. SUCH REPORT SHALL CONTAIN AN ANALYSIS OF THE
43 PERFORMANCE OF EACH ZONE USING THE INFORMATION OBTAINED PURSUANT TO THIS
44 SECTION. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE NUMBER OF

45 JOBS CREATED, AS DERIVED FROM PARAGRAPH ONE OF SUBDIVISION (B) OF
46 SECTION FOURTEEN OF THE TAX LAW, FOR ALL BUSINESSES IN EACH ZONE, AND
47 THE NUMBER OF NEW BUSINESSES IN EACH ZONE.

48 (D) NO DESIGNATED EMPIRE INNOVATION ZONE SHALL REQUIRE OR SOLICIT
49 FUNDS FROM BUSINESSES, WHETHER CERTIFIED OR NOT, FOR USE IN THE EMPIRE
50 INNOVATION ZONES PROGRAM AS CREATED BY THIS ARTICLE. NO BUSINESS SHALL
51 BE REQUIRED TO PAY ANY FUNDS TO PARTICIPATE IN THE EMPIRE INNOVATION
52 ZONES PROGRAM.

53 (E) ALL CERTIFIED BUSINESSES ARE REQUIRED TO PROVIDE A CERTIFIED ANNU-
54 AL REPORT TO THE LOCAL ZONE ADMINISTRATION BOARD WHICH REPORT SHALL
55 INCLUDE BUT NOT BE LIMITED TO THE FOLLOWING:

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1 (1) BUSINESS CERTIFICATION INFORMATION TO INCLUDE: ORGANIZATION NAME,
2 ORGANIZATION ADDRESS IN THE ZONE, CONTACT INFORMATION, FEDERAL EMPLOY-
3 MENT ID NUMBER, NEW YORK STATE UNEMPLOYMENT INSURANCE NUMBER, STATE OF
4 FORMATION OR INCORPORATION, VERIFICATION THAT THE BUSINESS IS AUTHORIZED
5 TO CONDUCT BUSINESS IN THE STATE OF NEW YORK;

6 (2) EMPLOYMENT NUMBERS CALCULATED IN THE SAME MANNER IN WHICH THE
7 EMPLOYMENT NUMBER IS REQUIRED TO BE CALCULATED BY SECTION FOURTEEN OF
8 THE TAX LAW INCLUDING: TOTAL EXISTING FULL-TIME EQUIVALENT JOBS IN THE
9 ZONE AS OF THE DATE OF CERTIFICATION WITHIN THAT ZONE, TOTAL EXISTING
10 JOBS IN THE ZONE FOR THE YEAR FOR WHICH THE REPORT IS BEING PROVIDED,
11 TOTAL REMUNERATION PAID TO EMPLOYEES IN THE ZONE EACH QUARTER OF THE
12 REPORTED YEAR, TOTAL NUMBER OF EMPLOYEES IN ALL ZONES, TOTAL ANNUAL
13 REMUNERATION IN ALL ZONES, TOTAL ANNUAL REMUNERATION PAID IN NEW YORK
14 STATE FOR THE REPORTED YEAR, TOTAL EMPLOYMENT NUMBER IN NEW YORK STATE
15 FOR THE REPORTED YEAR AS SHOWN ON EACH BUSINESS' NYS-45 WAGE REPORTING
16 FORM FILED WITH THE DEPARTMENT OF LABOR;

17 (3) CAPITAL INVESTMENT TO INCLUDE: TOTAL INVESTMENT MADE IN THE ZONE
18 FOR THE REPORTED YEAR;

19 (4) TAX BENEFITS USED AND REFUNDED: PROVIDE AN ESTIMATION OF THE
20 AMOUNT OF THE TAX BENEFITS USED AND REFUNDED FOR THE REPORTED YEAR BY
21 THE CERTIFIED BUSINESS, OR BY THE TAXPAYERS WITHIN THE CERTIFIED BUSI-
22 NESS INCLUDING ITS SHAREHOLDERS, MEMBERS, PARTNERS OR THE OWNER OF A
23 SOLE PROPRIETORSHIP INCLUDING THE WAGE TAX CREDITS, INVESTMENT TAX CRED-
24 ITS, EMPLOYMENT INCENTIVE TAX CREDITS, REAL PROPERTY TAX CREDIT, TAX
25 REDUCTION CREDIT; AND

26 (5) THE SALES TAX CREDITS AND REFUNDS FOR THE REPORTED YEAR.

27 S 31-a. Subdivision (b) of section 15 of the tax law is amended by
28 adding a new paragraph 4 to read as follows:

29 (4) FOR A BUSINESS ENTERPRISE WHICH IS FIRST CERTIFIED UNDER ARTICLE
30 EIGHTEEN-D OF THE GENERAL MUNICIPAL LAW ON OR AFTER JULY FIRST, TWO
31 THOUSAND TEN, THE CREDIT ALLOWED SHALL BE FOR A PERIOD OF FIVE YEARS AND
32 SHALL NOT EXCEED FIFTY PERCENT OF THE ELIGIBLE REAL PROPERTY TAXES PAID
33 IN THE FIRST TAXABLE YEAR OF ELIGIBILITY. IN THE REMAINING YEARS THE
34 MAXIMUM CREDIT SHALL BE REDUCED ACCORDING TO THE FOLLOWING SCHEDULE:

35 YEAR 2: 40% OF ELIGIBLE REAL PROPERTY TAXES
36 YEAR 3: 30% OF ELIGIBLE REAL PROPERTY TAXES
37 YEAR 4: 20% OF ELIGIBLE REAL PROPERTY TAXES
38 YEAR 5: 10% OF ELIGIBLE REAL PROPERTY TAXES.

39 S 2. The tax law is amended by adding a new section 31 to read as
40 follows:

41 S 31. EMPIRE INNOVATION ZONES. (A) ELIGIBLE BUSINESS ENTITIES CERTI-
42 FIED AFTER JULY FIRST, TWO THOUSAND TEN PURSUANT TO ARTICLE EIGHTEEN-D
43 OF THE GENERAL MUNICIPAL LAW AND SUBJECT TO TAX UNDER ARTICLE NINE-A,
44 TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER SHALL BE ALLOWED
45 A WAGE TAX CREDIT PURSUANT TO SUBSECTION NINETEEN OF SECTION TWO HUNDRED
46 TEN OF THIS CHAPTER.

47 (B) ELIGIBLE BUSINESS ENTITIES CERTIFIED AFTER JULY FIRST, TWO THOU-
48 SAND TEN PURSUANT TO ARTICLE EIGHTEEN-D OF THE GENERAL MUNICIPAL LAW AND

49 SUBJECT TO TAX UNDER ARTICLE NINE-A, TWENTY-TWO, THIRTY-TWO OR
50 THIRTY-THREE OF THIS CHAPTER SHALL BE ALLOWED A CREDIT EQUAL TO TEN
51 PERCENT OF THE PORTION OF THE TAXPAYER'S FEDERAL RESEARCH AND DEVELOP-
52 MENT TAX CREDIT THAT RELATES TO THE ENTITY'S RESEARCH AND DEVELOPMENT
53 EXPENDITURES DURING THE APPLICABLE YEAR.

54 (C) ELIGIBLE BUSINESS ENTITIES CERTIFIED AS A REGIONALLY SIGNIFICANT
55 ENTERPRISE AND/OR LOCATED IN AN EMPIRE INNOVATION ZONE AND CERTIFIED
56 AFTER JULY FIRST, TWO THOUSAND TEN PURSUANT TO ARTICLE EIGHTEEN-D OF THE
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1 GENERAL MUNICIPAL LAW AND SUBJECT TO TAX UNDER ARTICLE NINE-A,
2 TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER SHALL BE ELIGIBLE
3 TO CLAIM A QUALIFIED INVESTMENT TAX CREDIT ON QUALIFIED INVESTMENTS MADE
4 DURING THE TAXABLE YEAR. THE CREDIT SHALL BE EQUAL TO TEN PERCENT OF THE
5 COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF TANGIBLE PERSONAL
6 PROPERTY AND OTHER TANGIBLE PROPERTY PURSUANT TO SUBDIVISION TWELVE-B OF
7 SECTION TWO HUNDRED TEN OF THIS CHAPTER.

8 (D) QUALIFIED INVESTMENT TAX CREDIT. AN ELIGIBLE ENTITY CERTIFIED AS A
9 REGIONALLY SIGNIFICANT ENTERPRISE AFTER JULY FIRST, TWO THOUSAND TEN OR
10 AN ENTITY LOCATED IN AN EMPIRE INNOVATION ZONE AND CERTIFIED AFTER JULY
11 FIRST, TWO THOUSAND TEN PURSUANT TO THIS SECTION SHALL BE ELIGIBLE TO
12 CLAIM A QUALIFIED INVESTMENT TAX CREDIT ON QUALIFIED INVESTMENTS MADE
13 DURING THE TAXABLE YEAR. THE CREDIT SHALL BE EQUAL TO TEN PERCENT OF THE
14 COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF TANGIBLE PERSONAL
15 PROPERTY AND OTHER TANGIBLE PROPERTY PURSUANT TO SUBDIVISION TWELVE-B OF
16 SECTION TWO HUNDRED TEN OF THIS CHAPTER.

17 (E) BUSINESS ENTITIES CERTIFIED PURSUANT TO THIS SECTION WHICH MEETS
18 ITS NET NEW JOB AND INVESTMENT REQUIREMENT AND IS A QUALIFIED EMERGING
19 TECHNOLOGY COMPANY AS DEFINED BY SECTION THIRTY-ONE HUNDRED TWO-E OF THE
20 PUBLIC AUTHORITIES LAW SHALL BE ELIGIBLE TO CLAIM A QUALIFIED EMERGING
21 TECHNOLOGY COMPANY CREDIT PURSUANT TO SUBDIVISION TWELVE-E OF SECTION
22 TWO HUNDRED TEN OF THIS CHAPTER.

23 S 3. Section 210 of the tax law is amended by adding a new subdivision
24 41 to read as follows:

25 41. EMPIRE INNOVATION ZONE PROGRAM TAX CREDIT. (A) ALLOWANCE OF CRED-
26 IT. A TAXPAYER WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN
27 SECTION THIRTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS
28 ARTICLE.

29 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
30 FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
31 THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF
32 SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT
33 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
34 SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE
35 YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED
36 IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF
37 THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF
38 SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO
39 INTEREST WILL BE PAID THEREON.

40 S 4. Section 606 of the tax law is amended by adding a new subsection
41 (qq) to read as follows:

42 (QQ) EMPIRE INNOVATION ZONE PROGRAM TAX CREDIT. (1) A TAXPAYER WILL BE
43 ALLOWED A CREDIT, TO THE EXTENT ALLOWED UNDER SECTION THIRTY-ONE OF THIS
44 CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

45 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER
46 THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH
47 YEAR, THE EXCESS WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED
48 OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED
49 EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST WILL BE
50 PAID THEREON.

51 S 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606

52 of the tax law is amended by adding a new clause (xxxi) to read as
53 follows:

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1 (XXXI) EMPIRE INNOVATION ZONE	
2 PROGRAM TAX	AMOUNT OF CREDIT UNDER SUBDIVISION
3 CREDIT UNDER SUBSECTION (QQ)	FORTY-ONE OF SECTION TWO HUNDRED TEN

4 S 6. Section 1456 of the tax law is amended by adding a new subsection
5 (u) to read as follows:

6 (U) EMPIRE INNOVATION ZONE PROGRAM TAX CREDIT. (1) ALLOWANCE OF CRED-
7 IT. A TAXPAYER WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN
8 SECTION THIRTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS
9 ARTICLE.

10 (2) THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR WILL
11 NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED
12 BY PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-
13 FIVE OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER
14 THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY
15 AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREAT-
16 ED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE
17 WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER.
18 PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOU-
19 SAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE
20 PAID THEREON.

21 S 7. Section 1511 of the tax law is amended by adding a new subdivi-
22 sion (y) to read as follows:

23 (Y) EMPIRE INNOVATION ZONE PROGRAM TAX CREDIT. (1) ALLOWANCE OF CRED-
24 IT. A TAXPAYER WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN
25 SECTION THIRTY-ONE OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY THIS
26 ARTICLE.

27 (2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
28 FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
29 THAN THE MINIMUM TAX FIXED BY THIS ARTICLE. HOWEVER, IF THE AMOUNT OF
30 CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE
31 TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH
32 TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
33 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
34 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
35 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
36 NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

37 S 8. This act shall take effect July 1, 2010.

38 PART X

39 Section 1. Paragraph 1 of subsection (oo) of section 606 of the tax
40 law, as amended by chapter 239 of the laws of 2009, is amended to read
41 as follows:

42 (1) (A) For taxable years beginning on or after January first, two
43 thousand ten AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, [any
44 person, firm, partnership, limited liability company, corporation or
45 other business entity] A TAXPAYER shall be allowed a credit as herein-
46 after provided, against the tax imposed by this article, in an amount
47 equal to one hundred percent of the amount of credit allowed the taxpay-
48 er [for the same taxable year] with respect to a certified historic
49 structure under subsection [(c)] (A) (2) of section 47 of the federal
50 internal revenue code with respect to a certified historic structure
51 located within the state. Provided, however, the credit shall not
52 exceed five million dollars. FOR TAXABLE YEARS BEGINNING ON OR AFTER
53 JANUARY FIRST, TWO THOUSAND FIFTEEN, A TAXPAYER SHALL BE ALLOWED A CRED-

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1 IT AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN
2 AN AMOUNT EQUAL TO THIRTY PERCENT OF THE AMOUNT OF CREDIT ALLOWED THE
3 TAXPAYER WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE UNDER SUBSECTION
4 (A)(2) OF SECTION 47 OF THE FEDERAL INTERNAL REVENUE CODE WITH RESPECT
5 TO A CERTIFIED HISTORIC STRUCTURE LOCATED WITHIN THE STATE; PROVIDED,
6 HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.

7 (B) IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER OF
8 A NEW YORK S CORPORATION, THEN THE CREDIT CAP IMPOSED IN SUBPARAGRAPH
9 (A) OF THIS PARAGRAPH SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE
10 AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH
11 SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED THE CREDIT CAP THAT IS
12 APPLICABLE IN THAT TAXABLE YEAR.

13 S 2. Subparagraphs (A) and (B) of paragraph 2 of subsection (pp) of
14 section 606 of the tax law, as amended by chapter 239 of the laws of
15 2009, are amended to read as follows:

16 (A) With respect to any particular residence of a taxpayer, the credit
17 allowed under paragraph one of this subsection shall not exceed fifty
18 thousand dollars FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST,
19 TWO THOUSAND TEN AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN AND
20 TWENTY-FIVE THOUSAND DOLLARS FOR TAXABLE YEARS BEGINNING ON OR AFTER
21 JANUARY FIRST, TWO THOUSAND FIFTEEN. In the case of a husband and wife,
22 the amount of the credit shall be divided between them equally or in
23 such other manner as they may both elect. If a taxpayer incurs qualified
24 rehabilitation expenditures in relation to more than one residence in
25 the same year, the total amount of credit allowed under paragraph one of
26 this subsection for all such expenditures shall not exceed [twenty-five]
27 FIFTY thousand dollars FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY
28 FIRST, TWO THOUSAND TEN AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN
29 AND TWENTY-FIVE THOUSAND DOLLARS FOR TAXABLE YEARS BEGINNING ON OR AFTER
30 JANUARY FIRST, TWO THOUSAND FIFTEEN.

31 (B) [If] FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO
32 THOUSAND TEN AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, IF the
33 amount of credit allowable under this subsection shall exceed the
34 taxpayer's tax for such year, and the taxpayer's New York adjusted gross
35 income for such year does not exceed sixty thousand dollars, the excess
36 shall be treated as an overpayment of tax to be credited or refunded in
37 accordance with the provisions of section six hundred eighty-six of this
38 article, provided, however, that no interest shall be paid thereon. If
39 the taxpayer's New York adjusted gross income for such year exceeds
40 sixty thousand dollars, the excess credit that may be carried over to
41 the following year or years and may be deducted from the taxpayer's tax
42 for such year or years. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY
43 FIRST, TWO THOUSAND FIFTEEN, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER
44 THIS SUBSECTION SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE
45 EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE
46 DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

47 S 3. Paragraphs 1, 3 and 4 of subdivision 40 of section 210 of the tax
48 law, as amended by chapter 239 of the laws of 2009, are amended to read
49 as follows:

50 (1) (A) For taxable years beginning on or after January first, two
51 thousand ten AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, [any
52 person, firm, partnership, limited liability company, corporation or
53 other business entity] A TAXPAYER shall be allowed a credit as herein-
54 after provided, against the tax imposed by this article, in an amount
55 equal to one hundred percent of the amount of credit allowed the taxpay-
56 er [for the same taxable year] with respect to a certified historic

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1 structure under subsection [(c)] (A) (2) of section 47 of the federal
2 internal revenue code with respect to a certified historic structure

3 located within the state. Provided, however, the credit shall not
4 exceed five million dollars. FOR TAXABLE YEARS BEGINNING ON OR AFTER
5 JANUARY FIRST, TWO THOUSAND FIFTEEN, A TAXPAYER SHALL BE ALLOWED A CRED-
6 IT AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN
7 AN AMOUNT EQUAL TO THIRTY PERCENT OF THE AMOUNT OF CREDIT ALLOWED THE
8 TAXPAYER WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE UNDER SUBSECTION
9 (A)(2) OF SECTION 47 OF THE FEDERAL INTERNAL REVENUE CODE WITH RESPECT
10 TO A CERTIFIED HISTORIC STRUCTURE LOCATED WITHIN THE STATE. PROVIDED,
11 HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.

12 (B) IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN
13 A NEW YORK S CORPORATION, THEN THE CREDIT CAPS IMPOSED IN SUBPARAGRAPH
14 (A) OF THIS PARAGRAPH SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE
15 AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH
16 SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED THE CREDIT CAP THAT IS
17 APPLICABLE IN THAT TAXABLE YEAR.

18 (3) If the credit allowed the taxpayer pursuant to section 47 of the
19 internal revenue code with respect to a qualified rehabilitation is
20 recaptured pursuant to subsection (a) of section 50 of the internal
21 revenue code, a portion of the credit allowed under this subsection must
22 be added back in the same taxable year and in the same proportion as
23 [such credit] THE FEDERAL RECAPTURE.

24 (4) [If] THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE
25 YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER
26 OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE
27 OF THIS SECTION. HOWEVER, IF the amount of the credit allowable under
28 this subdivision for any taxable year shall exceed the taxpayer's tax
29 for such year, the excess may be carried over to the following year or
30 years, and may be [applied] DEDUCTED from the taxpayer's tax for such
31 year or years.

32 S 4. Subdivision 40 of section 210 of the tax law, as amended by chap-
33 ter 239 of the laws of 2009, is amended by adding a new paragraph 5 to
34 read as follows:

35 (5) TO BE ELIGIBLE FOR THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION,
36 THE REHABILITATION PROJECT SHALL BE IN WHOLE OR IN PART A TARGETED AREA
37 RESIDENCE WITHIN THE MEANING OF SECTION 143(J) OF THE INTERNAL REVENUE
38 CODE OR LOCATED WITHIN A CENSUS TRACT WHICH IS IDENTIFIED AS BEING AT OR
39 BELOW ONE HUNDRED PERCENT OF THE STATE MEDIAN FAMILY INCOME IN THE MOST
40 RECENT FEDERAL CENSUS.

41 S 5. Section 1456 of the tax law is amended by adding a new subsection
42 (u) to read as follows:

43 (U) CREDIT FOR REHABILITATION OF HISTORIC PROPERTIES. (1)(A) FOR TAXA-
44 BLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN AND
45 BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, A TAXPAYER SHALL BE ALLOWED
46 A CREDIT AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTI-
47 CLE, IN AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE AMOUNT OF CREDIT
48 ALLOWED THE TAXPAYER WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE
49 UNDER SUBSECTION (A)(2) OF SECTION 47 OF THE FEDERAL INTERNAL REVENUE
50 CODE WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE LOCATED WITHIN THE
51 STATE. PROVIDED, HOWEVER, THE CREDIT SHALL NOT EXCEED FIVE MILLION
52 DOLLARS. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO
53 THOUSAND FIFTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER
54 PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO
55 THIRTY PERCENT OF THE AMOUNT OF CREDIT ALLOWED THE TAXPAYER WITH RESPECT
56 TO A CERTIFIED HISTORIC STRUCTURE UNDER SUBSECTION (A)(2) OF SECTION 47

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1 OF THE FEDERAL INTERNAL REVENUE CODE WITH RESPECT TO A CERTIFIED HISTOR-
2 IC STRUCTURE LOCATED WITHIN THE STATE. PROVIDED, HOWEVER, THE CREDIT
3 SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.

4 (B) IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER OF
5 A NEW YORK S CORPORATION, THEN THE CREDIT CAPS IMPOSED IN SUBPARAGRAPH

6 (A) OF THIS PARAGRAPH SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE
7 AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH
8 SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED THE CREDIT CAP THAT IS
9 APPLICABLE IN THAT TAXABLE YEAR.

10 (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBSECTION SHALL BE ALLOWED
11 IN THE TAXABLE YEAR THAT THE QUALIFIED REHABILITATION IS PLACED IN
12 SERVICE UNDER SECTION 167 OF THE FEDERAL INTERNAL REVENUE CODE.

13 (3) IF THE CREDIT ALLOWED THE TAXPAYER PURSUANT TO SECTION 47 OF THE
14 INTERNAL REVENUE CODE WITH RESPECT TO A QUALIFIED REHABILITATION IS
15 RECAPTURED PURSUANT TO SUBSECTION (A) OF SECTION 50 OF THE INTERNAL
16 REVENUE CODE, A PORTION OF THE CREDIT ALLOWED UNDER THIS SUBSECTION MUST
17 BE ADDED BACK IN THE SAME TAXABLE YEAR AND IN THE SAME PROPORTION AS THE
18 FEDERAL RECAPTURE.

19 (4) THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR
20 SHALL NOT REDUCE THE TAX TO LESS THAN THE DOLLAR AMOUNT FIXED AS A MINI-
21 MUM TAX BY SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS
22 ARTICLE. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR
23 ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, THE EXCESS MAY BE
24 CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM
25 THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

26 (5) TO BE ELIGIBLE FOR THE CREDIT ALLOWABLE UNDER THIS SUBSECTION THE
27 REHABILITATION PROJECT SHALL BE IN WHOLE OR IN PART A TARGETED AREA
28 RESIDENCE WITHIN THE MEANING OF SECTION 143(J) OF THE INTERNAL REVENUE
29 CODE OR LOCATED WITHIN A CENSUS TRACT WHICH IS IDENTIFIED AS BEING AT OR
30 BELOW ONE HUNDRED PERCENT OF THE STATE MEDIAN FAMILY INCOME IN THE MOST
31 RECENT FEDERAL CENSUS.

32 S 6. Section 1511 of the tax law is amended by adding a new subsection
33 (y) to read as follows:

34 (Y) CREDIT FOR REHABILITATION OF HISTORIC PROPERTIES. (1)(A) FOR TAXA-
35 BLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN AND
36 BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, A TAXPAYER SHALL BE ALLOWED
37 A CREDIT AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTI-
38 CLE, IN AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE AMOUNT OF CREDIT
39 ALLOWED THE TAXPAYER WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE
40 UNDER SUBSECTION (A)(2) OF SECTION 47 OF THE FEDERAL INTERNAL REVENUE
41 CODE WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE LOCATED WITHIN THE
42 STATE. PROVIDED, HOWEVER, THE CREDIT SHALL NOT EXCEED FIVE MILLION
43 DOLLARS. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO
44 THOUSAND FIFTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER
45 PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO
46 THIRTY PERCENT OF THE AMOUNT OF CREDIT ALLOWED THE TAXPAYER WITH RESPECT
47 TO A CERTIFIED HISTORIC STRUCTURE UNDER SUBSECTION (A)(2) OF SECTION 47
48 OF THE FEDERAL INTERNAL REVENUE CODE WITH RESPECT TO A CERTIFIED HISTOR-
49 IC STRUCTURE LOCATED WITHIN THE STATE. PROVIDED, HOWEVER, THE CREDIT
50 SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.

51 (B) IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP, THEN THE CAP
52 IMPOSED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE APPLIED AT THE
53 ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS
54 OF SUCH PARTNERSHIP IN THE TAXABLE YEAR DOES NOT EXCEED THE CREDIT CAP
55 THAT IS APPLICABLE IN THAT TAXABLE YEAR.

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1 (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBSECTION SHALL BE ALLOWED
2 IN THE TAXABLE YEAR THAT THE QUALIFIED REHABILITATION IS PLACED IN
3 SERVICE UNDER SECTION 167 OF THE FEDERAL INTERNAL REVENUE CODE.

4 (3) IF THE CREDIT ALLOWED THE TAXPAYER PURSUANT TO SECTION 47 OF THE
5 INTERNAL REVENUE CODE WITH RESPECT TO A QUALIFIED REHABILITATION IS
6 RECAPTURED PURSUANT TO SUBSECTION (A) OF SECTION 50 OF THE INTERNAL
7 REVENUE CODE, A PORTION OF THE CREDIT ALLOWED UNDER THIS SUBSECTION IN
8 THE TAXABLE YEAR THE CREDIT WAS CLAIMED MUST BE ADDED BACK IN THE SAME
9 TAXABLE YEAR AND IN THE SAME PROPORTION AS THE FEDERAL RECAPTURE.

10 (4) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
11 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM
12 FIXED BY PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION FIFTEEN HUNDRED
13 TWO OR SECTION FIFTEEN HUNDRED TWO-A OF THIS ARTICLE, WHICHEVER IS
14 APPLICABLE. IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION
15 FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, THE EXCESS MAY BE
16 CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM
17 THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

18 (5) TO BE ELIGIBLE FOR THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION,
19 THE REHABILITATION PROJECT SHALL BE IN WHOLE OR IN PART A TARGETED AREA
20 RESIDENCE WITHIN THE MEANING OF SECTION 143(J) OF THE INTERNAL REVENUE
21 CODE OR LOCATED WITHIN A CENSUS TRACT WHICH IS IDENTIFIED AS BEING AT OR
22 BELOW ONE HUNDRED PERCENT OF THE STATE MEDIAN FAMILY INCOME IN THE MOST
23 RECENT FEDERAL CENSUS.

24 S 7. Section 5 of chapter 239 of the laws of 2009 amending the tax law
25 and other laws relating to providing a tax credit for the rehabilitation
26 of historic properties, is amended to read as follows:

27 S 5. This act shall take effect immediately and shall apply to taxable
28 years beginning on and after January 1, 2010 [and shall expire and be
29 deemed repealed December 31, 2014; provided, however, that the credit
30 shall be applied to any rehabilitation project commenced on or before
31 the date on which that act shall be deemed repealed].

32 S 8. This act shall take effect immediately.

33 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
34 sion, section or part of this act shall be adjudged by any court of
35 competent jurisdiction to be invalid, such judgment shall not affect,
36 impair, or invalidate the remainder thereof, but shall be confined in
37 its operation to the clause, sentence, paragraph, subdivision, section
38 or part thereof directly involved in the controversy in which such judg-
39 ment shall have been rendered. It is hereby declared to be the intent of
40 the legislature that this act would have been enacted even if such
41 invalid provisions had not been included herein.

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