KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

McKinney's Consolidated Laws of New York Annotated
Tax Law (Refs & Annos)
Chapter Sixty. Of the Consolidated Laws
Article 22. Personal Income Tax (Refs & Annos)
Part I. General

McKinney's Tax Law § 606

§ 606. Credits against tax

Effective: April 12, 2018

Currentness

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

Column 1	Column 2
After December 31, 1968 and prior to January 1, 1974	one per cent
After December 31, 1973 and prior to January 1, 1978	two per cent
After December 31, 1977 and prior to January 1, 1979	three per cent
After December 31, 1978 and prior to June 1, 1981	four per cent
After May 31, 1981 and prior to July 1, 1982	five per cent

After June 30, 1982 and before January 1, 1987	six per cent
After December 31, 1986	four per cent, except that in the case of research and development property the applicable percentage shall be seven

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

(2)(A) A credit shall be allowed under this subsection with respect to tangible personal property and other tangible property, including buildings and structural components of buildings, which are: depreciable pursuant to section one hundred sixty-seven of the internal revenue code, have a useful life of four years or more, are acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code, have a situs in this state and are (i) principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing, (ii) industrial waste treatment facilities or air pollution control facilities, used in the taxpayer's trade or business, (iii) research and development property, (iv) principally used in the ordinary course of the taxpayer's trade or business as a broker or dealer in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of stocks, bonds or other securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code, or of commodities as defined in section 475(e) of the Internal Revenue Code, (v) principally used in the ordinary course of the taxpayer's trade or business of providing investment advisory services for a regulated investment company as defined in section eight hundred fifty-one of the Internal Revenue Code, or lending, loan arrangement or loan origination services to customers in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code, or (vi) principally used as a qualified film production facility including qualified film production facilities having a situs in an empire zone designated as such pursuant to article eighteen-B of the general municipal law, where the taxpayer is providing three or more services to any qualified film production company using the facility, including such services as a studio lighting grid, lighting and grip equipment, multi-line phone service, broadband information technology access, industrial scale electrical capacity, food services, security services, and heating, ventilation and air conditioning. For purposes of clauses (iv) and (v) of this subparagraph, property purchased by a taxpayer affiliated with a regulated broker, dealer, or registered investment adviser is allowed a credit under this subsection if the property is used by its affiliated regulated broker, dealer or registered investment adviser in accordance with this subsection. For purposes of determining if the property is principally used in qualifying uses, the uses by the taxpayer described in clauses (iv) and (v) of this subparagraph may be aggregated. In addition, the uses by the taxpayer, its affiliated regulated broker, dealer and registered investment adviser under either or both of those clauses may be aggregated. Provided, however, a taxpayer shall not be allowed the credit provided by clauses (iv) and (v) of this subparagraph unless (I) eighty percent or more of the employees performing the administrative and support functions resulting from or related to the qualifying uses of such equipment are located in this state, or (II) the average number of employees that perform the administrative and support functions resulting from or related to the qualifying uses of such equipment and are located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety-five percent of the average number of employees that perform these functions and are located in this state during the thirty-six months immediately preceding the year for which the credit is claimed, or (III) the number of employees located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety percent of the number of employees located in this state on December thirty-first,

nineteen hundred ninety-eight or, if the taxpayer was not a calendar year taxpayer in nineteen hundred ninety-eight, the last day of its first taxable year ending after December thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes subject to tax in this state after the taxable year beginning in nineteen hundred ninety-eight, then the taxpayer is not required to satisfy the employment test provided in the preceding sentence of this subparagraph for its first taxable year. For the purposes of clause (III) of this subparagraph the employment test will be based on the number of employees located in this state on the last day of the first taxable year the taxpayer is subject to tax in this state. If the uses of the property must be aggregated to determine whether the property is principally used in qualifying uses, then either each affiliate using the property must satisfy this employment test or this employment test must be satisfied through the aggregation of the employees of the taxpayer, its affiliated regulated broker, dealer, and registered investment adviser using the property. For purposes of clause (i) of this subparagraph, tangible personal property and other tangible property shall not include property principally used by the taxpayer in the production or distribution of electricity, natural gas after extraction from wells, steam, or water delivered through pipes and mains.

(B) For purposes of this paragraph, the following definitions shall apply:

(i) Manufacturing shall mean the process of working raw materials into wares suitable for use or which gives new shapes, new quality or new combinations to matter which already has gone through some artificial process by the use of machinery, tools, appliances and other similar equipment. Property used in the production of goods shall include machinery, equipment or other tangible property which is principally used in the repair and service of other machinery, equipment or other tangible property used principally in the production of goods and shall include all facilities used in the production operation, including storage of material to be used in production and of the products that are produced.

(ii) Research and development property shall mean property which is used for purposes of research and development in the experimental or laboratory sense. Such purposes shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions, or research in connection with literary, historical or similar projects.

(iii) Industrial waste treatment facilities shall mean property constituting facilities for the treatment, neutralization or stabilization of industrial waste and other wastes (as the terms “industrial waste” and “other wastes” are defined in section 17-0105 of the environmental conservation law) from a point immediately preceding the point of such treatment, neutralization or stabilization to the point of disposal, including the necessary pumping and transmitting facilities, but excluding such facilities installed for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable.

(iv) Air pollution control facilities shall mean property constituting facilities which remove, reduce, or render less noxious air contaminants emitted from an air contamination source (as the terms “air contaminant” and “air contamination source” are defined in section 19-0107 of the environmental conservation law) from a point immediately preceding the point of such removal, reduction or rendering to the point of discharge of air, meeting emission standards as established by the department of environmental conservation, but excluding such facilities installed for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable and excluding those facilities which rely for their efficacy on dilution, dispersion or assimilation of air contaminants in the ambient air after emission. Such term shall further include flue gas desulfurization equipment and attendant sludge disposal facilities, fluidized bed boilers, precombustion coal cleaning facilities or other facilities that conform with this subsection and which comply with the provisions of the State Acid Deposition Control Act set forth in title nine of article nineteen of the environmental conservation law.

(v) For purposes of this paragraph, the terms “qualified film production facility” and “qualified film production company” shall have the same meaning as in section twenty-four of this chapter.

(C) However, such credit shall be allowed with respect to industrial waste treatment facilities and air pollution control facilities only on condition that such facilities have been certified by the state commissioner of environmental conservation or his designated representative, pursuant to subdivision one of section 17-0707 or subdivision one of section 19-0309 of the environmental conservation law, as complying with applicable provisions of the environmental conservation law, the public health law, the state sanitary code and codes, rules, regulations, permits or orders issued pursuant thereto.

(3) A taxpayer shall not be allowed a credit under this subsection with respect to any property described in clause (i) of subparagraph (B) of paragraph two hereof if such property qualifies for the modification allowed under either paragraph three or paragraph four of subsection (g) of section six hundred twelve whether or not such amount shall have been subtracted. Provided, however, with respect to property which qualifies for a modification under either clause (A), (B) or (C) of paragraph four of subsection (g) because such property was ordered on or before December thirty-first, nineteen hundred sixty-eight, but with respect to which no expenditure has been paid or incurred at such date, the taxpayer may elect to subtract the amount allowable under clauses (A), (B) or (C) or may take the credit provided by this subsection, but not both.

(4) A taxpayer shall not be allowed a credit under this subsection with respect to tangible personal property and other tangible property, including buildings and structural components of buildings, which it leases to any other person or corporation except where a taxpayer leases property to an affiliated regulated broker, dealer, or registered investment adviser that uses such property in accordance with clause (iv) or (v) of subparagraph (A) of paragraph two of this subsection. For purposes of the preceding sentence, any contract or agreement to lease or rent or for a license to use such property shall be considered a lease. Provided, however, in determining whether a taxpayer shall be allowed a credit under this subsection with respect to such property, any election made with respect to such property pursuant to the provisions of paragraph eight of subsection (f) of section one hundred sixty-eight of the internal revenue code,[6] as such paragraph was in effect for agreements entered into prior to January first, nineteen hundred eighty-four, shall be disregarded. For purposes of this paragraph, the use of a qualified film production facility by a qualified film production company shall not be considered a lease of such facility to such company.

(5) If the amount of credit allowable under this subsection for any taxable year shall exceed the taxpayer’s tax for such year, the excess allowed for a taxable year commencing prior to January first, nineteen hundred eighty-seven may be carried over to the following year or years and may be deducted from the taxpayer’s tax for such year or years, but in no event shall such credit be carried over to taxable years commencing on or after January first, nineteen hundred ninety-seven, and any amount of credit allowed for a taxable year commencing on or after January first, nineteen hundred eighty-seven and not deductible in such year may be carried over to the ten taxable years next following such taxable year and may be deducted from the taxpayer’s tax for such year or years. In lieu of carrying over any such excess, a taxpayer who qualifies as an owner of a new business for purposes of paragraph ten of this subsection may, at his option, receive such excess as a refund. Any refund paid pursuant to this paragraph shall be deemed to be a refund of an overpayment of tax as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(6) At the option of the taxpayer for taxable years commencing prior to January first, nineteen hundred eighty-seven, air or water pollution control facilities which qualify for elective modifications under subsection (h) of section six hundred twelve, or research and development facilities which qualify for elective modifications under paragraphs two and four of subsection

(g) of section six hundred twelve may be treated as property principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing, provided the property otherwise qualifies under paragraph two of this subsection, in which event, a modification shall not be allowed under such subsection (h) and under such paragraphs two and four of subsection (g).

(7)(A) With respect to property which is depreciable pursuant to section one hundred sixty-seven of the internal revenue code[2] but is not subject to the provisions of section one hundred sixty-eight of such code[6] and which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in this subsection which represents the ratio which the months of qualified use bear to the months of useful life. If property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back in the year of disposition. Provided, however, if such property is disposed of or ceases to be in qualified use after it has been in qualified use for more than twelve consecutive years, it shall not be necessary to add back the credit as provided in this subparagraph. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to the months of useful life. For purposes of this subparagraph, useful life of property shall be the same as the taxpayer uses for depreciation purposes when computing his federal income tax liability.

(B) Except with respect to that property to which subparagraph (D) of this paragraph applies, with respect to three-year property, as defined in subsection (e) of section one hundred sixty-eight of the internal revenue code,[6] which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in this subsection which represents the ratio which the months of qualified use bear to thirty-six. If property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of thirty-six months, the difference between the credit taken and the credit allowed for actual use must be added back in the year of disposition. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to thirty-six.

(C) Except with respect to that property to which subparagraph (D) of this paragraph applies, with respect to property subject to the provisions of section one hundred sixty-eight of the internal revenue code,[6] other than three-year property as defined in subsection (e) of such section one hundred sixty-eight which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in this subsection which represents the ratio which the months of qualified use bear to sixty. If property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of sixty months, the difference between the credit taken and the credit allowed for actual use must be added back in the year of disposition. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to sixty.

(D) With respect to any property to which section one hundred sixty-eight of the internal revenue code[6] applies, which is a building or a structural component of a building and which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in this subsection which represents the ratio which the months of qualified use bear to the total number of months over which the taxpayer chooses to deduct the property under the internal revenue code.[7] If property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of the period over which the taxpayer chooses to deduct the property under the internal revenue code, the difference between the credit taken and the credit allowed for actual use must be added back in the year of disposition. Provided, however, if such property is disposed of or ceases to be in qualified use after it has been in qualified use for more than twelve consecutive years, it shall not be necessary to add back the credit as provided in this subparagraph. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to the total number of months over which the taxpayer chooses to

deduct the property under the internal revenue code.

(E) For purposes of this paragraph, property (i) which is described in subparagraph (B), (C) or (D) of this paragraph, and (ii) which is subject to paragraph twenty-six of subsection (c) and paragraph twenty-five of subsection (b) of section six hundred twelve of this chapter, shall be treated as property which is depreciable pursuant to section one hundred sixty-seven of the internal revenue code[2] but is not subject to section one hundred sixty-eight of such code.[6]

(F) For purposes of this paragraph, where a credit is allowed with respect to an air pollution control facility on the basis of a certificate of compliance issued pursuant to the environmental conservation law and the certificate is revoked pursuant to subdivision three of section 19-0309 of the environmental conservation law, such revocation shall constitute a disposal or cessation of qualified use, unless such facility is described in clause (i) or (iii) of subparagraph (A) of paragraph two of this subsection. Also for purposes of this subparagraph, the use of an air pollution control facility or an industrial waste treatment facility for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable shall constitute a cessation of qualified use, unless such facility is described in clause (i) or (iii) of subparagraph (A) of paragraph two of this subsection.

(G) For taxable years commencing on or after January first, nineteen hundred eighty-seven, the amount required to be added back pursuant to this paragraph shall be augmented by an amount equal to the product of such amount and the underpayment rate of interest (without regard to compounding), set by the commissioner pursuant to subsection (j) of section six hundred ninety-seven, in effect on the last day of the taxable year.

(H) If, as of the close of the taxable year, there is a net increase with respect to the taxpayer in the amount of nonqualified nonrecourse financing (within the meaning of section 46(c)(8) of the internal revenue code[1]) with respect to any property with respect to which the credit under this subsection was limited based on attributable nonqualified nonrecourse financing, then an amount equal to the decrease in such credit which would have resulted from reducing, by the amount of such net increase, the cost or other basis taken into account with respect to such property must be added back in such taxable year. The amount of nonqualified nonrecourse financing shall not be treated as increased by reason of a transfer of (or agreement to transfer) any evidence of an indebtedness if such transfer occurs (or such agreement is entered into) more than one year after the date such indebtedness was incurred.

(8) Repealed by L.1987, c. 28, § 11, eff. April 20, 1987.

(9) Repealed by L.1984, c. 606, § 6, eff. July 27, 1984.

(10) For purposes of paragraph five of this subsection, an individual who is either a sole proprietor or a member of a partnership shall qualify as an owner of a new business unless:

(A) the business of which the individual is an owner is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under section one hundred eighty-three, one hundred eighty-four or former section one hundred eighty-five former section of article nine; article nine-A or thirty-three of this chapter; article twenty-three of this

chapter or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty), article thirty-two of this chapter or which would have been subject to tax under such article thirty-two (as such article was in effect on December thirty-first, two thousand fourteen) or the income (or losses) of which is (or was) includable under article twenty-two of this chapter whereby the intent and purpose of this paragraph and paragraph five of this subsection with respect to refunding of credit to new business would be evaded; or

(B) the individual has operated such new business entity in this state for more than five taxable years (excluding short years of the business).

(11) Retail enterprise tax credit. A retail enterprise, not eligible to claim the credit under paragraph one of this subsection, but eligible to claim the credit allowable under section thirty-eight of the internal revenue code[8] pursuant solely to the provisions of subparagraph (E) of paragraph one of subsection (a) of section forty-eight of such code,[9] shall be allowed a credit as hereinafter computed. The amount of the credit shall be the percentage appearing in paragraph one of this subsection for the periods described therein for the amount of qualified rehabilitation expenditures, as defined in subsection (g) of section forty-eight of such code, paid or incurred with respect to a qualified rehabilitated building, as defined in such subsection (g), located in this state and such expenditures shall be further limited to only the portion thereof paid or incurred with respect to that part of a qualified rehabilitated building employed by such taxpayer in the retail sales activity of such retail enterprise. For the purposes of this subsection, the term "retail enterprise" means a taxpayer which is: (A) a registered vendor under article twenty-eight of this chapter, (B) primarily engaged in the retail sale, as the term "retail sale" is defined in subparagraph (i) of paragraph four of subdivision (b) of section eleven hundred one of this chapter, of tangible personal property, and (C) otherwise eligible for the credit allowed pursuant to section thirty-eight of the internal revenue code.

(12) Rehabilitation credit for historic barns. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article. The amount of the credit shall be twenty-five percent of the taxpayer's qualified rehabilitation expenditures, as defined in paragraph two of subsection (c) of section forty-seven of the internal revenue code,[10] which qualify as the basis for the credit provided for under paragraph one of subsection (b) of section thirty-eight of such code[8] by reason of subsection one of section forty-six of such code,[1] paid or incurred with respect to any barn located in this state which is a qualified rehabilitated building, as such term is defined in paragraph one of subsection (c) of such section forty-seven. For purposes of this paragraph, the term "barn" means a building originally designed and used for storing farm equipment or agricultural products, or for housing livestock. Provided, however, such qualified rehabilitation expenditures shall not include any such expenditures which are included, directly or indirectly, in the computation of a credit claimed by the taxpayer pursuant to paragraph one of this subsection. Provided further that no rehabilitation credit shall be allowed for any rehabilitation of a barn which, immediately prior to the commencement of such rehabilitation, was used for residential purposes, or which converts a barn not suitable for residential purposes into one which is so suitable, nor shall a rehabilitation credit be allowed for any rehabilitation that materially alters the historic appearance of the barn.

(13)(A)(i) If a taxpayer is required by paragraph seven of this subsection to add back a portion of the credit taken because property was destroyed or ceased to be in qualified use as a direct result of the September eleventh, two thousand one terrorist attacks, such taxpayer may elect to defer the amount to be recaptured for all such property to the taxable year next succeeding the taxable year in which the destruction or cessation of qualified use occurred. The taxable year in which the destruction or cessation of qualified use occurred shall be hereinafter referred to as the "recapture event taxable year". If the taxpayer's total employment number in the state on the last day of the taxable year next succeeding the recapture event taxable year is a significant percentage of the taxpayer's average total employment number in the state for the taxpayer's recapture event taxable year and the two taxable years immediately preceding the recapture event taxable year, then the taxpayer shall not be required to recapture any credit with respect to such property. If the taxpayer's total employment

number in the state on the last day of the taxable year next succeeding the recapture event taxable year is not a significant percentage of the taxpayer's average total employment number in the state for the taxpayer's recapture event taxable year and the two taxable years immediately preceding the recapture event taxable year, the taxpayer shall be required to recapture the portion of the credit taken under this subsection, as required by paragraph seven of this subsection, for all of its property destroyed or which ceased to be in qualified use as a direct result of the September eleventh, two thousand one terrorist attacks. The amount required to be recaptured shall be augmented as required pursuant to subparagraph (G) of paragraph seven of this subsection by using an interest rate equal to two times the rate of interest specified in such subparagraph seven applicable for the taxable year in which the recapture occurs.

(ii) The taxpayer's total employment number shall include all employees of the taxpayer employed full-time by the taxpayer in the state. The average total employment number for the recapture event taxable year and the two taxable years immediately preceding the recapture event taxable year shall be computed by determining the taxpayer's total employment number on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September and the thirty-first day of December during the applicable taxable years, adding together the number of such individuals determined to be so employed on each of such dates and dividing the sum so obtained by the number of such dates occurring within such applicable taxable years. However, in the case of the taxable year which included September eleventh, two thousand one, the average total employment number for such taxable year shall be determined by using the total employment number on September first, two thousand one in lieu of September thirtieth, two thousand one and, if such taxable year included December thirty-first, two thousand one, by excluding the total employment number on December thirty-first, two thousand one.

(B) In lieu of subparagraph (A) of this paragraph, a taxpayer may elect to recapture the portion of the credit taken under this subsection, as required by paragraph seven of this subsection, for all of its property destroyed or which ceased to be in qualified use as a direct result of the September eleventh, two thousand one terrorist attacks, in the taxable year in which the destruction or cessation of qualified use occurred. If the taxpayer makes such election and acquires property (hereinafter referred to as "replacement property") to replace any property destroyed as a direct result of the September eleventh, two thousand one terrorist attacks (regardless of when such property was placed in service and whether a credit was claimed on that property pursuant to this subsection), and such replacement property is similar or related in service or use to such destroyed property, the investment credit base of the replacement property shall be determined without regard to any basis reduction required pursuant to section 1033 of the internal revenue code.[11]

(C) The election made by the taxpayer under subparagraph (A) or (B) of this paragraph shall be made in the manner and form prescribed by the commissioner.

(D) A taxpayer, over fifty percent of whose employees died as a direct result of the September eleventh, two thousand one terrorist attacks, may make the election provided for in subparagraph (A) of this paragraph, and shall not be required to recapture any credit with respect to property which was destroyed or which ceased to be in qualified use as a direct result of such attacks, whether or not it meets the employment test specified in clause (i) of subparagraph (A) of this paragraph.

(a-1) Employment incentive credit (EIC). (1)(A) Where a taxpayer is allowed a credit under subsection (a) of this section, other than at the optional rate applicable to research and development property, the taxpayer shall be allowed a credit for each of the two years next succeeding the taxable year for which the credit under such subsection (a) is allowed with respect to such property, whether or not deductible in such taxable year or in subsequent taxable years pursuant to paragraph five of subsection (a) of this section. Provided, however, that the credit allowable under this subsection for any taxable year shall be allowed only if the average number of employees during such taxable year is at least one hundred one percent of the average number of employees during the employment base year. The employment base year shall be the taxable year immediately preceding the taxable year for which the credit under such subsection (a) is allowed except that in the case of a new business,

the employment base year shall be the taxable year in which the credit under such subsection (a) is allowed.

(B) The amount of the credit allowed under this subsection shall be as set forth in the following table:

Average number of employees during the taxable year expressed as a percentage of average number of employees in employment base year:	**Credit allowed under this subsection expressed as a percentage of the applicable investment credit base:**
Less than 102%	1.5%
at least 102% and less than 103%	2%
at least 103%	2.5%

(2) The average number of employees in a taxable year shall be computed by ascertaining the number of employees within the state employed by the taxpayer on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September and the thirty-first day of December in the taxable year, by adding together the number of employees ascertained on each of such dates and dividing the sum so obtained by the number of such abovementioned dates occurring within the taxable year. For the purposes of this subsection, the term "employees within the state" shall not include, except with respect to the employment base year, any employee with respect to whom a credit provided for under subsection (k) of this section is claimed for the taxable year, based on employment within a zone equivalent area designated as such pursuant to article eighteen-B of the general municipal law.

(3) If the amount of credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess allowed for a taxable year may be carried over to the ten taxable years next following such taxable year and may be deducted from the taxpayer's tax for such year or years. In lieu of carrying over any such excess, a taxpayer who qualifies as an owner of a new business for purposes of paragraph ten of subsection (a) of this section may, at his or her option, receive such excess as a refund. Any refund paid pursuant to this paragraph shall be deemed to be a refund of an overpayment of tax as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(a-2) Hire a vet credit. (1) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand twenty-one, a taxpayer shall be allowed a credit, to be computed as provided in this subsection, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subsection, the taxpayer may not use the hiring of a qualified veteran that is the basis for this credit in the basis of any other credit allowed under this article.

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

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

(B) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand twenty; and

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

(3) Employer prohibition. An employer shall not discharge an employee and hire a qualifying veteran solely for the purpose of qualifying for this credit.

(4) Amount of credit. The amount of the credit shall be ten percent of the total amount of wages paid to he[12] qualified veteran during the veteran's first full year of employment. Provided, however, that, if the qualified veteran is a disabled veteran, as defined in paragraph (b) of subdivision one of section eighty-five of the civil service law, the amount of the credit shall be fifteen percent of the total amount of wages paid to the qualified veteran during the veteran's first full year of employment. The credit allowed pursuant to this subsection shall not exceed in any taxable year, five thousand dollars for any qualified veteran and fifteen thousand dollars for any qualified veteran who is a disabled veteran.

(5) Carryover. If the amount of credit allowable under this subsection for any taxable year exceeds the taxpayer's tax for such year, any amount of credit not deductible in such taxable year may be carried over to the following three years and may be deducted from the taxpayer's tax for such year or years.

(b) Household credit. (1) A household credit shall be allowed against the tax determined under subsections (a) through (d) of section six hundred one of this article. The credit, computed as described in paragraph two of this subsection, shall not exceed the tax determined under subsections (a) through (d) of section six hundred one for the taxable year, reduced by the credits permitted under sections six hundred twenty and six hundred twenty-one of this article.

(2)(A) For any individual who is not married nor the head of a household nor a surviving spouse, the amount of the credit allowed pursuant to this subsection for taxable years beginning on or after January first, nineteen hundred eighty-six shall be determined in accordance with the following table:

If household gross income is	The credit shall be
Not over $5,000	$75.00
Over $5,000 but not over $6,000	60.00
Over $6,000 but not over $7,000	50.00
Over $7,000 but not over $20,000	45.00
Over $20,000 but not over $25,000	40.00
Over $25,000 but not over $28,000	20.00

(B) For any husband and wife, head of a household, or surviving spouse, the amount of the credit allowed pursuant to this subsection for taxable years beginning on or after January first, nineteen hundred eighty-six shall be determined in accordance with the following table:

If household gross income is	The credit shall be
Not over $5,000	$90.00 plus an amount equal to $15.00 multiplied by a number which is one less than the number of exemptions for which the taxpayer (or in the case of a husband and wife, taxpayers) is entitled to a deduction for the taxable year for federal income tax purposes under subsections (b) and (c) of section one hundred fifty-one of the internal revenue code[13]
Over $5,000 but not over $6,000	$75.00 plus such an amount
Over $6,000 but not over $7,000	$65.00 plus such an amount

Over $7,000 but not over $20,000	$60.00 plus such an amount
Over $20,000 but not over $22,000	$60.00 plus an amount equal to $10.00 multiplied by a number which is one less than the number of exemptions for which the taxpayer (or in the case of a husband and wife, taxpayers) is entitled to a deduction for the taxable year for federal income tax purposes under subsections (b) and (c) of section one hundred fifty-one of the internal revenue code[13]
Over $22,000 but not over $25,000	$50.00 plus such an amount
Over $25,000 but not over $28,000	$40.00 plus an amount equal to $5.00 multiplied by a number which is one less than the number of exemptions for which the taxpayer (or in the case of a husband and wife, taxpayers) is entitled to a deduction for the taxable year for federal income tax purposes under subsections (b) and (c) of section one hundred fifty-one of the internal revenue code[13]
Over $28,000 but not over $32,000	$20.00 plus such an amount

(3) For the purposes of this subsection:

(A) "Household gross income" shall mean the aggregate federal adjusted gross income of a household, as the term household is defined in subparagraph (B) of this paragraph, for the taxable year.

(B) "Household" means a husband and wife, a head of household, a surviving spouse, or an individual who is not married nor the head of a household nor a surviving spouse nor a taxpayer with respect to whom a deduction under subsection (c) of section one hundred fifty-one of the internal revenue code[13] is allowable to another taxpayer for the taxable year.

(C) "Household gross income of a husband and wife" shall be the aggregate of their federal adjusted gross incomes for the taxable year irrespective of whether joint or separate New York income tax returns are filed. Provided, however, that a husband or wife who is required to file a separate New York income tax return shall be permitted one-half the credit otherwise allowed his or her household, except as limited by paragraph one of this subsection.

(c) Credit for certain household and dependent care services necessary for gainful employment. (1) A taxpayer shall be allowed a credit as provided herein equal to the applicable percentage of the credit allowable under section twenty-one of the internal revenue code[14] for the same taxable year (without regard to whether the taxpayer in fact claimed the credit under such section twenty-one for such taxable year). The applicable percentage shall be the sum of (i) twenty percent and (ii) a multiplier multiplied by a fraction. For taxable years beginning in nineteen hundred ninety-six and nineteen hundred

ninety-seven, the numerator of such fraction shall be the lesser of (i) four thousand dollars or (ii) fourteen thousand dollars less the New York adjusted gross income for the taxable year, provided, however, the numerator shall not be less than zero. For the taxable year beginning in nineteen hundred ninety-eight, the numerator of such fraction shall be the lesser of (i) thirteen thousand dollars or (ii) thirty thousand dollars less the New York adjusted gross income for the taxable year, provided, however, the numerator shall not be less than zero. For taxable years beginning in nineteen hundred ninety-nine, the numerator of such fraction shall be the lesser of (i) fifteen thousand dollars or (ii) fifty thousand dollars less the New York adjusted gross income for the taxable year, provided, however, the numerator shall not be less than zero. For taxable years beginning after nineteen hundred ninety-nine, the numerator of such fraction shall be the lesser of (i) fifteen thousand dollars or (ii) sixty-five thousand dollars less the New York adjusted gross income for the taxable year, provided, however, the numerator shall not be less than zero. The denominator of such fraction shall be four thousand dollars for taxable years beginning in nineteen hundred ninety-six and nineteen hundred ninety-seven, thirteen thousand dollars for the taxable year beginning in nineteen hundred ninety-eight, and fifteen thousand dollars for taxable years beginning after nineteen hundred ninety-eight. The multiplier shall be ten percent for taxable years beginning in nineteen hundred ninety-six, forty percent for taxable years beginning in nineteen hundred ninety-seven, and eighty percent for taxable years beginning after nineteen hundred ninety-seven. Provided, however, for taxable years beginning after nineteen hundred ninety-nine, for a person whose New York adjusted gross income is less than forty thousand dollars, such applicable percentage shall be equal to (i) one hundred percent, plus (ii) ten percent multiplied by a fraction whose numerator shall be the lesser of (i) fifteen thousand dollars or (ii) forty thousand dollars less the New York adjusted gross income for the taxable year, provided such numerator shall not be less than zero, and whose denominator shall be fifteen thousand dollars. Provided, further, that if the reversion event, as defined in this paragraph, occurs, the applicable percentage shall, for taxable years ending on or after the date on which the reversion event occurred, be determined using the rules specified in this paragraph applicable to taxable years beginning in nineteen hundred ninety-nine. The reversion event shall be deemed to have occurred on the date on which federal action, including but not limited to, administrative, statutory or regulatory changes, materially reduces or eliminates New York state's allocation of the federal temporary assistance for needy families block grant, or materially reduces the ability of the state to spend federal temporary assistance for needy families block grant funds for the credit for certain household and dependent care services necessary for gainful employment or to apply state general fund spending on the credit for certain household and dependent care services necessary for gainful employment toward the temporary assistance for needy families block grant maintenance of effort requirement, and the commissioner of the office of temporary and disability assistance shall certify the date of such event to the commissioner, the director of the division of the budget, the speaker of the assembly and the temporary president of the senate.

(1-a) For taxable years beginning after two thousand seventeen, for a taxpayer with New York adjusted gross income of at least fifty thousand dollars but less than one hundred fifty thousand dollars, the applicable percentage shall be the applicable percentage otherwise computed under paragraph one of this subsection multiplied by a factor as follows:

If New York adjusted gross income is:	The factor is:
At least $50,000 and less than $55,000	1.1682
At least $55,000 and less than $60,000	1.2733
At least $60,000 and less than $65,000	2.322
At least $65,000 and less than $150,000	3.000

(1-b) Notwithstanding anything in this subsection to the contrary, a taxpayer shall be allowed a credit as provided in this subsection equal to the applicable percentage of the credit allowable under section twenty-one of the internal revenue code for the same taxable year (without regard to whether the taxpayer in fact claimed the credit under such section twenty-one for such taxable year) that would have been allowed absent the application of section 21(c) of such code for taxpayers with more than two qualifying individuals, provided however, that the credit shall be calculated as if the dollar limit on amount creditable shall not exceed seven thousand five hundred dollars if there are three qualifying individuals, eight thousand five hundred dollars if there are four qualifying individuals, and nine thousand dollars if there are five or more qualifying individuals.

(2) Residents. In the case of a resident taxpayer, the credit under this subsection shall be allowed against the taxes imposed by this article for the taxable year reduced by the credits permitted by this article. If the credit exceeds the tax as so reduced, the taxpayer may receive, and the comptroller, subject to a certificate of the commissioner, shall pay as an overpayment, without interest, the amount of such excess.

(3) Nonresidents. In the case of a nonresident taxpayer, the credit under this subsection shall be allowed against the tax determined under subsections (a) through (d) of section six hundred one. The amount of the credit shall not exceed the tax determined under such subsections for the taxable year reduced by the credit permitted under subsection (b) of this section.

(4) Part-year residents. In the case of a part-year resident taxpayer, the credit under this subsection shall be allowed against the tax determined under subsections (a) through (d) of section six hundred one reduced by the credit permitted under subsection (b) of this section, and any excess credit after such application shall be allowed against the tax imposed by section six hundred three. Any remaining excess, after such application, shall be refunded as provided in paragraph two hereof, provided, however, that any overpayment under such paragraph shall be limited to the amount of the remaining excess multiplied by a fraction, the numerator of which is federal adjusted gross income for the period of residence, computed as if the taxable year for federal income tax purposes were limited to the period of residence, and the denominator of which is federal adjusted gross income for the taxable year.

(5) In the case of a husband and wife who file a joint federal return, but who are required to determine their New York taxes separately, the credit allowed pursuant to this subsection may only be applied against the tax imposed on the spouse with the lower taxable income, computed without regard to such credit. In the case of a husband and wife who are not required to file a federal return, the credit under this subsection shall be allowed only if such taxpayers file a joint New York income tax return.

(c-1) Empire state child credit. (1) A resident taxpayer shall be allowed a credit as provided herein equal to the greater of one hundred dollars times the number of qualifying children of the taxpayer or the applicable percentage of the child tax credit allowed the taxpayer under section twenty-four of the internal revenue code[15] for the same taxable year for each qualifying child. Provided, however, in the case of a taxpayer whose federal adjusted gross income exceeds the applicable threshold amount set forth by section 24(b)(2) of the Internal Revenue Code, the credit shall only be equal to the applicable percentage of the child tax credit allowed the taxpayer under section 24 of the Internal Revenue Code for each qualifying child. For the purposes of this subsection, a qualifying child shall be a child who meets the definition of qualified child under section 24(c) of the internal revenue code and is at least four years of age. The applicable percentage shall be thirty-three percent. For purposes of this subsection, any reference to section 24 of the Internal Revenue Code shall be a reference to such section as it existed immediately prior to the enactment of Public Law 115-97.

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

(3) In the case of a husband and wife who file a joint federal return, but who are required to determine their New York taxes separately, the credit allowed pursuant to this subsection may be applied against the tax imposed of either or divided between them as they may elect.

(d) Earned income credit. (1) General. A taxpayer shall be allowed a credit as provided herein equal to (i) the applicable percentage of the earned income credit allowed under section thirty-two of the internal revenue code[16] for the same taxable year, (ii) reduced by the credit permitted under subsection (b) of this section.

The applicable percentage shall be (i) seven and one-half percent for taxable years beginning in nineteen hundred ninety-four, (ii) ten percent for taxable years beginning in nineteen hundred ninety-five, (iii) twenty percent for taxable years beginning after nineteen hundred ninety-five and before two thousand, (iv) twenty-two and one-half percent for taxable years beginning in two thousand, (v) twenty-five percent for taxable years beginning in two thousand one, (vi) twenty-seven and one-half percent for taxable years beginning in two thousand two, and (vii) thirty percent for taxable years beginning in two thousand three and thereafter. Provided, however, that if the reversion event, as defined in this paragraph, occurs, the applicable percentage shall be twenty percent for taxable years ending on or after the date on which the reversion event occurred. The reversion event shall be deemed to have occurred on the date on which federal action, including but not limited to, administrative, statutory or regulatory changes, materially reduces or eliminates New York state's allocation of the federal temporary assistance for needy families block grant, or materially reduces the ability of the state to spend federal temporary assistance for needy families block grant funds for the earned income credit or to apply state general fund spending on the earned income credit toward the temporary assistance for needy families block grant maintenance of effort requirement, and the commissioner of the office of temporary and disability assistance shall certify the date of such event to the commissioner of taxation and finance, the director of the division of the budget, the speaker of the assembly and the temporary president of the senate.

(2) Residents. In the case of a resident taxpayer, the credit under this subsection shall be allowed against the taxes imposed by this article for the taxable year reduced by the credits permitted by this article. If the credit exceeds the tax as so reduced, the taxpayer may receive, and the comptroller, subject to a certificate of the commissioner, shall pay as an overpayment, without interest, the amount of such excess.

(3) Nonresidents. In the case of a nonresident taxpayer, the credit under this subsection shall be allowed against the tax determined under subsections (a) through (d) of section six hundred one. The amount of the credit shall not exceed the tax determined under such subsections for the taxable year reduced by the credits permitted under subsections (b), (c) and (m) of this section.

(4) Part-year residents. In the case of a part-year resident taxpayer, the credit under this subsection shall be allowed against the tax determined under subsections (a) through (d) of section six hundred one reduced by the credits permitted under subsections (b), (c) and (m) of this section, and any excess credit after such application shall be allowed against the tax imposed by section six hundred three. Any remaining excess, after such application, shall be refunded as provided in paragraph two hereof, provided, however, that any overpayment under such paragraph shall be limited to the amount of the

remaining excess multiplied by a fraction, the numerator of which is federal adjusted gross income for the period of residence, computed as if the taxable year for federal income tax purposes were limited to the period of residence, and the denominator of which is federal adjusted gross income for the taxable year.

(5) Husband and wife. In the case of a husband and wife who file a joint federal return but who are required to determine their New York taxes separately, the credit allowed pursuant to this subsection may be applied against the tax of either or divided between them as they may elect.

(6) Notification. The commissioner shall periodically, but not less than every three years, make efforts to alert taxpayers that may be currently eligible to receive the credit provided under this subsection, and the credit provided under any local law enacted pursuant to subsection (f) of section thirteen hundred ten of this chapter, as to their potential eligibility. In making the determination of whether a taxpayer may be eligible for such credit, the commissioner shall use such data as may be appropriate and available, including, but not limited to, data available from the United States Department of Treasury, Internal Revenue Service and New York state income tax returns for preceding tax years.

(7) Reports. The commissioner shall prepare a preliminary written report after July thirty-first and a final written report after December thirty-first of each calendar year, which shall contain statistical information regarding the credits granted on or before such dates under this subsection, and under any local law enacted pursuant to subsection (f) of section thirteen hundred ten of this chapter, during such calendar year. Copies of these reports shall be submitted by such commissioner to the governor, the temporary president of the senate, the speaker of the assembly, the chairman of the senate finance committee and the chairman of the assembly ways and means committee within sixty days of July thirty-first with respect to the preliminary report, and within forty-five days of December thirty-first with respect to the final report, and copies of such reports with respect to credits under any local law enacted pursuant to subsection (f) of section thirteen hundred ten of this chapter shall be submitted in addition to the mayor and the speaker of the council of the city where such a local law is in effect. Such reports shall contain, but need not be limited to, the number of credits and the average amount of such credits allowed; and of those, the number of credits and the average amount of such credits allowed to taxpayers in each county; and of those, the number of credits and the average amount of such credits allowed to taxpayers whose earned income falls within ranges, determined by the commissioner, of not more than four thousand dollars; and of those, the number of credits and the average amount of such credits allowed to taxpayers who file under the different statuses set forth in subsections (a), (b) and (c) of section six hundred one of this part; and of those, the number of credits and the average amount of such credits allowed to taxpayers whose number of qualifying children falls within the categories set forth in such section thirty-two of the internal revenue code.[16]

(d-1) Enhanced earned income tax credit. (1) A taxpayer described in paragraph two of this subsection shall be allowed a credit equal to the greater of:

(A) twenty percent of the amount of the earned income tax credit that would have been allowed to the taxpayer under section 32 of the internal revenue code,[16] absent the application of section 32(b)(2)(B) of such code, if the child or children described in subparagraph (C) of paragraph two of this subsection satisfied the requirements for a qualifying child set forth in section 32(c)(3) of such code, provided however, that the credit shall be calculated as if the taxpayer had only one child; or

(B) the product of two and one-half and the amount of the earned income tax credit that would have been allowed to the taxpayer under section 32 of the internal revenue code,[16] if the taxpayer satisfied the eligibility requirements set forth in

section 32(c)(1)(A)(ii) of such code.

(2) To be allowed a credit under this subsection, a taxpayer must satisfy all of the following qualifications.

(A) The taxpayer must be a resident taxpayer.

(B) The taxpayer must have attained the age of eighteen.

(C) The taxpayer must be the parent of a minor child or children with whom the taxpayer does not reside.

(D) The taxpayer must have an order requiring him or her to make child support payments, which are payable through a support collection unit established pursuant to section one hundred eleven-h of the social services law, which order must have been in effect for at least one-half of the taxable year.

(E) The taxpayer must have paid an amount in child support in the taxable year at least equal to the amount of current child support due during the taxable year for every order requiring him or her to make child support payments.

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

(4) No claim for credit under this subsection shall be allowed unless the department has verified, from information provided by the office of temporary and disability assistance, that a taxpayer has satisfied the qualifications set forth in subparagraphs (C), (D) and (E) of paragraph two of this subsection. The office of temporary and disability assistance shall provide to the department by January fifteenth of each year information applicable for the immediately preceding tax year necessary for the department to make such verification. Such information shall be provided in the manner and form agreed upon by the department and such office. If a taxpayer's claim for a credit under this subsection is disallowed because the taxpayer has not satisfied the qualifications set forth in subparagraphs (C), (D) and (E) of paragraph two of this subsection, the taxpayer may request a review of those qualifications by the support collection unit established pursuant to section one hundred eleven-h of the social services law through which the child support payments were payable. The support collection unit shall transmit the result of that review to the office of temporary and disability assistance on a form developed by such office. Such office shall then transmit such result to the department in a manner agreed upon by the department and such office.

(5) A taxpayer shall not be allowed multiple credits under this subsection for a taxable year even if such taxpayer has more than one child or has more than one order requiring him or her to make child support payments.

(6) If a credit is allowed under this subsection and the taxpayer is also allowed a credit under subsection (d) of this section, the taxpayer shall only be allowed to claim one credit.

(7) In the report prepared pursuant to paragraph seven of subsection (d) of this section, the commissioner shall include statistical information concerning the credit allowed pursuant to this subsection. Such information shall be limited to the number of credits and the average amount of such credits allowed; and of those, the number of credits and the average amounts of such credits allowed to taxpayers in each county.

(8) In a report prepared by the commissioner and submitted to the office of temporary and disability assistance, the department shall include information concerning the credit allowed pursuant to this subsection indicating whether or not taxpayers identified by the office of temporary and disability assistance pursuant to paragraph four of this subsection filed an income tax return, filed for a credit, received a credit, and the amount of any such credit. Any individual taxpayer information furnished by the department pursuant to this section shall be deemed confidential and may not be disclosed to any third party and the office of temporary and disability assistance is prohibited from using the individual taxpayer information except for the purpose of analyzing the impact of the credit and its effect on child support payments.

(e) Real property tax circuit breaker credit. (1) For purposes of this subsection:

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

(B) "Household" or "members of the household" means a qualified taxpayer and all other persons, not necessarily related, who have the same residence and share its furnishings, facilities and accommodations. Such terms shall not include a tenant, subtenant, roomer or boarder who is not related to the qualified taxpayer in any degree specified in subparagraphs (A) through (G) of paragraph two of subsection (d) of section one hundred fifty-two of the internal revenue code.[17] Provided, however, no person may be a member of more than one household at one time.

(c)[18] "Household gross income" means the aggregate adjusted gross income of all members of the household for the taxable year as reported for federal income tax purposes, or which would be reported as adjusted gross income if a federal income tax return were required to be filed, with the modifications in subsection (b) of section six hundred twelve but without the modifications in subsection (c) of such section, plus any portion of the gain from the sale or exchange of property otherwise excluded from such amount; earned income from sources without the United States excludable from federal gross income by section nine hundred eleven of the internal revenue code;[19] support money not included in adjusted gross income; nontaxable strike benefits; supplemental security income payments; the gross amount of any pension or annuity benefits to the extent not included in such adjusted gross income (including, but not limited to, railroad retirement benefits and all payments received under the federal social security act[20] and veterans' disability pensions); nontaxable interest received from the state of New York, its agencies, instrumentalities, public corporations, or political subdivisions (including a public corporation created pursuant to agreement or compact with another state or Canada); workers' compensation; the gross amount of "loss-of-time" insurance; and the amount of cash public assistance and relief, other than medical assistance for the needy, paid to or for the benefit of the qualified taxpayer or members of his household. Household gross income shall not include surplus foods or other relief in kind or payments made to individuals because of their status as victims of Nazi persecution as defined in P.L. 103-286.[21] Provided, further, household gross income shall only include all such income received by all members of the household while members of such household.

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

(E) "Qualifying real property taxes" means all real property taxes, special ad valorem levies and special assessments, exclusive of penalties and interest, levied on the residence of a qualified taxpayer and paid during the taxable year less the credit claimed under subsection (n-1) of this section. In addition, for taxable years beginning after December thirty-first, nineteen hundred eighty-four, a qualified taxpayer may elect to include any additional amount that would have been levied in the absence of an exemption from real property taxation pursuant to section four hundred sixty-seven of the real property tax law. If tenant-stockholders in a cooperative housing corporation have met the requirements of section two hundred sixteen of the internal revenue code[22] by which they are allowed a deduction for real estate taxes, the amount of taxes so allowable, or which would be allowable if the taxpayer had filed returns on a cash basis, shall be qualifying real property taxes. If a residence is owned by two or more individuals as joint tenants or tenants in common, and one or more than one individual is not a member of the household, qualifying real property taxes is that part of such taxes on the residence which reflects the ownership percentage of the qualified taxpayer and members of his household. If a residence is an integral part of a larger unit, qualifying real property taxes shall be limited to that amount of such taxes paid as may be reasonably apportioned to such residence. If a household owns and occupies two or more residences during different periods in the same taxable year, qualifying real property taxes shall be the sum of the prorated qualifying real property taxes attributable to the household during the periods such household occupies each of such residences. If the household owns and occupies a residence for part of the taxable year and rents a residence for part of the same taxable year, it may include both the proration of qualifying real property taxes on the residence owned and the real property tax equivalent with respect to the months the residence is rented. Provided, however, for purposes of the credit allowed under this subsection, qualifying real property taxes may be included by a qualified taxpayer only to the extent that such taxpayer or the spouse of such taxpayer occupying such residence for six months or more of the taxable year owns or has owned the residence and paid such taxes.

(F) "Real property tax equivalent" means twenty-five percent of the adjusted rent actually paid in the taxable year by a household solely for the right of occupancy of its New York residence for the taxable year. If (i) a residence is rented to two or more individuals as cotenants, or such individuals share in the payment of a single rent for the right of occupancy of such residence, and (ii) each of such individuals is a member of a different household, one or more of which individuals shares such residence, real property tax equivalent is that portion of twenty-five percent of the adjusted rent paid in the taxable year which reflects that portion of the rent attributable to the qualified taxpayer and the members of his household.

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

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

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

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

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

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

(2) A qualified taxpayer shall be allowed a credit as provided in paragraph three hereof against the taxes imposed by this article reduced by the credits permitted by this article. If the credit exceeds the tax as so reduced for such year under this article the qualified taxpayer may receive, and the comptroller, subject to a certificate of the state tax commission, shall pay as an overpayment, without interest, any excess between such tax as so reduced and the amount of the credit. If a qualified taxpayer is not required to file a return pursuant to section six hundred fifty-one, a qualified taxpayer may nevertheless receive and the comptroller, subject to a certificate of the state tax commission, shall pay as an overpayment the full amount of the credit, without interest.

(3) Determination of credit. (A) For qualified taxpayers who have attained the age of sixty-five years before the beginning of or during the taxable year the amount of the credit allowable under this subsection shall be fifty percent, or in the case of a qualified taxpayer who has elected to include an additional amount pursuant to subparagraph (E) of paragraph one of this subsection, twenty-five percent, of the excess of real property taxes or the excess of real property tax equivalent determined as follows:

If household gross income for the taxable year is:	**Excess real property taxes are the excess of real property tax equivalent or the excess of qualifying real property taxes over the following percentage of household gross income:**
$3,000 or less	3 ½
Over $3,000 but not over $5,000	4
Over $5,000 but not over $7,000	4 ½
Over $7,000 but not over $9,000	5
Over $9,000 but not over $11,000	5 ½
Over $11,000 but not over $14,000	6

Over $14,000 but not over $18,000	6 ½

Notwithstanding the foregoing provisions, the maximum credit determined under this subparagraph may not exceed the amount determined in accordance with the following table:

If household gross income for the taxable year is:	**The maximum credit is:**
$1,000 or less	$375
Over $1,000 but not over $2,000	$358
Over $2,000 but not over $3,000	$341
Over $3,000 but not over $4,000	$324
Over $4,000 but not over $5,000	$307
Over $5,000 but not over $6,000	$290
Over $6,000 but not over $7,000	$273
Over $7,000 but not over $8,000	$256
Over $8,000 but not over $9,000	$239
Over $9,000 but not over $10,000	$222
Over $10,000 but not over $11,000	$205
Over $11,000 but not over $12,000	$188
Over $12,000 but not over $13,000	$171
Over $13,000 but not over $14,000	$154

Over $14,000 but not over $15,000	$137
Over $15,000 but not over $16,000	$120
Over $16,000 but not over $17,000	$103
Over $17,000 but not over $18,000	$ 86

(B) For all other qualified taxpayers the amount of the credit allowable under this subsection shall be fifty percent of excess real property taxes or the excess of the real property tax equivalent determined as follows:

If household gross income for the taxable year is:	**Excess real property taxes are the excess of real property tax equivalent or the excess of qualifying real property taxes over the following percentage of household gross income:**
$3,000 or less	3 ½
Over $3,000 but not over $5,000	4
Over $5,000 but not over $7,000	4 ½
Over $7,000 but not over $9,000	5
Over $9,000 but not over $11,000	5 ½
Over $11,000 but not over $14,000	6
Over $14,000 but not over $18,000	6 ½

Notwithstanding the foregoing provisions, the maximum credit determined under this subparagraph may not exceed the amount determined in accordance with the following table:

If household gross income for the taxable year is:	**The maximum credit is:**

$1,000 or less	$75
Over $1,000 but not over $2,000	$73
Over $2,000 but not over $3,000	$71
Over $3,000 but not over $4,000	$69
Over $4,000 but not over $5,000	$67
Over $5,000 but not over $6,000	$65
Over $6,000 but not over $7,000	$63
Over $7,000 but not over $8,000	$61
Over $8,000 but not over $9,000	$59
Over $9,000 but not over $10,000	$57
Over $10,000 but not over $11,000	$55
Over $11,000 but not over $12,000	$53
Over $12,000 but not over $13,000	$51
Over $13,000 but not over $14,000	$49
Over $14,000 but not over $15,000	$47
Over $15,000 but not over $16,000	$45
Over $16,000 but not over $17,000	$43
Over $17,000 but not over $18,000	$41

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

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

(6) Only one credit per household and per qualified taxpayer shall be allowed per taxable year under this subsection. When two or more members of a household are able to meet the qualifications for a qualified taxpayer, the credit shall be equally divided between or among such individuals unless such individuals file with the tax commission a written agreement among such individuals setting forth a different division. Where two or more members of a household are able to meet the qualifications of a qualified taxpayer and one of them is sixty-five years of age or more, the credit which may be taken shall be the credit applicable to individuals who have attained the age of sixty-five years.

(A) Provided, however, where a joint income tax return has been filed pursuant to the provisions of section six hundred fifty-one by a qualified taxpayer and his spouse (or where both spouses are qualified taxpayers and have filed such joint return), the credit, or the portion of the credit if divided, to which the husband and wife are entitled shall be applied against the tax of both spouses and any overpayment shall be made to both spouses.

(B) Where any return required to be filed pursuant to the provisions of section six hundred fifty-one is combined with any return of tax imposed pursuant to the authority of this chapter or any other law if such tax is administered by the tax commission, the credit or the portion of the credit if divided, allowed to the qualified taxpayer may be applied by the tax commission toward any liability for the aforementioned taxes.

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

(A) If household gross income for the taxable year exceeds eighteen thousand dollars.

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

(C) To a property owner who owns real property, the full value of which exceeds eighty-five thousand dollars.

(D) To a tenant if the adjusted rent for the residence exceeds four hundred fifty dollars per month on average.

(E) To an individual with respect to whom a deduction under subsection (c) of section one hundred fifty-one of the internal revenue code[13] is allowable to another taxpayer for the taxable year.

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

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

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

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

(10) Proof of claim. The tax commission may require a qualified taxpayer to furnish the following information in support of his claim for credit under this subsection: household gross income, rent paid, name and address of owner or managing agent of the property rented, real property taxes levied or that would have been levied in the absence of an exemption from real property tax pursuant to section four hundred sixty-seven of the real property tax law, the names of members of the household and other qualifying taxpayers occupying the same residence and their identifying numbers including social security numbers, household gross income, size and nature of property claimed as residence and all other information which may be required by the tax commission to determine the credit.

(11) Administration. The provisions of this article, including the provisions of section six hundred fifty-three, six hundred fifty-eight, and six hundred fifty-nine and the provisions of part six of this article relating to procedure and administration, including the judicial review of the decisions of the tax commission, except so much of section six hundred eighty-seven which permits a claim for credit or refund to be filed after the period provided for in paragraph nine of this subsection and except sections six hundred fifty-seven, six hundred eighty-eight and six hundred ninety-six, shall apply to the provisions of this subsection in the same manner and with the same force and effect as if the language of those provisions had been incorporated in full into this subsection and had expressly referred to the credit allowed or returns filed under this subsection, except to the extent that any such provision is either inconsistent with a provision of this subsection or is not relevant to this subsection. As used in such sections and such part, the term “taxpayer” shall include a qualified taxpayer under this subsection and, notwithstanding the provisions of subsection (e) of section six hundred ninety-seven, where a qualified taxpayer has protested the denial of a claim for credit under this subsection and the time to file a petition for redetermination of a deficiency or for refund has not expired, he shall, subject to such conditions as may be set by the tax commission, receive such information (A) which is contained in any return filed under this article by a member of his household for the taxable

year for which the credit is claimed, and (B) which the tax commission finds is relevant and material to the issue of whether such claim was properly denied. The tax commission shall have the authority to promulgate such rules and regulations as may be necessary for the processing, determination and granting of credits and refunds under this subsection.

(12) Repealed by L.2010, c. 56, pt. W, § 23, eff. June 22, 2010.

(13) Notwithstanding any other provision of this article, the credit allowed under this subsection shall be determined after the determination and application of any other credits permitted under the provisions of this article.

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

(e-1) [Eff. until Jan. 1, 2020, pursuant to L.2014, c. 59, pt. K, § 3. See, also, subsec. (e-1), below.] Enhanced real property tax circuit breaker credit. (1) For purposes of this subsection:

(A) “Qualified taxpayer” means a resident individual of the state, who (i) is a resident of a city with a population over one million, (ii) has occupied the same residence for six months or more of the taxable year, and (iii) is required or chooses to file a return under this article.

(B) “Household” or “members of the household” means a qualified taxpayer and all other persons, not necessarily related, who have the same residence and share its furnishings, facilities and accommodations. Such terms shall not include a tenant, subtenant, roomer or boarder who is not related to the qualified taxpayer in any degree specified in subparagraphs (A) through (G) of paragraph two of subsection (d) of section one hundred fifty-two of the internal revenue code. Provided, however, no person may be a member of more than one household at one time.

(C) “Household gross income” means the aggregate adjusted gross income of all members of the household for the taxable year as reported for federal income tax purposes, or which would be reported as adjusted gross income if a federal income tax return were required to be filed, with the modifications in subsection (b) of section six hundred twelve of this article but without the modifications in subsection (c) of such section, plus any portion of the gain from the sale or exchange of property otherwise excluded from such amount; earned income from sources without the United States excludable from federal gross income by section nine hundred eleven of the internal revenue code; support money not included in adjusted gross income;

nontaxable strike benefits; supplemental security income payments; the gross amount of any pension or annuity benefits to the extent not included in such adjusted gross income (including, but not limited to, railroad retirement benefits and all payments received under the federal social security act and veterans' disability pensions); nontaxable interest received from the state of New York, its agencies, instrumentalities, public corporations, or political subdivisions (including a public corporation created pursuant to agreement or compact with another state or Canada); workers' compensation; the gross amount of "loss-of-time" insurance; and the amount of cash public assistance and relief, other than medical assistance for the needy, paid to or for the benefit of the qualified taxpayer or members of his or her household. Household gross income shall not include surplus foods or other relief in kind or payments made to individuals because of their status as victims of Nazi persecution as defined in P.L. 103-286. Provided, further, household gross income shall only include all such income received by all members of the household while members of such household. In computing household gross income, the net amount of loss reported on Federal Schedule C, D, E, or F shall not exceed three thousand dollars per schedule. In addition, the net amount of any other separate category of loss shall not exceed three thousand dollars. The aggregate amount of all losses included in computing household gross income shall not exceed fifteen thousand dollars.

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

(E) "Qualifying real property taxes" means all real property taxes, special ad valorem levies and special assessments, exclusive of penalties and interest, levied on the residence of a qualified taxpayer and paid during the taxable year. A qualified taxpayer may elect to include any additional amount that would have been levied in the absence of an exemption from real property taxation pursuant to section four hundred sixty-seven of the real property tax law. If tenant-stockholders in a cooperative housing corporation have met the requirements of section two hundred sixteen of the internal revenue code by which they are allowed a deduction for real estate taxes, the amount of taxes so allowable, or which would be allowable if the taxpayer had filed returns on a cash basis, shall be qualifying real property taxes. If a residence is owned by two or more individuals as joint tenants or tenants in common, and one or more than one individual is not a member of the household, qualifying real property taxes is that part of such taxes on the residence which reflects the ownership percentage of the qualified taxpayer and members of his or her household. If a residence is an integral part of a larger unit, qualifying real property taxes shall be limited to that amount of such taxes paid as may be reasonably apportioned to such residence. If a household owns and occupies two or more residences during different periods in the same taxable year, qualifying real property taxes shall be the sum of the prorated qualifying real property taxes attributable to the household during the periods such household occupies each of such residences. If the household owns and occupies a residence for part of the taxable year and rents a residence for part of the same taxable year, it may include the proration of qualifying real property taxes on the residence owned. Provided, however, for purposes of the credit allowed under this subsection, qualifying real property taxes may be included by a qualified taxpayer only to the extent that such taxpayer or the spouse of such taxpayer, occupying such residence for one hundred eighty-three days or more of the taxable year, owns or has owned the residence and paid such taxes.

(F) "Real property tax equivalent" means fifteen and three-quarters percent of the adjusted rent actually paid in the taxable year by a household solely for the right of occupancy of its New York residence for the taxable year. If (i) a residence is rented to two or more individuals as cotenants, or such individuals share in the payment of a single rent for the right of occupancy of such residence, and (ii) each of such individuals is a member of a different household, one or more of which individuals shares such residence, real property tax equivalent is that portion of fifteen and three-quarters percent of the adjusted rent paid in the taxable year which reflects that portion of the rent attributable to the qualified taxpayer and the members of his or her household.

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

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

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

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

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

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

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

(3) Determination of credit. For taxable years after two thousand thirteen and prior to two thousand sixteen, the amount of the credit allowable under this subsection shall be determined as follows:

If household gross income for the taxable year is:	Excess real property taxes are the excess of real property tax equivalent or the excess of qualifying real property taxes over the following percentage of household gross income:	The credit amount is the following percentage of excess property taxes:
Less than $100,000	4	4.5
$100,000 to less than $150,000	5	3.0

$150,000 to less than $200,000	6	1.5

Notwithstanding the foregoing provisions, the maximum credit determined under this subparagraph may not exceed five hundred dollars.

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

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

(6) Only one credit per household and per qualified taxpayer shall be allowed per taxable year under this subsection. When two or more members of a household are able to meet the qualifications for a qualified taxpayer, the credit shall be equally divided between or among such individuals unless such individuals file with the commissioner a written agreement among such individuals setting forth a different division.

(A) Provided, however, where a joint income tax return has been filed pursuant to the provisions of section six hundred fifty-one of this article by a qualified taxpayer and his or her spouse (or where both spouses are qualified taxpayers and have filed such joint return), the credit, or the portion of the credit if divided, to which the spouses are entitled shall be applied against the tax of both spouses and any overpayment shall be made to both spouses.

(B) Where any return required to be filed pursuant to the provisions of section six hundred fifty-one of this article is combined with any return of tax imposed pursuant to the authority of this chapter or any other law if such tax is administered by the commissioner, the credit or the portion of the credit if divided, allowed to the qualified taxpayer may be applied by the commissioner toward any liability for the aforementioned taxes.

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

(A) If household gross income for the taxable year equals or exceeds two hundred thousand dollars.

(B) To a property owner unless: (i) the property is used for residential purposes, (ii) not more than twenty percent of the

rental income, if any, from the property is from rental for nonresidential purposes and (iii) the property is occupied as a residence in whole or in part by one or more of the owners of the property.

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

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

(E) To an individual who is not a resident individual of a city, within the state, with a population over one million, for the entire taxable year.

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

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

(10) Proof of claim. The commissioner may require a qualified taxpayer to furnish the following information in support of his claim for credit under this subsection: household gross income, real property taxes levied or that would have been levied in the absence of an exemption from real property tax pursuant to section four hundred sixty-seven of the real property tax law, the names of members of the household and other qualifying taxpayers occupying the same residence and their identifying numbers including social security numbers, household gross income, size and nature of property claimed as residence and all other information which may be required by the commissioner to determine the credit.

(11) Administration. The provisions of this article, including the provisions of sections six hundred fifty-three, six hundred fifty-eight, and six hundred fifty-nine of this article and the provisions of part six of this article relating to procedure and administration, including the judicial review of the decisions of the commissioner, except so much of section six hundred eighty-seven of this article which permits a claim for credit or refund to be filed after the period provided for in paragraph nine of this subsection and except sections six hundred fifty-seven, six hundred eighty-eight and six hundred ninety-six of this article, shall apply to the provisions of this subsection in the same manner and with the same force and effect as if the language of those provisions had been incorporated in full into this subsection and had expressly referred to the credit allowed or returns filed under this subsection, except to the extent that any such provision is either inconsistent with a provision of this subsection or is not relevant to this subsection. As used in such sections and such part, the term “taxpayer” shall include a qualified taxpayer under this subsection and, notwithstanding the provisions of subsection (e) of section six hundred ninety-seven of this article, where a qualified taxpayer has protested the denial of a claim for credit under this subsection and the time to file a petition for redetermination of a deficiency or for refund has not expired, he shall, subject to such conditions as may be set by the commissioner, receive such information (A) which is contained in any return filed under

this article by a member of his or her household for the taxable year for which the credit is claimed, and (B) which the commissioner finds is relevant and material to the issue of whether such claim was properly denied.

(12) Notwithstanding any other provision of this article, the credit allowed under this subsection shall be determined after the determination and application of any other credits permitted under the provisions of this article.

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

(e-1) [Eff. Jan. 1, 2020, pursuant to L.2014, c. 59, pt. K, § 3. See, also, subsec. (e-1), above.] Volunteer firefighters' and ambulance workers' credit. (1) For taxable years beginning on and after January first, two thousand seven, a resident taxpayer who serves as an active volunteer firefighter as defined in subdivision one of section two hundred fifteen of the general municipal law or as a volunteer ambulance worker as defined in subdivision fourteen of section two hundred nineteen-k of the general municipal law shall be allowed a credit against the tax imposed by this article equal to two hundred dollars. In order to receive this credit a volunteer firefighter or volunteer ambulance worker must have been active for the entire taxable year for which the credit is sought.

(2) If a taxpayer receives a real property tax exemption relating to such service under title two of article four of the real property tax law, such taxpayer shall not be eligible for this credit; provided, however (A) if the taxpayer receives such real property tax exemption in the two thousand seven taxable year as a result of making application therefor in a prior year or (B) if the taxpayer notifies his or her assessor in writing by December thirty-first, two thousand seven of the taxpayer's intent to discontinue such real property tax exemption by not re-applying for such real property tax exemption by the next taxable status date, such taxpayer shall be eligible for this credit for the two thousand seven taxable year.

(3) In the case of a husband and wife who file a joint return and who both individually qualify for the credit under this subsection, the amount of the credit allowed shall be four hundred dollars.

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

(e-2) [Eff. until Jan. 1, 2020, pursuant to L.2014, c. 59, pt. K, § 3.] Volunteer firefighters' and ambulance workers' credit. (1) For taxable years beginning on and after January first, two thousand seven, a resident taxpayer who serves as an active

volunteer firefighter as defined in subdivision one of section two hundred fifteen of the general municipal law or as a volunteer ambulance worker as defined in subdivision fourteen of section two hundred nineteen-k of the general municipal law shall be allowed a credit against the tax imposed by this article equal to two hundred dollars. In order to receive this credit a volunteer firefighter or volunteer ambulance worker must have been active for the entire taxable year for which the credit is sought.

(2) If a taxpayer receives a real property tax exemption relating to such service under title two of article four of the real property tax law, such taxpayer shall not be eligible for this credit; provided, however (A) if the taxpayer receives such real property tax exemption in the two thousand seven taxable year as a result of making application therefor in a prior year or (B) if the taxpayer notifies his or her assessor in writing by December thirty-first, two thousand seven of the taxpayer's intent to discontinue such real property tax exemption by not re-applying for such real property tax exemption by the next taxable status date, such taxpayer shall be eligible for this credit for the two thousand seven taxable year.

(3) In the case of a husband and wife who file a joint return and who both individually qualify for the credit under this subsection, the amount of the credit allowed shall be four hundred dollars.

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

(f) Credit for the special additional mortgage recording tax. (1) For taxable years beginning before nineteen hundred eighty-eight, a taxpayer shall be allowed a credit, to be credited against the tax imposed by this article, after allowance of any other credit provided under this section and any credits permitted under sections six hundred twenty, six hundred twenty-one and six hundred thirty-five of this article. The amount of the credit shall be the amount of the special additional mortgage recording tax paid by the taxpayer pursuant to the provisions of subdivision one-a of section two hundred fifty-three of this chapter on mortgages recorded on and after January first, nineteen hundred seventy-nine. Provided, however, no credit shall be allowed with respect to a mortgage of real property principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each dwelling unit having its own separate cooking facilities, where the real property is located in one or more of the counties comprising the metropolitan commuter transportation district and where the mortgage is recorded on or after May first, nineteen hundred eighty-seven. Provided, however, no credit shall be allowed with respect to a mortgage of real property principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each dwelling unit having its own separate cooking facilities, where the real property is located in the county of Erie and where the mortgage is recorded on or after May first, nineteen hundred eighty-seven.

(2) In no event shall the amount of the credit herein provided for be allowed in excess of the taxpayer's tax for such year. However, if the amount of credit otherwise allowable under this subsection for any taxable year results in such excess amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(3)(A) Notwithstanding the provisions of paragraphs one and two of this subsection, for taxable years beginning after two thousand three, a taxpayer shall be allowed a credit, to be credited against the tax imposed by this article, equal to the amount

of the special additional mortgage recording tax paid by the taxpayer or, in the case of a taxpayer who is a partner in a partnership, the partner's pro rata share of the amount of the special additional mortgage recording tax paid by the partnership, pursuant to the provisions of subdivision one-a of section two hundred fifty-three of this chapter on mortgages recorded on and after January first, two thousand four. Provided, however, no credit shall be allowed with respect to a mortgage of real property principally improved by one or more structures containing in the aggregate not more than six residential dwelling units, each dwelling unit having its own separate cooking facilities, where the real property is located in one or more of the counties comprising the metropolitan commuter transportation district and where the mortgage is recorded on or after January first, two thousand four. Provided further, no credit shall be allowed with respect to a mortgage of real property principally improved by one or more structures containing in the aggregate not more than six residential dwelling units, each dwelling unit having its own separate cooking facilities, where the real property is located in Erie county and where the mortgage is recorded on or after January first, two thousand four.

(B) If the amount of credit allowable under this paragraph for any taxable year exceeds the taxpayer's tax for such year, any amount of credit exceeding such tax may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years. Provided further, such taxpayer may elect to treat such unused amount of credit as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article except that no interest shall be paid on such overpayment.

(g) Credit for solar and wind energy systems. (1) A taxpayer shall be allowed a credit for taxable years beginning on or after January first, nineteen hundred eighty-one and ending before December thirty-first, nineteen hundred eighty-six against the tax imposed by this article for the purchase and installation of a solar or wind energy system by a taxpayer in his principal residence, if such residence is located within the state. The amount of the credit shall be fifty-five percent of the expenditure incurred in purchasing and installing any such system or combination thereof, but not to exceed the maximum credit of two thousand seven hundred fifty dollars.

(2) A solar or wind system is a system whose original use begins with the taxpayer; which meets the eligibility criteria, if any, prescribed by the department of taxation and finance; and which is:

(A) an active solar energy system which shall mean an arrangement or combination of components designed to provide heating, cooling, hot water or electricity through the process of collecting solar radiation, converting it to another form of energy, storing the converted energy, protecting against unnecessary dissipation and distributing the converted energy, and which requires external mechanical power for operation. This term shall not include pipes, controls, insulation or other equipment which are part of the conventional heating, cooling, insulation or electrical system of a building; nor shall it include any expenditure allocable to a swimming pool used as a storage medium;

(B) a passive solar energy system, which shall mean a system which relies upon the original or retrofitted design and elements of a building to enhance the use of natural forces including solar radiation, winds and night-time coolness to provide heating, cooling or hot water through the process of collecting solar radiation, converting it to another form of energy, storing the converted energy, protecting against unnecessary dissipation and distributing the converted energy, and which is not primarily dependent upon mechanical power for operation. This term shall not include pipes, controls, insulation or other equipment which are part of the conventional heating, cooling or insulation system of the building; nor shall it include any expenditure allocable to a swimming pool used as a storage medium; or

(C) a wind energy system, which shall mean an arrangement or combination of components, including power conditioning equipment, designed to provide electricity or mechanical energy through the process of converting wind energy into mechanical and/or electric energy, and storing or distributing such energy.

(3) Where a solar or wind energy system is purchased and installed by a condominium management association or a cooperative housing corporation, a taxpayer who is a member of the condominium management association or who is a tenant-stockholder in the cooperative housing corportion[23] may for the purpose of this subsection claim a proportionate share of the total expense as the expenditure for the purposes of the credit attributable to his principal residence.

(4) Where a solar or wind system is purchased and installed in a principal residence shared by two or more taxpayers the amount of the credit allowable under this subsection for each such taxpayer shall be prorated according to the percentage of the total expenditure for such system contributed by each taxpayer.

(5) To the extent that a federal income tax credit shall apply to expenditures eligible for a credit under this subsection, the credit provided in this subsection shall be reduced so that the combined credit shall not exceed fifty-five percent of such expenditures or six thousand seven hundred fifty dollars, whichever is less.

(6) If the amount of credit allowable under this subsection shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(7) If all or any part of the credit provided for under this subsection was allowed or carried over from a prior taxable year or years, a taxpayer shall reduce the allowable credit for additional qualifying expenditures in a subsequent tax year by the amount of the credit previously allowed or carried over; provided however that a credit previously allowed or carried over from a prior taxable year or years shall not be taken into account in determining the allowable credit for the purchase and installation of a solar or wind energy system in a subsequent principal residence.

(8) For the purpose of determining the amount of the actual expenditure incurred in purchasing and installing a solar or wind energy system, the amount of any federal, state or local grant received by the taxpayer, which was used for the purchase and/or installation of such system and which was not included in the gross income of the taxpayer, shall not be taken into account.

(9) Notwithstanding any other provision of law, if a credit is allowed under this subsection for a renewable energy system with respect to any property, the increase in the basis of such property which would but for this subsection result from such expenditure shall be reduced by the amount of the credit allowed. When the sale or other disposition of such property results in the nonrecognition of gain under section one thousand thirty-four of the internal revenue code,[24] a like reduction shall be made to the basis of the new residence, if such residence is located within the state.

(g-1) Solar energy system equipment credit. (1) General. An individual taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty-five percent of qualified solar energy system equipment expenditures, except as

provided in subparagraph (D) of paragraph two of this subsection. This credit shall not exceed three thousand seven hundred fifty dollars for qualified solar energy equipment placed in service before September first, two thousand six, and five thousand dollars for qualified solar energy equipment placed in service on or after September first, two thousand six.

(2) Qualified solar energy system equipment expenditures. (A) The term "qualified solar energy system equipment expenditures" means expenditures for:

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

(ii) the lease of solar energy system equipment under a written agreement that spans at least ten years where such equipment owned by a person other than the taxpayer is installed in connection with residential property which is (I) located in this state and (II) which is used by the taxpayer as his or her principal residence at the time the solar energy system equipment is placed in service; or

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

(B) Such qualified expenditures shall include expenditures for materials, labor costs properly allocable to on-site preparation, assembly and original installation, architectural and engineering services, and designs and plans directly related to the construction or installation of the solar energy system equipment.

(C) Such qualified expenditures for the purchase of solar energy system equipment shall not include interest or other finance charges.

(D) Such qualified expenditures for the lease of solar energy system equipment or the purchase of power under an agreement described in clauses (ii) or (iii) of subparagraph (A) of this paragraph shall include an amount equal to all payments made during the taxable year under such agreement. Provided, however, such credits shall only be allowed for fourteen years after the first taxable year in which such credit is allowed. Provided further, however, the twenty-five percent limitation in paragraph one of this subsection shall only apply to the total aggregate amount of all payments to be made pursuant to an agreement referenced in clauses (ii) or (iii) of subparagraph (A) of this paragraph, and shall not apply to individual payments made during a taxable year under such agreement except to the extent such limitation on an aggregate basis has been reached.

(3) Solar energy system equipment. The term "solar energy system equipment" shall mean an arrangement or combination of components utilizing solar radiation, which, when installed in a residence, produces energy designed to provide heating, cooling, hot water or electricity for use in such residence. Such arrangement or components shall not include equipment

connected to solar energy system equipment that is a component of part or parts of a non-solar energy system or which uses any sort of recreational facility or equipment as a storage medium. Solar energy system equipment that generates electricity for use in a residence must conform to applicable requirements set forth in section sixty-six-j of the public service law. Provided, however, where solar energy system equipment is purchased and installed by a condominium management association or a cooperative housing corporation, for purposes of this subsection only, the term "ten kilowatts" in such section sixty-six-j shall be read as "fifty kilowatts."

(4) Multiple taxpayers. Where solar energy system equipment is purchased and installed in a principal residence shared by two or more taxpayers, the amount of the credit allowable under this subsection for each such taxpayer shall be prorated according to the percentage of the total expenditure for such solar energy system equipment contributed by each taxpayer.

(5) Proportionate share. Where solar energy system equipment is purchased and installed by a condominium management association or a cooperative housing corporation, a taxpayer who is a member of the condominium management association or who is a tenant-stockholder in the cooperative housing corporation may for the purpose of this subsection claim a proportionate share of the total expense as the expenditure for the purposes of the credit attributable to his principal residence.

(6) Grants. For purposes of determining the amount of the expenditure incurred in purchasing and installing solar energy system equipment, the amount of any federal, state or local grant received by the taxpayer, which was used for the purchase and/or installation of such equipment and which was not included in the federal gross income of the taxpayer, shall not be included in the amount of such expenditures.

(7) When credit allowed. The credit provided for herein shall be allowed with respect to the taxable year, commencing after nineteen hundred ninety-seven, in which the solar energy system equipment is placed in service.

(8) Carryover of credit. If the amount of the credit, and carryovers of such credit, allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, such excess amount may be carried over to the five taxable years next following the taxable year with respect to which the credit is allowed and may be deducted from the taxpayer's tax for such year or years.

(g-2) Fuel cell electric generating equipment credit. (1) General. For taxable years beginning before January first, two thousand nine, an individual taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty percent of qualified fuel cell electric generating equipment expenditures. This credit shall not exceed one thousand five hundred dollars per generating unit with respect to any taxable year. The credit provided for herein shall be allowed with respect to the taxable year in which the fuel cell electric generating equipment is placed in service.

(2) Qualified fuel cell electric generating equipment expenditures. (A) Qualified fuel cell electric generating equipment expenditures are the costs, incurred on or after July first, two thousand five, associated with the purchase of on-site electricity generation systems utilizing proton exchange membrane fuel cells, providing a rated baseload capacity of no less than one kilowatt and no more than one hundred kilowatts of electricity, which are located in this state at the time the qualified fuel

cell electric generating equipment is placed in service.

(B) Qualified fuel cell electric generating equipment expenditures shall also include costs, incurred on or after July first, two thousand five, for materials, labor for on-site preparation, assembly and original installation, engineering services, designs and plans directly related to construction or installation and utility compliance costs.

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

(3) Multiple taxpayers. Where fuel cell electric generating equipment is purchased and installed in a principal residence shared by two or more taxpayers, the amount of the credit allowable under this subsection for each such taxpayer shall be prorated according to the percentage of the total expenditure for such fuel cell electric generating equipment contributed by each taxpayer.

(4) Grants. For purposes of determining the amount of the expenditure incurred in purchasing and installing fuel cell electric generating equipment, the amount of any federal, state or local grant received by the taxpayer, which was used for the purchase and/or installation of such equipment and which was not included in the federal gross income of the taxpayer, shall not be included in the amount of such expenditures.

(5) Carryover of credit. If the amount of the credit, and carryovers of such credit, allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, such excess amount may be carried over to the five taxable years next following the taxable year with respect to which the credit is allowed and may be deducted from the taxpayer's tax for such year or years.

(h) Research and development tax credit. (1) For taxable years commencing prior to January first, nineteen hundred eighty-seven, a taxpayer shall be allowed a credit against the tax imposed by this article after allowance of any other credit provided under this section and any credits permitted under sections six hundred twenty, six hundred twenty-one and six hundred thirty-five of this article. The amount of the credit shall be ten percent of the cost or other basis for federal income tax purposes of tangible personal property, including buildings and other structural components of buildings, described in paragraph two of this subsection acquired, constructed or reconstructed, or erected after June thirtieth, nineteen hundred eighty-two.

(2) A credit shall be allowed under this section with respect to tangible personal property and other tangible property, including buildings and structural components of buildings which are: depreciable pursuant to section one hundred sixty-seven of the internal revenue code,[2] have a useful life of four years or more, are acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code,[3] have a situs in this state and are used or are to be used for purposes of research and development in the experimental or laboratory sense. Such purposes shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions, or research in connection with literary, historical or similar projects.

(3) A taxpayer shall not be allowed a credit under this subsection with respect to any property described in paragraphs one and two of this subsection, if such property qualifies for the modification allowed under either paragraph three or paragraph four of subsection (g) of section six hundred twelve whether or not such amount shall have been subtracted, or if a credit is taken pursuant to subsection (a) of this section. Provided, however, with respect to property which qualifies under either clause (A), (B) or (C) of paragraph four of subsection (g) because such property was ordered on or before December thirty-first, nineteen hundred sixty-eight, but with respect to which no expenditure has been paid or incurred at such date, the taxpayer may elect to subtract the amount allowable under clause (A), (B) or (C) or may take the credit provided by this subsection, but not both.

(4) A taxpayer shall not be allowed a credit under this subsection with respect to tangible personal property and other tangible property, including buildings and structural components of buildings, which it leases to any other person or corporation. For purposes of the preceding sentence, any contract or agreement to lease or rent or for a license to use such property shall be considered a lease. Provided, however, in determining whether a taxpayer shall be allowed a credit under this subsection with respect to such property, any election made with respect to such property pursuant to the provisions of paragraph eight of subsection (f) of section one hundred sixty-eight of the internal revenue code,[6] as such paragraph was in effect for agreements entered into prior to January first, nineteen hundred eighty-four, shall be disregarded.

(5) If the amount of credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years but in no event shall such credit be carried over to taxable years commencing on or after January first, nineteen hundred ninety-four.

(6)(A) With respect to property which is depreciable pursuant to section one hundred sixty-seven of the internal revenue code[2] but is not subject to the provisions of section one hundred sixty-eight of such code,[6] and which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in this subsection which represents the ratio which the months of qualified use bear to the months of useful life. If property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back in the year of disposition. Provided, however, if such property is disposed of or ceases to be in qualified use after it has been in qualified use for more than twelve consecutive years, it shall not be necessary to add back the credit as provided in this subparagraph. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to the months of useful life. For purposes of this subparagraph, useful life of property shall be the same as the taxpayer uses for depreciation purposes when computing his federal income tax liability.

(B) Except with respect to that property to which subparagraph (D) of this paragraph applies, with respect to three-year property, as defined in subsection (e) of section one hundred sixty-eight of the internal revenue code,[6] which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in this subsection which represents the ratio which the months of qualified use bear to thirty-six. If property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of thirty-six months, the difference between the credit taken and the credit allowed for actual use must be added back in the year of disposition. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to thirty-six.

(C) Except with respect to that property to which subparagraph (D) of this paragraph applies, with respect to property subject

to the provisions of section one hundred sixty-eight of the internal revenue code[6] other than three-year property as defined in subsection (e) of such section one hundred sixty-eight, which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in this subsection which represents the ratio which the months of qualified use bear to sixty. If property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of sixty months, the difference between the credit taken and the credit allowed for actual use must be added back in the year of disposition. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to sixty.

(D) With respect to any property to which section one hundred sixty-eight of the internal revenue code[6] applies, which is a building or a structural component of a building and which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in this subsection which represents the ratio which the months of qualified use bear to the total number of months over which the taxpayer chooses to deduct the property under the internal revenue code.[7] If property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of the period over which the taxpayer chooses to deduct the property under the internal revenue code, the difference between the credit taken and the credit allowed for actual use must be added back in the year of disposition. Provided, however, if such property is disposed of or ceases to be in qualified use after it has been in qualified use for more than twelve consecutive years, it shall not be necessary to add back the credit as provided in this subparagraph. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to the total number of months over which the taxpayer chooses to deduct the property under the internal revenue code.

(i) S corporation credits. (1) For purposes of determining the application under this section of the credit provisions enumerated in the following table, a shareholder of a New York S corporation:

(A) shall be treated as the taxpayer with respect to his or her pro rata share of the corresponding credit base of such corporation, determined for the corporation's taxable year ending with or within the shareholder's taxable year and

(B) shall be treated as the owner of a new business with respect to such share if the corporation qualifies as a new business pursuant to paragraph (f) of subdivision one of section two hundred ten-B of this chapter.

With respect to the following credit under this section:	The corporation's credit base under section two hundred ten-B of this chapter is:
(i) Investment tax credit under subsection (a)	Investment credit base or qualified rehabilitation expenditures under subdivision one of section two hundred ten-B
(ii) Empire zone investment tax credit under subsection (j)	Cost or other basis under subdivision three of section two hundred ten-B

(iii), (iv) Deleted by L.2014, c. 59, pt. A, § 68, eff. Jan. 1, 2015.

(v) Agricultural property tax credit under subsection (n)	Allowable school district property taxes under subdivision eleven of section two hundred ten-B
(vi) Credit for employment of persons with disabilities under subsection (o)	Qualified first-year wages or qualified second-year wages under subdivision twelve of section two hundred ten-B
(vii) Employment incentive credit under subsection (a-1)	Applicable investment credit base under subdivision two of section two hundred ten-B
(viii) Empire zone employment incentive credit under subsection (j-1)	Applicable investment credit under subdivision four of section two hundred ten-B
(ix) Alternative fuels and electric vehicle recharging property credit under subsection (p)	Amount of credit under subdivision thirty of section two hundred ten-B
(x) Qualified emerging technology company employment credit under subsection (q)	Applicable credit base under subdivision seven of section two hundred ten-B
(xi) Qualified emerging technology company capital tax credit under subsection (r)	Qualified investments under subdivision eight of section two hundred ten-B
(xii) Credit for purchase of an automated external defibrillator under subsection (s)	Cost of an automated external defibrillator under subdivision thirteen of section two hundred ten-B

(xiii) Low-income housing credit under subsection (x)	Credit amount under subdivision fifteen of section two hundred ten-B
(xiv) Deleted by L.2014, c. 59, pt. A, § 68, eff. Jan. 1, 2015.	
(xv) QEZE credit for real property taxes under subsection (bb)	Amount of credit under subdivision five of section two hundred ten-B
(xvi) QEZE tax reduction credit under subsection (cc)	Amount of benefit period factor, employment increase factor and zone allocation factor (without regard to pro ration) under subdivision six of section two hundred ten-B and amount of tax factor as determined under subdivision (f) of section sixteen
(xvii) Green building credit under subsection (y)	Amount of green building credit under subdivision sixteen of section two hundred ten-B
(xviii) Credit for long-term care insurance premiums under subsection (aa)	Qualified costs under subdivision fourteen of section two hundred ten-B
(xix) Brownfield redevelopment credit under subsection (dd)	Amount of credit under subdivision seventeen of section two hundred ten-B
(xx) Remediated brownfield credit for real property taxes for qualified sites under subsection (ee)	Amount of credit under subdivision eighteen of section two hundred ten-B
(xxi) Environmental remediation insurance credit under subsection (ff)	Amount of credit under subdivision nineteen of section two hundred ten-B

(xxii) Empire state film production credit under subsection (gg)	Amount of credit for qualified production costs in production of a qualified film under subdivision twenty of section two hundred ten-B

(xxiii) Deleted by L.2014, c. 59, pt. A, § 68, eff. Jan. 1, 2015.

(xxiv) Security training tax credit under subsection (ii)	Amount of credit under subdivision twenty-one of section two hundred ten-B

(xxv) Deleted by L.2014, c. 59, pt. A, § 68, eff. Jan. 1, 2015.

(xxvi) Empire state commercial production credit under subsection (jj)	Amount of credit for qualified production costs in production of a qualified commercial under subdivision twenty-three of section two hundred ten-B
(xxvii) Biofuel production tax credit under subsection (jj)	Amount of credit under subdivision twenty-four of section two hundred ten-B
(xxviii) Clean heating fuel credit under subsection (mm)	Amount of credit under subdivision twenty-five of section two hundred ten-B
(xxix) Credit for rehabilitation of historic properties under subsection (oo)	Amount of credit under subdivision twenty-six of section two hundred ten-B

(xxx) Repealed by L.2006, c. 522, § 5, eff. Dec. 31, 2010.

(xxxi) [As added by L.2010, c. 59, pt. MM. See, also, cl. (xxxi) below.] Excelsior jobs program tax credit under subsection (qq)	Amount of credit under subdivision thirty-one of section two hundred ten-B
(xxxi) [As added by L.2010, c. 57, pt. Q. See, also, cl. (xxxi) above.] Empire state film post production credit under subsection (qq)	Amount of credit for qualified post production costs of a qualified film under subdivision thirty-two of section two hundred ten-B
(xxxii) [Expires and deemed repealed December 31, 2021, pursuant to L.2011, c. 61, pt. V, § 12.] Economic transformation and facility redevelopment credit	Amount of credit under subdivision thirty-five of section two hundred ten-B
(xxxiii) [As added by L.2011, c. 56, pt. D. See, also, cls. (xxxiii) below.] New York youth jobs program tax credit	Amount of credit under subdivision thirty-six of section two hundred ten-B
(xxxiii) [As added by L.2011, c. 56, pt. E. See, also, cls. (xxxiii) above and below.] Empire state jobs retention program credit	Amount of credit under subdivision thirty-seven of section two hundred ten-B
(xxxiii) [Deemed repealed Dec. 31, 2022, pursuant to L.2011, c. 604, § 5. As added by L.2011, c. 604. See, also, cls. (xxxiii) above.] Credit for companies who provide transportation to individuals with disabilities under subsection (tt)	Amount of credit under subdivision thirty-eight of section two hundred ten-B
(xxxiv) Alcoholic beverage production credit under subsection (uu)	Amount of credit under subdivision thirty-nine of section two hundred ten-B

(xxxv) [As added by L.2013, c. 59, pt. AA. See, also, cl. (xxxv) below.] Hire a vet credit under subsection (a-2)	Amount of credit under subdivision twenty-nine of section two hundred ten-B
(xxxv) [As added by L.2013, c. 59, pt. EE. See, also, cl. (xxxv) above.] Minimum wage reimbursement credit under subsection (aaa)	Amount of credit under subdivision forty of section two hundred ten-B
(xxxvi) Tax-free NY area tax elimination credit	Amount of credit under subdivision forty-one of section two hundred ten-B
(xxxvii) Real property tax credit for manufacturers under subsection (xx)	Amount of credit under subdivision forty-three of section two hundred ten-B
(xxxviii) Tax-free NY area excise tax on telecommunications services credit under subsection (yy)	Amount of credit under subdivision forty-four of section two hundred ten-B
(xxxix) [Expires and deemed repealed March 31, 2022, pursuant to L.2014, c. 59, pt. HH, § 5.] Musical and theatrical production credit under subsection (u)	Amount of credit for the sum of the qualified production expenditures and the transportation expenditures in a qualified musical and theatrical production under subdivision forty-seven of section two hundred ten-B
(xl) [Expires and deemed repealed Jan. 1, 2020, pursuant to L.2014, c. 59, pt. MM, § 5.] Workers with disabilities tax credit under subsection (zz)	Amount of credit under subdivision forty-eight of section two hundred ten-B
(xli) Farm workforce retention credit under subsection (fff)	Amount of credit under subdivision fifty-one of

	section two hundred ten-B
(xlii) Employee training incentive program credit under subsection (ddd)	Amount of credit under subdivision fifty of section two hundred ten-B
(xliii) [As added by L.2017, c. 59, pt. K, § 10. See, also, cls. (xliii) below.] Life sciences research and development tax credit under subsection (hhh)	Amount of credit under subdivision fifty-two of section two hundred ten-B
(xliii) [As added by L.2017, c. 59, pt. N, subpt. B, § 14. See, also, cls. (xliii) above and below.] Empire state apprenticeship tax credit under subsection (vvv)	Amount of credit under subdivision forty-nine of section two hundred ten-B
(xliii) [As added by L.2017, c. 59, pt. DDD, § 2. See, also, cls. (xliii) above.]Farm donations to food pantries credit under subsection (n-2)	Amount of credit under subdivision fifty-two of section two hundred ten-B

(2) The reduction of a shareholder's proportionate interest in the corporation shall be treated as a disposition of property for which a redetermination of credit is required under subsections (a), (j) and (l) of this section.

(3) Transition provisions relating to S corporation credits allowed for taxable years beginning before nineteen hundred ninety-four. (A) Credit carryover. Any excess credit under subparagraph (A) of paragraph one of this subsection, as it was in effect for taxable years beginning before nineteen hundred ninety-four, may be carried over to the shareholder's following year or years and may be deducted from such shareholder's tax for such year or years, except that any excess credit attributable to subdivision one of section two hundred ten-B of this chapter shall in no event be carried over beyond the ten taxable years next following the taxable year of origin.

(B) Credit recapture. Any redetermination of credit required by this subsection as it was in effect for taxable years beginning before nineteen hundred ninety-four, upon disposition or cessation of qualified use of property pursuant to paragraph (e) of

subdivision one, or paragraph (f) of subdivision three of section two hundred ten-B of this chapter shall be attributed in pro rata shares to the shareholders who were allowed credit under this subsection with respect to such property, and the reduction of a shareholder's proportionate stock interest shall be treated as a disposition of property for which a redetermination of credit under such paragraphs is required with respect to such shareholder.

(4) Transition provisions relating to credit for special additional mortgage recording tax. In the case of the special additional mortgage recording tax credit, in addition to any carryover thereof under paragraph three of this subsection (relating to carryover from taxable years of the shareholder beginning before nineteen hundred ninety-four), there also shall be allowed a credit for such tax which is due and paid by an S corporation in a taxable year of the corporation beginning in nineteen hundred ninety-three, which year ends within the shareholder's taxable year beginning in nineteen hundred ninety-four. Any such credit, and carryover thereof, shall be allowed as provided under this subsection as it was in effect for taxable years beginning before nineteen hundred ninety-four.

(j) Empire zone investment tax credit (EDZ-ITC). (1) A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article where the taxpayer has been certified pursuant to article eighteen-B of the general municipal law. The amount of such credit shall be eight percent of the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings, described in paragraph two of this subsection, which is located within an empire zone designated as such pursuant to article eighteen-B of such law, but only if the acquisition, construction, reconstruction or erection of such property occurred or was commenced on or after the date of such designation and prior to the expiration thereof. Provided, however, that in the case of an acquisition, construction, reconstruction or erection which was commenced during such period and continued or completed subsequently, the credit shall be eight percent of the portion of the cost or other basis for federal income tax purposes attributable to such period, which portion shall be ascertained by multiplying such cost or basis by a fraction the numerator of which shall be the expenditures paid or incurred during such period for such purposes and the denominator of which shall be the total of all expenditures paid or incurred for such acquisition, construction, reconstruction or erection.

(2) A credit shall be allowed under this subsection with respect to tangible personal property and other tangible property, including buildings and structural components of buildings which: (A) are depreciable pursuant to section one hundred sixty-seven of the internal revenue code,[2] (B) have a useful life of four years or more, (C) are acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code,[3] (D) have a situs in an empire zone designated as such pursuant to article eighteen-B of the general municipal law, and (E) are (i) principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing, (ii) industrial waste treatment facilities or air pollution control facilities used in the taxpayer's trade or business, (iii) research and development property, (iv) principally used in the ordinary course of the taxpayer's trade or business as a broker or dealer in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of stocks, bonds or other securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code,[4] or of commodities as defined in section four hundred seventy-five (e) of the Internal Revenue Code, or (v) principally used in the ordinary course of the taxpayer's trade or business of providing investment advisory services for a regulated investment company as defined in section eight hundred fifty-one of the Internal Revenue Code,[5] or lending, loan arrangement or loan origination services to customers in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code. For purposes of clauses (iv) and (v) of this subparagraph, property purchased by a taxpayer affiliated with a regulated broker, dealer or registered investment adviser is allowed a credit under this subsection if the property is used by its affiliated regulated broker, dealer or registered investment adviser in accordance with this subsection. For purposes of determining if the property is principally used in qualifying uses, the uses by the taxpayer described in clauses (iv) and (v) of this subparagraph may be aggregated. In addition, the uses by the taxpayer, its affiliated regulated

broker, dealer, and registered investment adviser under either or both of those clauses may be aggregated. Provided, however, a taxpayer shall not be allowed the credit provided by clauses (iv) and (v) of this subparagraph unless (I) eighty percent or more of the employees performing the administrative and support functions resulting from or related to the qualifying uses of such equipment are located in this state, or (II) the average number of employees that perform the administrative and support functions resulting from or related to the qualifying uses of such equipment and are located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety-five percent of the average number of employees that perform these functions and are located in this state during the thirty-six months immediately preceding the year for which the credit is claimed, or (III) the number of employees located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety percent of the number of employees located in this state on December thirty-first, nineteen hundred ninety-eight or, if the taxpayer was not a calendar year taxpayer in nineteen hundred ninety-eight, the last day of its first taxable year ending after December thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes subject to tax in this state after the taxable year beginning in nineteen hundred ninety-eight, then the taxpayer is not required to satisfy the employment test provided in the preceding sentence of this subparagraph for its first taxable year. For purposes of clause (III) of this subparagraph, the employment test will be based on the number of employees located in this state on the last day of the first taxable year the taxpayer is subject to tax in this state. If the uses of the property must be aggregated to determine whether the property is principally used in qualifying uses, then either each affiliate using the property must satisfy this employment test or this employment test must be satisfied through the aggregation of the employees of the taxpayer, its affiliated regulated broker, dealer, and registered investment adviser using the property. For purposes of this subsection, the term “goods” shall not include electricity. For purposes of this paragraph, manufacturing shall mean the process of working raw materials into wares suitable for use or which gives new shapes, new quality or new combination to matter which already has gone through some artificial process by the use of machinery, tools, appliances and other similar equipment. Property used in the production of goods shall include machinery, equipment or other tangible property which is principally used in the repair and service of other machinery, equipment or other tangible property used principally in the production of goods and shall include all facilities used in the production operation, including storage of material to be used in production and of the products that are produced. For purposes of this paragraph, the terms “research and development property”, “industrial waste treatment facilities”, and “air pollution control facilities” shall have the meanings ascribed thereto by clauses (ii), (iii) and (iv), respectively, of subparagraph (B) of paragraph two of subsection (a) of this section, and the provisions of subparagraph (C) of such paragraph two shall apply.

(3) A taxpayer shall not be allowed a credit under this subsection with respect to any tangible personal property and other tangible property, including buildings and structural components of buildings, which it leases to any other person or corporation except where a taxpayer leases property to an affiliated regulated broker, dealer, or registered investment adviser that uses such property in accordance with clause (iv) or (v) of subparagraph (E) of paragraph two of this subsection. For purposes of the preceding sentence, any contract or agreement to lease or rent or for a license to use such property shall be considered a lease. Provided, however, in determining whether a taxpayer shall be allowed a credit under this subsection with respect to such property, any election made with respect to such property pursuant to the provisions of paragraph eight of subsection (f) of section one hundred sixty-eight of the internal revenue code,[6] as such paragraph was in effect for agreements entered into prior to January first, nineteen hundred eighty-four, shall be disregarded.

(4) If the amount of credit allowed under this subsection for any taxable year shall exceed the taxpayer’s tax for such year, the excess may be carried over to the following year or years and may be deducted from the taxpayer’s tax for such year or years. In lieu of carrying over any such excess, a taxpayer who qualifies as an owner of a new business for purposes of paragraph ten of subsection (a) of this section may, at his option, receive fifty percent of such excess as a refund. Any refund paid pursuant to this paragraph shall be deemed to be a refund of an overpayment of tax as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(4-a) Any carry over of a credit from prior taxable years will not be allowed if an empire zone retention certificate is not issued pursuant to subdivision (w) of section nine hundred fifty-nine of the general municipal law to the empire zone enterprise which is the basis of the credit.

(5) At the option of the taxpayer, air or water pollution control facilities which qualify for elective modifications under subsection (h) of section six hundred twelve, or research and development facilities which qualify for elective modification under paragraphs three and four of subsection (g) of section six hundred twelve, or property which qualifies for the credit provided under subsection (a) or (h) of this section may be treated as property principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, mining, refining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing, provided the property otherwise qualifies under paragraph two of this subsection, in which event a deduction shall not be allowed under such subsection (h) or such paragraphs three and four of subsection (g) and a credit shall not be allowed under such subsection (a) or (h).

(6)(A) With respect to property which is depreciable pursuant to section one hundred sixty-seven of the internal revenue code[2] but is not subject to the provisions of section one hundred sixty-eight of such code[6] and which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in this section which represents the ratio which the months of qualified use bear to the months of useful life. If the property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back in the year of disposition. Provided, however, if such property is disposed of or ceases to be in qualified use after it has been in qualified use for more than twelve consecutive years, it shall not be necessary to add back the credit as provided in this subsection. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to the months of useful life. For purposes of this subsection, useful life of property shall be the same as the taxpayer uses for depreciation purposes when computing his federal income tax liability.

(B) Except with respect to that property to which subparagraph (D) of this paragraph applies, with respect to three-year property, as defined in subsection (e) of section one hundred sixty-eight of the internal revenue code,[6] which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in this subsection which represents the ratio which the months of qualified use bear to thirty-six. If property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of thirty-six months, the difference between the credit taken and the credit allowed for actual use must be added back in the year of disposition. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to thirty-six.

(C) Except with respect to that property to which subparagraph (D) of this paragraph applies, with respect to property subject to the provisions of section one hundred sixty-eight of the internal revenue code[6] other than three-year property as defined in subsection (e) of such section one hundred sixty-eight of the internal revenue code which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in this subsection which represents the ratio which the months of qualified use bear to sixty. If property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of sixty months, the difference between the credit taken and the credit allowed for actual use must be added back in the year of disposition. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to sixty.

(D) With respect to any property to which section one hundred sixty-eight of the internal revenue code[6] applies, which is a building or a structural component of a building and which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in

this subsection which represents the ratio which the months of qualified use bear to the total number of months over which the taxpayer chooses to deduct the property under the internal revenue code.[7] If property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of the period over which the taxpayer chooses to deduct the property under the internal revenue code, the difference between the credit taken and the credit allowed for actual use must be added back in the year of disposition. Provided, however, if such property is disposed of or ceases to be in qualified use after it has been in qualified use for more than twelve consecutive years, it shall not be necessary to add back the credit as provided in this subparagraph. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to the total number of months over which the taxpayer chooses to deduct the property under the internal revenue code.

(E) For purposes of this paragraph, disposal or cessation of qualified use shall not be deemed to have occurred solely by reason of the termination or expiration of an empire zone's designation as such.

(F)(i) For purposes of this paragraph, the decertification of a business enterprise with respect to an empire zone shall constitute a disposal or cessation of qualified use of the property on which the credit was taken which is located in the zone to which the decertification applies, on the effective date of such decertification.

(ii) Where a business enterprise has been decertified based on a finding pursuant to clause one, two, or five of subdivision (a) of section nine hundred fifty-nine of the general municipal law, the amount required to be added back by reason of this paragraph shall be augmented by an amount equal to the product of the amount of credit, with respect to property which is disposed of or ceases to be in qualified use, which was deducted from the taxpayer's tax otherwise due under this article for all prior taxable years (subject to the limit set forth in this subparagraph) and the underpayment rate of interest (without regard to compounding) set by the commissioner of taxation and finance pursuant to subdivision (j) of section six hundred ninety-seven of this chapter, in effect on the last day of the taxable year. The limit shall be (I) the amount of credit, with respect to the property which is disposed of or ceases to be in qualified use, which was deducted from the taxpayer's tax otherwise due under this article for all prior taxable years, reduced (but not below zero) by (II) the credit allowed for actual use. For purposes of this subparagraph, the attribution to specific property of credit amount deducted from tax shall be established in accordance with the date of placement in service of such property in the empire zone.

(iii) In no event shall the amount of the credit allowed pursuant to this subsection be rendered, solely by reason of clause (i) of this subparagraph, less than the amount of the credit to which the taxpayer would otherwise be entitled under subsection (a) of this section.

(iv) Notwithstanding any other provision of this subsection, in the case of a business enterprise which has been decertified, any amount of credit allowed with respect to the property of such business enterprise located in the zone to which the decertification applies which is carried over pursuant to paragraph four of this subsection shall not be carried over beyond the seventh taxable year next following the taxable year with respect to which the credit provided for in this subsection was allowed.

(G) For purposes of this paragraph, where a credit is allowed with respect to an air pollution control facility on the basis of a certificate of compliance issued pursuant to the environmental conservation law and the certificate is revoked pursuant to subdivision three of section 19-0309 of the environmental conservation law, such revocation shall constitute a disposal or

cessation of qualified use, except with respect to property contained in or comprising such facility which is described in clause (i), (ii) or (iii) of subparagraph (E) of paragraph two of this subsection other than as part of or comprising an air pollution control facility. Also for purposes of this paragraph, the use of an air pollution control facility or an industrial waste treatment facility for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable shall constitute a cessation of qualified use, except with respect to property contained in or comprising such facility which is described in clause (i) or (iii) of subparagraph (E) of paragraph two of this subsection.

(H) Except as provided in this subparagraph, this paragraph shall not apply to a credit allowed by this subsection to a taxpayer that is a partner in a partnership in the case of manufacturing property; provided, at the time such property was placed in service by such partnership in an empire zone the basis for federal income tax purposes of such property (or a project that includes such property) equaled or exceeded three hundred million dollars and such partner owned his or her partnership interest for at least three years from the date such property was placed in service. If such property ceases to be in qualified use after it is placed in service, this paragraph shall apply to such partner in the year such property ceases to be in qualifying use.

(7) Notwithstanding the expiration of the empire zones program under article eighteen-B of the general municipal law, a taxpayer that is certified as an empire zone business pursuant to such article eighteen-B on the day immediately preceding the day the empire zones program expired shall continue to be deemed certified under such article eighteen-B for purposes of this subdivision until April first, two thousand fourteen. In addition, the areas designated as empire zones in which the taxpayer is certified as an empire zone business on the day immediately preceding the day the empire zones program expired shall continue to be deemed empire zones for purposes of this subdivision until April first, two thousand fourteen.

(j-1) Empire zone employment incentive credit. (1) Where a taxpayer is allowed a credit under subsection (j) of this section, the taxpayer shall be allowed a credit for each of the three years next succeeding the taxable year for which the credit under such subsection (j) is allowed, with respect to such property, whether or not deductible in such taxable year or in subsequent taxable years pursuant to paragraph four of subsection (j) of this section, of thirty percent of the credit allowable under such subsection (j); provided, however, that the credit allowable under this subsection for any taxable year shall only be allowed if the average number of employees employed by the taxpayer in the empire zone, designated pursuant to article eighteen-B of the general municipal law, in which such property is located during such taxable year is at least one hundred one percent of the average number of employees employed by the taxpayer in such empire zone or, where applicable, in the geographic area subsequently constituting such zone, during the taxable year immediately preceding the taxable year for which the credit under such subsection (j) is allowed and provided, further, that in the case of a new business, the credit allowable under this subsection for any taxable year shall be allowed if the average number of employees employed in such empire zone in such taxable year is at least one hundred one percent of the average number of such employees during the taxable year in which the credit under such subsection (j) is allowed.

(2) The average number of employees employed in an empire zone, or, where applicable, in the geographic area subsequently constituting such zone, in a taxable year shall be computed by ascertaining the number of such employees within such zone, or, where applicable, in the geographic area subsequently constituting such zone, employed by the taxpayer on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September and the thirty-first day of December in the taxable year, by adding together the number of employees ascertained in each of such dates and dividing the sum so obtained by the number of such abovementioned dates occurring within the taxable year.

(3) If the amount of credit allowed under this subsection for any taxable year shall exceed the taxpayer’s tax for such year,

the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years. In lieu of carrying over any such excess, a taxpayer who qualified as an owner of a new business for purposes of paragraph ten of subsection (a) of this section may, at his option, receive fifty percent of such excess as a refund. Any refund paid pursuant to this paragraph shall be deemed to be a refund of an overpayment of tax as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(3-a) Any carry over of a credit from prior taxable years will not be allowed to an empire zone enterprise which is the basis of the credit, if an empire zone retention certificate is not issued to such entity pursuant to subdivision (w) of section nine hundred fifty-nine of the general municipal law.

(4) Notwithstanding the expiration of the empire zones program under article eighteen-B of the general municipal law, a taxpayer that is certified as an empire zone business pursuant to such article eighteen-B on the day immediately preceding the day the empire zones program expired shall continue to be deemed in the empire zone in which the taxpayer was certified as an empire zone business on the day immediately preceding the day the empire zones program expired for each of the three years next succeeding the taxable year for which the credit under subdivision (j) is allowed.

(k) Empire zone wage tax credit. (1) A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article, where the taxpayer has been certified pursuant to article eighteen-B of the general municipal law. The amount of such credit shall be as prescribed in paragraph four of this subsection.

(2) For the purposes of this subsection, the following terms shall have the following meanings: (A) "Empire zone wages" means wages paid by the taxpayer for full-time employment during the taxable year, in an area designated or previously designated as an empire zone or zone equivalent area pursuant to article eighteen-B of the general municipal law, where such employment is in a job created in the area (i) during the period of its designation as an empire zone, (ii) within four years of the expiration of such designation, or (iii) during the ten year period immediately following the date of designation as a zone equivalent area, provided, however, that if the taxpayer's certification under article eighteen-B of the general municipal law is revoked with respect to an empire zone or zone equivalent area, any wages paid by the taxpayer, on or after the effective date of such decertification, for employment in such zone shall not constitute empire zone wages.

(B) "Targeted employee" means a New York resident who receives empire zone wages and who is (i) an eligible individual under the provisions of the targeted jobs tax credit (section fifty-one of the internal revenue code[25]), (ii) eligible for benefits under the provisions of the workforce investment act as a dislocated worker or low-income individual (P.L. 105-220, as amended),[26] (iii) a recipient of public assistance benefits, (iv) an individual whose income is below the most recently established poverty rate promulgated by the United States department of commerce, or a member of a family whose family income is below the most recently established poverty rate promulgated by the appropriate federal agency or (v) an honorably discharged member of any branch of the armed forces of the United States.

An individual who satisfies the criteria set forth in clause (i), (ii), (iv) or (v) at the time of initial employment in the job with respect to which the credit is claimed, or who satisfies the criterion set forth in clause (iii) at such time or at any time within the previous two years, shall be a targeted employee so long as such individual continues to receive empire zone wages.

(C) “Average number of individuals employed full-time” shall be computed by ascertaining the number of such individuals employed by the taxpayer on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September and the thirty-first day of December during each taxable year or other applicable period, by adding together the number of such individuals ascertained on each of such dates and dividing the sum so obtained by the number of such dates occurring within such taxable year or other applicable period.

(3) The credit provided for herein shall be allowed only where the average number of individuals employed full-time by the taxpayer in (i) the state and (ii) the empire zone or area previously constituting such zone or zone equivalent area, during the taxable year exceeds the average number of such individuals employed full-time by the taxpayer in (i) the state and (ii) such zone or area subsequently or previously constituting such zone or such zone equivalent area, respectively, during the four years immediately preceding the first taxable year in which the credit is claimed with respect to such zone or area. Where the taxpayer provided full-time employment within (i) the state or (ii) such zone or area during only a portion of such four-year period, then for purposes of this paragraph the term “four years” shall be deemed to refer instead to such portion, if any.

The credit shall be allowed only with respect to the first taxable year during which payments of empire zone wages are made and the conditions set forth in this paragraph are satisfied, and with respect to each of the four taxable years next following (but only, with respect to each of such years, if such conditions are satisfied), in accordance with paragraph four of this subsection. Subsequent certifications of the taxpayer pursuant to article eighteen-B of the general municipal law, at the same or a different location in the same empire zone or zone equivalent area or at a location in a different empire zone or zone equivalent area, shall not extend the five taxable year time limitation on the allowance of the credit set forth in the preceding sentence. Provided, further, however, that no credit shall be allowed with respect to any taxable year beginning more than four years following the taxable year in which designation as an empire zone expired or more than ten years after the designation as a zone equivalent area.

(4) The amount of the credit shall equal the sum of

(i) the product of three thousand dollars and the average number of individuals employed full-time by the taxpayer, computed pursuant to the provisions of subparagraph (C) of paragraph two of this subsection, who

(I) received empire zone wages for more than half of the taxable year,

(II) received with respect to more than half of the period of employment by the taxpayer during the taxable year, an hourly wage which was at least one hundred thirty-five percent of the minimum wage specified in section six hundred fifty-two of the labor law, and

(III) are targeted employees; and

(ii) the product of fifteen hundred dollars and the average number of individuals (excluding individuals described in subparagraph (i) of this paragraph) employed full-time by the taxpayer, computed pursuant to the provisions of subparagraph (C) of paragraph two of this subsection, who received empire zone wages for more than half of the taxable year.

Provided, further, however, that the credit provided for herein with respect to the taxable year, and carryovers of such credit to the taxable year, deducted from the tax otherwise due, may not, in the aggregate, exceed fifty percent of the tax imposed under section six hundred one computed without regard to any credit provided for under this article.

(iii) For purposes of calculating the amount of the credit, individuals employed within an empire zone or zone equivalent area within the immediately preceding sixty months by a related person, as such term is defined in subparagraph (c) of paragraph three of subsection (b) of section four hundred sixty-five of the internal revenue code,[27] shall not be included in the average number of individuals described in subparagraph (i) or subparagraph (ii) of this paragraph, unless such related person was never allowed a credit under this subsection with respect to such employees. For purposes of this subparagraph, a "related person" shall include an entity which would have qualified as a "related person" to the taxpayer if it had not been dissolved, liquidated, merged with another entity or otherwise ceased to exist or operate.

(iv) If a taxpayer is certified in an empire zone designated under subdivision (a) or (d) of section nine hundred fifty-eight of the general municipal law, the dollar amounts specified under subparagraph (i) or (ii) of this paragraph shall be increased by five hundred dollars for each qualifying individual under such subparagraph who received, during the taxable year, wages in excess of forty thousand dollars.

(v) The requirement in this paragraph that an employee must receive empire zone wages for more than half the taxable year shall not apply in the first taxable year of a taxpayer satisfying the criteria set forth in this subparagraph. In such a case, the credit allowed under this subsection shall be computed by utilizing the number of individuals (excluding general executive officers) employed full time by the taxpayer on the last day of its first taxable year. A taxpayer shall satisfy the following criteria: (I) such taxpayer acquired real or tangible personal property during its first taxable year from an entity which is not a related person (as such term is defined in subdivision (g) of section fourteen of this chapter); (II) the first taxable year of such taxpayer shall be a short taxable year of not more than seven months in duration; and (III) the number of individuals employed full-time on the last day of such first taxable year shall be at least one hundred ninety and substantially all of such individuals must have been previously employed by the entity from whom such taxpayer purchased its assets.

(5) If the amount of the credit and carryovers of such credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess, as well as any part of the credit or carryovers of such credit, or both, which may not be deducted from the tax otherwise due by reason of the final sentence in paragraph four hereof, may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years. In lieu of carrying over any such excess, a taxpayer who qualifies as an owner of a new business for purposes of paragraph ten of subsection (a) of this section may, at his option, receive fifty percent of such excess as a refund. Any refund paid pursuant to this paragraph shall be deemed to be a refund of an overpayment of tax as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(5-a) Any carry over of a credit from prior taxable years will not be allowed if an empire zone retention certificate is not issued pursuant to subdivision (w) of section nine hundred fifty-nine of the general municipal law to the empire zone enterprise which is the basis of the credit.

(l) Empire zone capital tax credit. (1) A taxpayer shall be allowed a credit against the tax imposed by this article. The amount of the credit shall be equal to twenty-five percent of the sum of the following investments and contributions made during the taxable year and certified by the commissioner of economic development: (A) for taxable years beginning before January first, two thousand five, qualified investments made in, or contributions in the form of donations made to, one or more empire zone capital corporations established pursuant to section nine hundred sixty-four of the general municipal law prior to January first, two thousand five, (B) qualified investments in certified zone businesses which during the twelve month period immediately preceding the month in which such investment is made employed full-time within the state an average number of individuals of two hundred fifty or fewer, computed pursuant to the provisions of subparagraph (C) of paragraph two of subsection (k) of this section, except for investments made by or on behalf of an owner of the business including, but not limited to, a stockholder, partner or sole proprietor, or any related person, as defined in subparagraph (C) of paragraph three of subsection (b) of section four hundred sixty-five of the internal revenue code,[27] and (C) contributions of money to community development projects as defined in regulations promulgated by the commissioner of economic development. "Qualified investments" means the contribution of property to a corporation in exchange for original issue capital stock or other ownership interest, the contribution of property to a partnership in exchange for an interest in the partnership, and similar contributions in the case of a business entity not in corporate or partnership form in exchange for an ownership interest in such entity. The total amount of credit allowable to a taxpayer under this provision for all years, taken in the aggregate, shall not exceed three hundred thousand dollars, and shall not exceed one hundred thousand dollars with respect to the investments and contributions described in each of subparagraphs (A), (B) and (C) of this paragraph.

(1-a) Any carry over of a credit from prior taxable years will not be allowed to an empire zone enterprise which is the basis of the credit, if an empire zone retention certificate is not issued to such entity pursuant to subdivision (w) of section nine hundred fifty-nine of the general municipal law.

(2)(A) If the amount of the credit and carryovers of such credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, or if any part of the credit or carryovers of such credit may not be deducted from the tax otherwise due by reason of the final sentence of this subparagraph, any amount of credit or carryovers of such credit thus not deductible in such taxable year may be carried over to the following year or years and may be deducted from the tax for such year or years. In addition, the amount of such credit, and carryovers of such credit to the taxable year, deducted from the tax otherwise due may not, in the aggregate, exceed fifty percent of the tax imposed under section six hundred one computed without regard to any credit provided for by this section.

(B) In the case of a husband or wife who is required to file a separate return, the limitation provided for in paragraph one of this subsection shall be fifty thousand dollars in lieu of one hundred thousand dollars and one hundred fifty thousand dollars in lieu of three hundred thousand dollars, unless the spouse of the taxpayer has no credit allowable under this subsection for the taxable year of such spouse which ends within or with the taxpayer's taxable year.

(C) In the case of an estate or trust, the limitation provided for in paragraph one of this subsection shall be reduced to an amount which bears the same ratio to one hundred thousand dollars and an amount which bears the same ratio to three hundred thousand dollars as the portion of the income of the estate or trust which is not allocated to beneficiaries bears to the total income of the estate or trust.

(3) Where the stock, partnership interest or other ownership interest arising from a qualified investment as described in subparagraphs (A) and (B) of paragraph one of this subsection is disposed of, the taxpayer's New York taxable income shall be computed, pursuant to regulations promulgated by the commissioner, so as to properly reflect the reduced cost thereof

arising from the application of the credit provided for herein.

(4)(A) Where a taxpayer sells, transfers or otherwise disposes of corporate stock, a partnership interest or other ownership interest arising from the making of a qualified investment which was the basis, in whole or in part, for the allowance of the credit provided for under this subsection, or where a contribution or investment which was the basis for such allowance is in any manner, in whole or in part, recovered by such taxpayer, and such disposition or recovery occurs during the taxable year or within thirty-six months from the close of the taxable year with respect to which such credit is allowed, subparagraph (B) of this paragraph shall apply.

(B) The taxpayer shall add back with respect to the taxable year in which the disposition or recovery described in subparagraph (A) of this paragraph occurred the required portion of the credit originally allowed.

(C) The required portion of the credit originally allowed shall be the product of (i) the portion of such credit attributable to the property disposed of or the payment or contribution recovered and (ii) the applicable percentage.

(D) The applicable percentage shall be:

(i) one hundred percent, if the disposition or recovery occurs within the taxable year with respect to which the credit is allowed or within twelve months of the end of such taxable year,

(ii) sixty-seven percent, if the disposition or recovery occurs more than twelve but not more than twenty-four months after the end of the taxable year with respect to which the credit is allowed, or

(iii) thirty-three percent, if the disposition or recovery occurs more than twenty-four but not more than thirty-six months after the end of the taxable year with respect to which the credit is allowed.

(5) If the designation of an area as an empire zone is no longer in effect because the designations of all empire zones pursuant to article eighteen-B of the general municipal law have expired, a taxpayer that has made a contribution of money on or before the day immediately preceding the day the empire zones expired to a community development project approved by the commissioner of economic development shall be deemed eligible to claim the empire zone capital credit under subparagraph (C) of paragraph one of this subsection for additional contributions made prior to April first, two thousand fourteen and certified by the commissioner of economic development to that community development project as payment of a commitment made by the taxpayer to that community development project before the empire zones expired.

(m) Excess deductions credit. (1) General. For taxable years beginning in nineteen hundred ninety-five, an excess deductions credit shall be allowed against the tax determined under subsections (a) through (d) of section six hundred one of this article. The credit shall be allowed to an individual taxpayer whose New York itemized deduction determined under section six

hundred fifteen (whether or not the taxpayer elects the New York itemized deduction for the taxable year) exceeds the base amount determined under paragraph two hereof. The credit shall not exceed the tax determined under subsections (a) through (d) of section six hundred one for the taxable year, reduced by the credits permitted under subsection (c) of this section and sections six hundred twenty and six hundred twenty-one of this article.

(2) Base amount. The base amount shall be determined by the taxpayer's standard deduction status under section six hundred fourteen (whether or not the taxpayer employs the standard deduction for the taxable year) as follows:

If the taxpayer's standard deduction status is:	The base amount is:
Unmarried individual who is not a head of household nor a surviving spouse nor an individual whose federal exemption amount is zero	$6,000
Husband and wife whose New York taxable income is determined jointly, or a surviving spouse	$9,500
Head of household	$7,000
Married individual filing a separate New York return	$4,750

(3) Credit amount.

(A) Married individuals filing joint returns and surviving spouses. The amount of the credit allowed pursuant to this subsection for married individuals filing jointly under subsection (b) of section six hundred fifty-one and for a surviving spouse shall be:

If New York taxable income is:	The credit is the following percentage of New York taxable income:
Not over $11,500	0.57%
Over $11,500 but not over $17,500	0.51%
Over $17,500 but not over $24,100	0.36%
Over $24,100 but not over $31,500	0.26%

Over $31,500 but not over $35,500	0.16%
Over $35,500 but not over $42,000	0.11%
Over $42,000 but not over $49,000	0.06%
Over $49,000	0.00%

(B) Heads of households. The amount of the credit allowed pursuant to this subsection for a head of household shall be:

If New York taxable income is:	The credit is the following percentage of New York taxable income:
Not over $7,600	0.57%
Over $7,600 but not over $11,700	0.51%
Over $11,700 but not over $16,400	0.36%
Over $16,400 but not over $20,500	0.26%
Over $20,500 but not over $23,800	0.16%
Over $23,800 but not over $28,650	0.11%
Over $28,650 but not over $33,400	0.06%
Over $33,400	0.00%

(C) Unmarried individuals and married individuals filing separate returns. The amount of the credit allowed pursuant to this subsection for an individual who is not a married individual filing jointly under subsection (b) of section six hundred fifty-one nor a head of a household nor a surviving spouse shall be:

If New York taxable income is:	The credit is the following percentage of New York taxable income:

Not over $5,600	0.57%
Over $5,600 but not over $8,600	0.51%
Over $8,600 but not over $12,000	0.36%
Over $12,000 but not over $15,700	0.26%
Over $15,700 but not over $17,600	0.16%
Over $17,600 but not over $21,000	0.11%
Over $21,000 but not over $24,500	0.06%
Over $24,500	0.00%

(n) Agricultural property tax credit. (1) General. In the case of a taxpayer who is an eligible farmer or an eligible farmer who has paid taxes pursuant to a land contract, there shall be allowed a credit for the allowable school district property taxes. The term "allowable school district property taxes" means the school district property taxes paid during the taxable year on qualified agricultural property, subject to the acreage limitation provided in paragraph five of this subsection and the income limitation provided in paragraph six of this subsection. Such credit shall be allowed against the taxes imposed by this article for the taxable year reduced by the credits permitted by this article. If the credit exceeds the tax as so reduced, the taxpayer may receive, and the comptroller, subject to a certificate of the commissioner, shall pay as an overpayment, without interest, the amount of such excess.

(2) Eligible farmer. For purposes of this subsection, the term "eligible farmer" means a taxpayer whose federal gross income from farming for the taxable year is at least two-thirds of excess federal gross income. The term "eligible farmer" also includes an individual other than the taxpayer of record for qualified agricultural land who has paid the school district property taxes on such land pursuant to a contract for the future purchase of such land; provided that such individual has a federal gross income from farming for the taxable year which is at least two-thirds of excess federal gross income; and provided further that, in determining such income eligibility, a taxpayer may, for any taxable year, use the average of such federal gross income from farming for that taxable year and such income for the two consecutive taxable years immediately preceding such taxable year. Excess federal gross income means the amount of federal gross income from all sources for the taxable year reduced by the sum (not to exceed thirty thousand dollars) of those items included in federal gross income which consist of (i) earned income, (ii) pension payments, including social security payments, (iii) interest, and (iv) dividends. For purposes of this paragraph, the term "earned income" shall mean wages, salaries, tips and other employee compensation, and those items of gross income which are includible in the computation of net earnings from self-employment. For the purposes of this paragraph, payments from the state's farmland protection program, administered by the department of agriculture and markets, shall be included as federal gross income from farming for otherwise eligible farmers.

(3) School district property taxes. For purposes of this subsection, the term "school district property taxes" means all property taxes, special ad valorem levies and special assessments, exclusive of penalties and interest, levied for school district purposes on the qualified agricultural property (A) owned by the taxpayer, (B) owned by the father, mother, grandfather, grandmother, brother or sister of the taxpayer and a written agreement expressing intent to eventually purchase the land has been entered into, or (C) owned by trust where the taxpayer is an immediate family member of the settlor, and where under the terms of the trust the title to the property shall pass to such taxpayer upon the death of the settlor.

(4) Qualified agricultural property. For purposes of this subsection, the term "qualified agricultural property" means land located in this state which is used in agricultural production, and land improvements, structures and buildings (excluding buildings used for the taxpayer's residential purpose) located on such land which are used or occupied to carry out such production. Qualified agricultural property also includes land set aside or retired under a federal supply management or soil conservation program or land that at the time it becomes subject to a conservation easement, as defined under subsection (kk) of this section, met the requirements under this paragraph.

(5) Acreage limitation. (A) Eligible taxes. In the event that the qualified agricultural property owned by the taxpayer includes land in excess of the base acreage as provided in this paragraph, the amount of school district property taxes eligible for credit under this subsection shall be that portion of the school district property taxes which bears the same ratio to the total school district property taxes paid during the taxable year, as the acreage allowable under this paragraph bears to the entire acreage of such land.

(B) Allowable acreage. The allowable acreage is the sum of the base acreage set forth below and fifty percent of the incremental acreage. The incremental acreage is the excess of the entire acreage of qualified agricultural land owned by the taxpayer over the base acreage. Except as provided in subparagraph (C) of this paragraph:

For taxable years beginning:	The base acreage is:
in 1997	100
after 1997 but before 2006	250
2006 and thereafter	350

For taxable years beginning after two thousand, total base acreage may be increased by any acreage enrolled or participating during the taxable year in a federal environmental conservation acreage reserve program pursuant to title three of the federal agriculture improvement and reform act of nineteen hundred ninety-six.

(C) Base acreage of related persons. Where the taxpayer and one or more related persons each own qualified agricultural property on the first day of March of any year, the base acreage under subparagraph (B) of this paragraph shall be divided

equally and allotted among the taxpayer and such related persons, and the taxpayer's base acreage for the taxable year which includes such March first shall be limited to its allotted share. Provided, however, if the taxpayer and all such related persons consent (at such time and in such manner as the commissioner may prescribe) to an unequal division, the taxpayer's base acreage for such taxable year shall be limited to its allotted share under such unequal division.

(D) Related persons. (i) For purposes of subparagraph (C) of this paragraph, the term "related person" means:

(I) a spouse;

(II) a corporation subject to tax under article nine-A of this chapter, where more than fifty percent in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the taxpayer, or, where the taxpayer is a trust, where such stock is owned directly or indirectly by or for the grantor of such trust;

(III) a partnership, estate or trust of which the taxpayer owns, directly or indirectly, more than fifty percent of the capital, profits or beneficial interest.

(ii) For purposes of subparagraph (C) of this paragraph, where the taxpayer is an estate or trust, the term "related person" shall also mean a corporation subject to tax under article nine-A of this chapter, a partnership, an estate or trust:

(I) where more than fifty percent of the beneficial interest in the taxpayer is owned, directly or indirectly, by or for such corporation, partnership, estate or trust or by or for the grantor of such trust; or

(II) if the same person owns more than fifty percent of the beneficial interest in the taxpayer and more than fifty percent in value of the outstanding stock of the corporation, or more than fifty percent of the capital or profits interest in the partnership, or more than fifty percent of the beneficial interest in the estate or trust.

(iii) In determining whether a person is a related person within the meaning of this subparagraph:

(I) stock owned, directly or indirectly, by or for a corporation, partnership, estate or trust shall be considered as being owned proportionately by or for its shareholders, partners or beneficiaries;

(II) an individual shall be considered as owning the stock owned, directly or indirectly, by or for his spouse;

(III) stock constructively owned by a person by reason of the application of item (I) of this clause shall, for the purpose of applying item (I) or (II) of this clause, be treated as actually owned by such person.

(6) Income limitation. (A) In the event that the modified New York adjusted gross income of the taxpayer exceeds one hundred thousand dollars for taxable years beginning before two thousand six or two hundred thousand dollars for taxable year two thousand six and thereafter, the allowable school district property taxes under paragraph one of this subsection shall be the eligible taxes under subparagraph (A) of paragraph five of this subsection reduced by the product of the amount of such eligible taxes and a percentage, such percentage to be determined by multiplying one hundred percent by a fraction, the numerator of which is the lesser of fifty thousand dollars for taxable years beginning before two thousand six or one hundred thousand dollars for taxable year two thousand six and thereafter or the excess of the taxpayer's modified New York adjusted gross income over one hundred thousand dollars for taxable years beginning before two thousand six or two hundred thousand dollars for taxable year two thousand six and thereafter and the denominator of which is fifty thousand dollars for taxable years beginning before two thousand six or one hundred thousand dollars for taxable year two thousand six and thereafter. For purposes of the preceding sentence, the term "eligible taxes", where the acreage limitation of paragraph five of this subsection does not apply, shall mean the total school district property taxes paid during the taxable year.

(B) The term "modified New York adjusted gross income" means the New York adjusted gross income for the taxable year reduced by the amount of principal paid on farm indebtedness during the taxable year. The term "farm indebtedness" means debt incurred or refinanced which is secured by farm property, where the proceeds of the debt are disbursed for expenditures incurred in the business of farming.

(7) Nonqualified use. (A) No credit in conversion year. In the event that qualified agricultural property is converted by the taxpayer to nonqualified use, credit under this subsection shall not be allowed with respect to such property for the taxable year of conversion (the conversion year).

(B) Credit recapture. If the conversion by the taxpayer of qualified agricultural property to nonqualified use occurs during the period of the two taxable years following the taxable year for which the credit under this subsection was first claimed with respect to such property, the credit allowed with respect to such property for the taxable years prior to the conversion year must be added back in the conversion year. Where the property converted includes land, and where the conversion is of only a portion of such land, the credit allowed with respect to the property converted shall be determined by multiplying the entire credit under this subsection for the taxable years prior to the conversion year by a fraction, the numerator of which is the acreage converted and the denominator of which is the entire acreage of such land owned by the taxpayer immediately prior to the conversion.

(C) Exception to recapture. Subparagraph (B) of this paragraph shall not apply to the conversion of property where the conversion is by reason of involuntary conversion, within the meaning of section one thousand thirty-three of the internal revenue code.[11]

(D) Conversion to nonqualified use. For purposes of this paragraph, a sale or other disposition of qualified agricultural property alone shall not constitute a conversion to a nonqualified use.

(8) Special rules. For purposes of this subsection, the term "federal gross income from farming" shall include gross income from the production of maple syrup, cider, Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump, or from a commercial horse boarding operation as defined in subdivision thirteen of section three hundred one of the agriculture and markets law, or from the sale of wine from a licensed farm winery as provided for in article six of the alcoholic beverage control law, or from the sale of cider from a licensed farm cidery as provided for in section fifty-eight-c of the alcoholic beverage control law.

(9) Election to deem gross income of New York C corporation to shareholders. (A) General. For purposes of the credit under this subsection, the shareholders of an eligible corporation may elect to take into account their pro rata shares of the corporation's income and principal payments on farm indebtedness as provided in subparagraph (B) of this paragraph, for the taxable year of the corporation ending with or within the taxable year of each shareholder. No election under this paragraph shall be effective unless shareholders holding more than one-half, by vote and value, of the shares of stock of the corporation on the day on which the election is made have so elected.

(B) Inclusion in gross and adjusted gross income. (i) For any taxable year of the corporation for which the election under this paragraph is in effect, the shareholders of the corporation shall include:

(I) in gross income, for purposes of paragraph two of this subsection, their pro rata shares of the corporation's gross income, which income shall have the same character as in the hands of the corporation, and

(II) in adjusted gross income, for purposes of paragraph six of this subsection, their pro rata shares of the corporation's entire net income, and

(III) in principal payments on farm indebtedness, for purposes of paragraph six of this subsection, their pro rata shares of such payments made by the corporation.

(ii) Tiered New York C and New York S corporation. In the event that a shareholder of the corporation is a New York S corporation, the New York S corporation shall make the inclusions prescribed by clause (i) of this subparagraph (except that the inclusion prescribed by subclause (II) of such clause shall be in the entire net income of the New York S corporation), and the New York S corporation shall pass through such inclusions in pro rata shares to its shareholders for purposes of their calculation of credit under this subsection.

(C) Eligible corporation. The term "eligible corporation" means a corporation subject to tax under article nine-A of this chapter which is a New York C corporation for federal income tax purposes.

(D) Pro rata share. For purposes of this paragraph, the pro rata share of any item of income or farm indebtedness principal payments for a taxable year of the corporation shall be determined with respect to a shareholder by assigning an equal portion of the item to each day of such taxable year, and then by dividing that portion pro rata among the shares outstanding on such

day.

(E) Election. (i) An election under subparagraph (A) of this paragraph shall be made on such form and in such manner as the commissioner may prescribe.

(ii) When made. Such election shall be made no later than the due date of the corporation tax return (determined without regard to extensions) for the corporation's taxable year for which the election is to be effective.

(iii) When effective. Such election shall be effective for the taxable year of the corporation for which it is made and for all succeeding taxable years of the corporation, until such election is terminated under subparagraph (F) of this paragraph.

(F) Termination. (i) Revocation. An election under subparagraph (A) of this paragraph shall be terminated if shareholders holding more than one-half, by vote and value, of the shares of stock of the corporation on the day on which the revocation is made revoke the election. Such revocation shall be made on such form and in such manner as the commissioner may prescribe, and shall be effective on the first day of the corporation's taxable year following the date on which the revocation is made.

(ii) Ineligible corporation. An election under subparagraph (A) of this paragraph shall be terminated on the first day of the corporation's taxable year with respect to which the corporation ceases to be an eligible corporation.

(G) Election after termination. If an election is terminated under subparagraph (F) of this paragraph, no further election under subparagraph (A) of this paragraph shall be made before the fifth taxable year of the corporation following the taxable year during which the termination occurred, unless the commissioner consents to such election.

(H) Waiver of secrecy. The commissioner shall have authority to reveal to shareholders of the corporation any information with respect to income or farm indebtedness principal payments of the corporation, for any taxable year of the corporation for which the election under this paragraph is in effect, which is the basis for denial in whole or in part of the credit claimed by such shareholders.

(n-1) Property tax relief credit. (1) An individual taxpayer who meets the eligibility standards in paragraph two of this subsection shall be allowed a credit against the taxes imposed by this article in the amount specified in paragraph three of this subsection for tax years two thousand sixteen, two thousand seventeen, two thousand eighteen, and two thousand nineteen.

(2)(a) To be eligible for the credit, the taxpayer (or taxpayers filing joint returns) on the personal income tax return filed for the taxable year two years prior, must have (i) been a resident, (ii) owned and primarily resided in real property receiving

either the STAR exemption authorized by section four hundred twenty-five of the real property tax law or the school tax relief credit authorized by subsection (eee) of this section, and (iii) had qualified gross income no greater than two hundred seventy-five thousand dollars. Provided, however, that no credit shall be allowed if any of the following apply:

(i) Such property is located in an independent school district that is subject to the provisions of section two thousand twenty-three-a of the education law and that has adopted a budget in excess of the tax levy limit prescribed by that section. To render its taxpayers eligible for the credit authorized by this subsection, the school district must certify its compliance with such tax levy limit in the manner prescribed by subdivision two of section two thousand twenty-three-b of the education law.

(ii) Such property is located in a city with a dependent school district that is subject to the provisions of section three-c of the general municipal law and that has adopted a budget in excess of the tax levy limit prescribed by that section. To render its taxpayers eligible for the credit authorized by this subsection, the city must certify its compliance with such tax levy limit in the manner prescribed by subdivision two of section three-d of the general municipal law.

(iii) Such property is located in the city of New York.

(3) Amount of credit. (a) For the two thousand sixteen taxable year (i) for a taxpayer residing in real property located within the metropolitan commuter transportation district (MCTD) and outside the city of New York, the amount of the credit shall be $130; (ii) for a taxpayer residing in real property located outside the MCTD, the amount of the credit shall be $185.

(b) For the two thousand seventeen, two thousand eighteen and two thousand nineteen taxable years (i) For a taxpayer who owned and primarily resided in real property receiving the basic STAR exemption, the amount of the credit shall equal the STAR tax savings associated with such basic STAR exemption, multiplied by the following percentage:

(A) for the two thousand seventeen taxable year:

Qualified Gross Income	Percentage
Not over $75,000	28%
Over $75,000 but not over $150,000	20.5%
Over $150,000 but not over $200,000	13%
Over $200,000 but not over $275,000	5.5%
Over $275,000	No credit

(B) for the two thousand eighteen taxable year:

Qualified Gross Income	Percentage
Not over $75,000	60%
Over $75,000 but not over $150,000	42.5%
Over $150,000 but not over $200,000	25%
Over $200,000 but not over $275,000	7.5%
Over $275,000	No credit

(C) for the two thousand nineteen taxable year:

Qualified Gross Income	Percentage
Not over $75,000	85%
Over $75,000 but not over $150,000	60%
Over $150,000 but not over $200,000	35%
Over $200,000 but not over $275,000	10%
Over $275,000	No credit

(c) For a taxpayer who owned and primarily resided in real property receiving the enhanced STAR exemption, the amount of the credit shall equal the STAR tax savings associated with such enhanced STAR exemption, multiplied by the following percentage:

Taxable Year	Percentage
two thousand seventeen	12%
two thousand eighteen	26%
two thousand nineteen	34%

(d) In no case may the amount of the credit allowed under this subsection exceed the school district taxes due with respect to the residence for that school year.

(4) For purposes of this subsection:

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

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

(c) "Metropolitan commuter transportation district" or "MCTD" means the metropolitan commuter transportation district as defined in section twelve hundred sixty-two of the public authorities law.

(5) If the amount of the credit allowed under this subsection shall exceed the taxpayer's tax for the taxable year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon. For each year this credit is allowed, on or before October fifteenth of such year, or as soon thereafter as is practicable, the commissioner shall determine the taxpayer's eligibility for this credit utilizing the information available to the commissioner on the taxpayer's personal income tax return filed for the taxable year two years prior to the taxable year in which the credit is allowed. For those taxpayers whom the commissioner has determined eligible for this credit, the commissioner shall advance a payment in the amount specified in paragraph three of this subsection, which payment shall be issued, to the greatest extent practicable, by October thirty-first of each year the credit is allowed. A taxpayer who has failed to receive an advance payment that he or she believes was due to him or her, or who has received an advance payment that he or she believes is less than the amount that was due to him or her, may request payment of the claimed deficiency in a manner prescribed by the commissioner.

(6) A taxpayer shall not be eligible for the credit allowed under this subsection if the school district taxes levied upon the residence during the taxable year remain unpaid sixty days after the last date on which they could have been paid without interest, or in the case of a school district where such taxes are payable in installments, if such taxes remain unpaid sixty days after the last date on which the final installment could have been paid without interest. If the taxes remain unpaid on such sixtieth day, the amount of credit claimed by the taxpayer under this subsection or the amount of advance payment of credit received by the taxpayer pursuant to paragraph five of this subsection shall be added back as tax on the income tax return for the taxable year in which such sixtieth day occurs.

(7) Only one credit per residence shall be allowed per taxable year under this subsection. When two or more members of a residence are able to meet the qualifications for a qualified taxpayer, the credit shall be equally divided between or among such individuals. In the case of spouses who file a joint federal return but who are required to determine their New York taxes separately, the credit allowed pursuant to this subsection may be applied against the tax of either or divided between them as they may elect.

(n-2) Credit for farm donations to food pantries. (1) General. In the case of a taxpayer who is an eligible farmer, there shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article for taxable years beginning on and after January first, two thousand eighteen. The amount of the credit shall be twenty-five percent of the fair market value of the taxpayer's qualified donations made to any eligible food pantry during the taxable year, not to exceed five thousand dollars per taxable year. If the taxpayer is a partner in a partnership or a shareholder of a New York S corporation, then the cap imposed by the preceding sentence shall be applied at the entity level, so that the aggregate credit allowed to all partners or shareholders of such entity in the taxable year does not exceed five thousand dollars.

(2) Eligible farmer. For purposes of this subsection, the term "eligible farmer" means a taxpayer whose federal gross income from farming for the taxable year is at least two-thirds of excess federal gross income. Excess federal gross income means the amount of federal gross income from all sources for the taxable year reduced by the sum (not to exceed thirty thousand dollars) of those items included in federal gross income that consist of: (i) earned income, (ii) pension payments, including social security payments, (iii) interest, and (iv) dividends. For purposes of this paragraph, the term "earned income" shall mean wages, salaries, tips and other employee compensation, and those items of gross income that are includible in the computation of net earnings from self-employment. For the purposes of this paragraph, payments from the state's farmland protection program, administered by the department of agriculture and markets, shall be included as federal gross income from farming for otherwise eligible farmers.

(3) Qualified donation. For purposes of this subsection, the term "qualified donation" means a donation of any apparently wholesome food, as defined in section 170(e)(3)(C)(vi) of the internal revenue code, grown or produced within this state, by an eligible farmer to an eligible food pantry.

(4) Eligible food pantry. For purposes of this subsection, the term "eligible food pantry" means any food pantry, food bank, or other emergency food program operating within this state that has qualified for tax exemption under section 501(c)(3) of the internal revenue code.

(5) Determination of fair market value. For purposes of this subsection, to determine the fair market value of apparently wholesome food donated to an eligible food pantry, the standards set forth under section 170(e)(3)(C)(v) of the internal revenue code shall apply.

(6) Record of donation. To claim a credit under this subsection, a taxpayer must get and keep a receipt from the eligible food pantry showing: (i) the name of the eligible food pantry; (ii) the date and location of the qualified donation; and (iii) a reasonably detailed description of the qualified donation. A letter or other written communication from the eligible food pantry acknowledging receipt of the contribution and containing the information in subparagraphs (i), (ii), and (iii) of this paragraph will serve as a receipt.

(7) Application of credit. A taxpayer shall be allowed a credit under this subsection against the tax imposed by this article. However, if the amount of credit allowed under this subsection for any taxable year exceeds the taxpayer's tax for such year, the excess will be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article. Provided, however, the provisions of subsection (c) of section six hundred eight-y-eight of this article notwithstanding, no interest will be paid there-on.

(o) Credit for employment of persons with disabilities. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article, for employing within the state a qualified employee.

(2) Qualified employee. A qualified employee is an individual:

(A) who is certified by the education department, or in the case of an individual who is blind or visually handicapped, by the state agency responsible for provision of vocation[28] rehabilitation services to the blind and visually handicapped: (i) as a person with a disability which constitutes or results in a substantial handicap to employment and (ii) as having completed or as receiving services under an individualized written rehabilitation plan approved by the education department or other state agency responsible for providing vocational rehabilitation services to such individual; and

(B) who has worked on a full-time basis for the employer who is claiming the credit for at least one hundred eighty days or four hundred hours.

(3) Amount of credit. Except as provided in paragraph four of this subsection, the amount of credit shall be thirty-five percent of the first six thousand dollars in qualified first-year wages earned by each qualified employee. "Qualified first-year wages" means wages paid or incurred by the taxpayer during the taxable year to qualified employees which are attributable, with respect to any such employee, to services rendered during the one-year period beginning with the day the employee begins work for the taxpayer.

(4) Credit where federal work opportunity tax credit applies. With respect to any qualified employee whose qualified first-year wages under paragraph three of this subsection also constitute qualified first-year wages for purposes of the work

opportunity tax credit for vocational rehabilitation referrals under section fifty-one of the internal revenue code,[25] the amount of credit under this subsection shall be thirty-five percent of the first six thousand dollars in qualified second-year wages earned by each such employee. "Qualified second-year wages" means wages paid or incurred by the taxpayer during the taxable year to qualified employees which are attributable, with respect to any such employee, to services rendered during the one-year period beginning one year after the employee begins work for the taxpayer.

(5) Carryover. If the amount of credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years, and may be deducted from the taxpayer's tax for such year or years.

(6) Coordination with federal work opportunity tax credit. The provisions of sections fifty-one and fifty-two of the internal revenue code,[29] as such sections applied on October first, nineteen hundred ninety-six, that apply to the work opportunity tax credit for vocational rehabilitation referrals shall apply to the credit under this subsection to the extent that such sections are consistent with the specific provisions of this subsection, provided that in the event of a conflict the provisions of this subsection shall control.

(p) Alternative fuels and electric vehicle recharging property credit. (1) General. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article, for alternative fuel vehicle refueling and electric vehicle recharging property placed in service during the taxable year.

(2)(a) Alternative fuel vehicle refueling property and electric vehicle recharging property. The credit under this subsection for alternative fuel vehicle refueling property or electric vehicle recharging property shall equal for each installation of property the lesser of five thousand dollars or the product of fifty percent and the cost of any such property less any costs paid from the proceeds of grants.

(b) To qualify for the credit, the property must:

(i) be located in this state;

(ii) constitute alternative fuel vehicle refueling property or electric vehicle recharging property; and

(iii) not be paid for from the proceeds of grants awarded before January first, two thousand fifteen, including grants from the New York state energy research and development authority or the New York power authority.

(3) Definitions. (A) The term "alternative fuel vehicle refueling property" means all of the equipment needed to dispense any

fuel at least eighty-five percent of the volume of which consists of one or more of the following: natural gas, liquified natural gas, liquified petroleum, or hydrogen; and

(B) The term "electric vehicle recharging property" means all the equipment needed to convey electric power from the electric grid or another power source to an onboard vehicle energy storage system.

(4) Carryovers. If the amount of credit allowable under this subsection shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(5) Credit recapture. (A) If, at any time before the end of its recovery period, alternative fuel vehicle refueling property or electric vehicle recharging property ceases to be qualified, a recapture amount must be added back in the tax year in which such cessation occurs.

(B) Cessation of qualification. Alternative fuel vehicle refueling property or electric vehicle recharging property ceases to be qualified if:

(i) the property no longer qualifies as alternative fuel vehicle refueling property or electric vehicle recharging property, or

(ii) fifty percent or more of the use of the property in a taxable year is other than in a trade or business in this state, or

(iii) the taxpayer receiving the credit under this subsection sells or disposes of the property and knows or has reason to know that the property will be used in a manner described in clause (i) or (ii) of this subparagraph.

(C) Recapture amount. The recapture amount is equal to the credit allowable under this subsection multiplied by a fraction, the numerator of which is the total recovery period for the property minus the number of recovery years prior to, but not including, the recapture year, and the denominator of which is the total recovery period.

(6) Termination. The credit allowed by this subsection shall not apply in taxable years beginning after December thirty-first, two thousand twenty-two.

(p-1) Repealed by L.2002, c. 85, pt. C, § 2, eff. Jan. 1, 2004.

(q) Qualified emerging technology company employment credit. (1) A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article, provided:

(A) the taxpayer is a sole proprietor of a qualified emerging technology company, a member of a partnership which is a qualified emerging technology company, or a shareholder of a New York S corporation which is a qualified emerging technology company, as defined in section thirty-one hundred two-e of the public authorities law; and

(B) the average number of individuals employed full-time by such company in New York state during the taxable year is at least one hundred one percent of such company's base year employment. For the purposes of this subsection, "base year employment" means the average number of individuals employed full-time by such company in the state during the three taxable years immediately preceding the first taxable year in which the credit is claimed. Where such company provided full-time employment within the state during only a portion of such three-year period, then for purposes of this subsection, the term "three years" shall be deemed to refer instead to such portion, provided, however, the first taxable year for which this credit may be taken with respect to such company shall be the next year following the first full taxable year that such company had full-time employment in New York state.

(2) The credit shall be allowed only in the first taxable year in which the credit is claimed and in each of the next two taxable years, provided that the conditions of paragraph one of this subsection are satisfied in each taxable year.

(3) For the purposes of this subsection, average number of individuals employed full-time shall be computed by adding the number of such individuals employed by such company at the end of each quarter during each taxable year or other applicable period and dividing the sum so obtained by the number of such quarters occurring within such taxable year or other applicable period; provided, however, that in computing base year employment there shall be excluded therefrom any employee with respect to whom a credit provided for under subsection (k) of this section is claimed for the taxable year.

(4) The amount of the credit shall equal the product of one thousand dollars multiplied by the number of individuals employed full-time by such company in the taxable year that are in excess of one hundred percent of such company's base year employment.

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

(r) Qualified emerging technology company capital tax credit. (1) A taxpayer shall be allowed a credit against the tax imposed by this article. The amount of the credit shall be equal to one of the following percentages, per each qualified investment in a qualified emerging technology company as defined in section thirty-one hundred two-e of the public authorities law, made during the taxable year, and certified by the commissioner, either:

(A) ten percent of qualified investments in qualified emerging technology companies, except for investments made by or on

behalf of an owner of the business, including, but not limited to, a stockholder, partner or sole proprietor, or any related person, as defined in subparagraph (C) of paragraph three of subsection (b) of section four hundred sixty-five of the internal revenue code,[27] and provided, however, that the taxpayer certifies to the commissioner that the qualified investment will not be sold, transferred, traded, or disposed of during the four years following the year in which the credit is first claimed; or

(B) twenty percent of qualified investments in qualified emerging technology companies, except for investments made by or on behalf of an owner of the business, including, but not limited to, a stockholder, partner or sole proprietor, or any related person, as defined in subparagraph (C) of paragraph three of subsection (b) of section four hundred sixty-five of the internal revenue code,[27] and provided, however, that the taxpayer certifies to the commissioner that the qualified investment will not be sold, transferred, traded, or disposed of during the nine years following the year in which the credit is first claimed.

(C) "Qualified investment" means the contribution of property to a corporation in exchange for original issue capital stock or other ownership interest, the contribution of property to a partnership in exchange for an interest in the partnership, and similar contributions in the case of a business entity not in corporate or partnership form in exchange for an ownership interest in such entity. The total amount of credit allowable to a taxpayer under this provision for all years, taken in the aggregate, shall not exceed one hundred fifty thousand dollars in the case of investments made pursuant to subparagraph (A) of this paragraph and shall not exceed three hundred thousand dollars in the case of investments made pursuant to subparagraph (B) of this paragraph.

(2) (A) If the amount of the credit and carryovers of such credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, any amount of credit or carryovers of such credit thus not deductible in such taxable year may be carried over to the following year or years and may be deducted from the tax for such year or years. In addition, the amount of such credit, and carryovers of such credit to the taxable year, deducted from the tax otherwise due may not, in the aggregate, exceed fifty percent of the tax imposed under section six hundred one computed without regard to any credit provided for by this section.

(B) In the case of a husband or wife who is required to file a separate return, the limitations provided for in subparagraph (c)[18] of paragraph one of this subsection shall be seventy-five thousand dollars in lieu of one hundred fifty thousand dollars, and one hundred fifty thousand dollars in lieu of three hundred thousand dollars, unless the spouse of the taxpayer has no credit allowable under this subsection for the taxable year of such spouse which ends within or with the taxpayer's taxable year.

(C) In the case of an estate or trust, the limitations provided for in paragraph one of this subsection shall be reduced to an amount which bears the same ratio to one hundred fifty thousand dollars and an amount which bears the same ratio to three hundred thousand dollars as the portion of the income of the estate or trust which is not allocated to beneficiaries bears to the total income of the estate or trust.

(3) (A) Where a taxpayer sells, transfers or otherwise disposes of corporate stock, a partnership interest or other ownership interest arising from the making of a qualified investment which was the basis, in whole or in part, for the allowance of the credit provided for under subparagraph (A) of paragraph one of this subsection, or where an investment which was the basis for such allowance is, in whole or in part, recovered by such taxpayer, and such disposition or recovery occurs during the taxable year or within forty-eight months from the close of the taxable year with respect to which such credit is allowed, the taxpayer shall add back, with respect to the taxable year in which the disposition or recovery described above occurred, the

required portion of the credit originally allowed.

(B) Where a taxpayer sells, transfers or otherwise disposes of corporate stock, a partnership interest or other ownership interest arising from the making of a qualified investment which was the basis, in whole or in part, for the allowance of the credit provided for under subparagraph (B) of paragraph one of this subsection, or where an investment which was the basis for such allowance is in any manner, in whole or in part, recovered by such taxpayer, and such disposition or recovery occurs during the taxable year or within one hundred eight months from the close of the taxable year with respect to which such credit is allowed, the taxpayer shall add back, with respect to the taxable year in which the disposition or recovery described in subparagraph one of this paragraph occurred the required portion of the credit originally allowed.

(C) The required portion of the credit originally allowed shall be the product of (i) the portion of such credit attributable to the property disposed of and (ii) the applicable percentage.

(D) The applicable percentage shall be:

(i) for credits allowed pursuant to subparagraph (A) of paragraph one of this subsection:

(I) one hundred percent, if the disposition or recovery occurs within the taxable year with respect to which the credit is allowed or within twelve months of the end of such taxable year,

(II) seventy-five percent, if the disposition or recovery occurs more than twelve but not more than twenty-four months after the end of the taxable year with respect to which the credit is allowed,

(III) fifty percent, if the disposition or recovery occurs more than twenty-four months but not more than thirty-six months after the end of the taxable year with respect to which the credit is allowed, or

(IV) twenty-five percent, if the disposition or recovery occurs more than thirty-six months but not more than forty-eight months after the end of the taxable year with respect to which the credit is allowed; or

(ii) for credits allowed pursuant to subparagraph (B) of paragraph one of this subsection:

(I) one hundred percent, if the disposition or recovery occurs within the taxable year with respect to which the credit is allowed or within twelve months of the end of such taxable year,

(II) eighty percent, if the disposition or recovery occurs more than twelve but not more than forty-eight months after the end of the taxable year with respect to which the credit is allowed,

(III) sixty percent, if the disposition or recovery occurs more than forty-eight months but not more than seventy-two months after the end of the taxable year with respect to which the credit is allowed,

(IV) forty percent, if the disposition or recovery occurs more than seventy-two months but not more than ninety-six months after the end of the taxable year with respect to which the credit is allowed, or

(V) twenty percent, if the disposition or recovery occurs more than ninety-six months but not more than one hundred eight months after the end of the taxable year with respect to which the credit is allowed.

(s) Credit for purchase of an automated external defibrillator. A taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article for the purchase, other than for resale, of an automated external defibrillator, as such term is defined in section three thousand-b of the public health law. The amount of credit shall be the cost to the taxpayer of automated external defibrillators purchased during the taxable year, such credit not to exceed five hundred dollars with respect to each unit purchased.

(t) College tuition credit. (1) General. A resident taxpayer shall be allowed the option of claiming a credit, to be computed as provided in paragraph four of this subsection, against the tax imposed by this article, or an itemized deduction, to be computed as provided in paragraph four of subsection (d) of section six hundred fifteen of this article, for allowable college tuition expenses.

(2) Allowable and qualified college tuition expenses. For the purposes of this credit and the itemized deduction provided by paragraph four of subsection (d) of section six hundred fifteen of this article:

(A) The term “allowable college tuition expenses” shall mean the amount of qualified college tuition expenses of eligible students paid by the taxpayer during the taxable year, limited to ten thousand dollars for each such student;

(B) The term “eligible student” shall mean the taxpayer, the taxpayer’s spouse, and any dependent of the taxpayer with respect to whom the taxpayer is allowed an exemption under section six hundred sixteen of this article for the taxable year;

(C) The term “qualified college tuition expenses” shall mean the tuition required for the enrollment or attendance of an eligible student at an institution of higher education. Provided, however, tuition payments made pursuant to the receipt of any scholarships or financial aid, or tuition required for enrollment or attendance in a course of study leading to the granting of a post baccalaureate or other graduate degree, shall be excluded from the definition of “qualified college tuition expenses”.

(D) Expenses paid by dependent. If an exemption under section six hundred sixteen of this article with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins,

(i) no credit under this subsection or deduction under paragraph four of subsection (d) of section six hundred fifteen of this article shall be allowed to such individual for such individual's taxable year, and

(ii) for purposes of such credit or deduction, qualified college tuition expenses paid by such individual during such individual's taxable year shall be treated as paid by such other taxpayer.

(3) Institution of higher education. For the purposes of this credit and the itemized deduction provided by paragraph four of subdivision (d) of section six hundred fifteen of this article, the term "institution of higher education" shall mean any institution of higher education or business, trade, technical or other occupational school, recognized and approved by the regents, or any successor organization, of the university of the state of New York or accredited by a nationally recognized accrediting agency or association accepted as such by the regents, or any successor organization, of the university of the state of New York, which provides a course of study leading to the granting of a post-secondary degree, certificate or diploma.

(4) Amount of credit. If allowable college tuition expenses are less than five thousand dollars, the amount of the credit provided under this subsection shall be equal to the applicable percentage of the lesser of allowable college tuition expenses or two hundred dollars. If allowable college tuition expenses are five thousand dollars or more, the amount of the credit provided under this subsection shall be equal to the applicable percentage of the allowable college tuition expenses multiplied by four percent. Such applicable percentage shall be twenty-five percent for taxable years beginning in two thousand one, fifty percent for taxable years beginning in two thousand two, seventy-five percent for taxable years beginning in two thousand three and one hundred percent for taxable years beginning after two thousand three.

(5) Refundability. The credit under this subsection shall be allowed against the taxes imposed by this article for the taxable year reduced by the credits permitted by this article. If the credit exceeds the tax as so reduced, the taxpayer may receive, and the comptroller, subject to a certificate of the commissioner, shall pay as an overpayment, without interest, the amount of such excess.

(6) Limitation. No credit shall be allowed under this subsection to a taxpayer who claims the itemized deduction provided under paragraph four of subdivision (d) of section six hundred fifteen of this article.

(t-1) [Expires for taxable years ending on and after Jan. 1, 2007, pursuant to L.2000, c. 63, pt. Y, § 49, subd. (a).] IMB credit for energy taxes. (1) Allowance of credit. A taxpayer which is a sole proprietor of an industrial or manufacturing business (IMB), or a member of a partnership which is an IMB, shall be allowed a credit for energy taxes, to be computed as provided in section fourteen-a of this chapter, against the tax imposed by this article.

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

(u) [Expires and deemed repealed March 31, 2022, pursuant to L.2014, c. 59, pt. HH, § 5.] Musical and theatrical production credit. (1) Allowance of credit. A taxpayer who is eligible pursuant to section twenty-four-a of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article.

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

(x) Low-income housing credit. (1) Allowance of credit. A taxpayer shall be allowed a credit against the tax imposed by this article with respect to the ownership of eligible low-income buildings, computed as provided in section eighteen of this chapter.

(2) Application of credit. If the amount of credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years, and may be deducted from the taxpayer's tax for such year or years.

(3) Credit recapture. For provisions requiring recapture of credit, see subdivision (b) of section eighteen of this chapter.

(y) Green building credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section nineteen of this chapter, against the tax imposed by this article.

(2) Carryovers. If the amount of the credit and carryovers of such credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess, as well as any part of the credit or carryovers of such credit, or both, may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(z) Credit for transportation improvement contributions. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section twenty of this chapter, against the tax imposed by this article.

(2) Application of credit. If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance

with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(3) Credit recapture. For provisions requiring recapture of credit, see subdivision (c) of section twenty of this chapter.

(aa) Long-term care insurance credit. (1) Residents. A taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty percent of the premium paid during the taxable year for long-term care insurance. In order to qualify for such credit, the taxpayer's premium payment must be for the purchase of or for continuing coverage under a long-term care insurance policy that qualifies for such credit pursuant to section one thousand one hundred seventeen of the insurance law. If the amount of the credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(2) Nonresidents and part-year residents. In the case of a nonresident taxpayer or a part-year resident taxpayer, the credit determined under this subsection shall be limited to the amount determined by multiplying the amount of such credit by the New York source fraction as set forth in paragraph three of subsection (e) of section six hundred one of this article. The credit as so limited shall be applied as provided in paragraph one of this subsection.

(bb) QEZE credit for real property taxes. (1) Allowance of credit. A taxpayer which is a sole proprietor of a qualified empire zone enterprise (QEZE), or a member of a partnership which is a QEZE, shall be allowed a credit for eligible real property taxes, to be computed as provided in section fifteen of this chapter, against the tax imposed by this article.

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

(cc) QEZE tax reduction credit. Allowance of credit. A taxpayer which is a sole proprietor of a qualified empire zone enterprise (QEZE), or a member of a partnership which is a QEZE, shall be allowed a QEZE tax reduction credit against the tax imposed by subsections (a) through (e) of section six hundred one of this part.

(dd) Brownfield redevelopment tax credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section twenty-one of this chapter, against the tax imposed by this article.

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

(ee) Remediated brownfield credit for real property taxes for qualified sites. (1) Allowance of credit. A taxpayer which is a developer of a qualified site shall be allowed a credit for eligible real property taxes, to be computed as provided in subdivision (b) of section twenty-two of this chapter, against the tax imposed by this article. For purposes of this subsection, the terms "qualified site" and "developer" shall have the same meaning as set forth in paragraphs two and three, respectively, of subdivision (a) of section twenty-two of this chapter.

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

(ff) Environmental remediation insurance credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section twenty-three of this chapter, against the tax imposed by this article.

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

(gg) Empire state film production credit. (1) Allowance of credit. A taxpayer who is eligible pursuant to section twenty-four of this chapter shall be allowed a credit to be computed as provided in such section twenty-four against the tax imposed by this article.

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

(hh) Nursing home assessment credit. (1) Allowance of credit. A taxpayer shall be allowed a credit against the tax imposed by this article equal to the amount that directly relates to the assessment imposed on a residential health care facility pursuant to paragraph (b) of subdivision two of section twenty-eight hundred seven-d of the public health law which is separately stated and accounted for on the billing statement of a resident of a residential health care facility and is paid directly by the individual taxpayer.

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

(ii) Security training tax credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in

section twenty-six of this chapter, against the tax imposed by this article.

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

(jj) [As added by L.2006, c. 62, pt. V. See, also, subsec. (jj) below.] Empire state commercial production credit. (1) Allowance of credit. A taxpayer that is eligible pursuant to the provisions of section twenty-eight of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand nineteen.

(2) Application of credit. If the amount of the credit allowable under this subsection for any taxable year exceeds the taxpayer's tax for such year, fifty percent of the excess shall be treated as an overpayment of tax to be credited or refunded as provided in section six hundred eighty-six of this article, provided, however, that no interests shall be paid thereon. The balance of such credit not credited or refunded in such taxable year may be carried over to the immediately succeeding taxable year and may be deducted from the taxpayer's tax for such year. The excess, if any, of the amount of the credit over the tax for such succeeding year shall be treated as an overpayment of tax to be credited or refunded as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(jj) [As added by L.2006, c. 62, pt. X. See, also, subsec. (jj) above.] Biofuel production credit. A taxpayer shall be allowed a credit to be computed as provided in section twenty-eight of this chapter, as added by part X of chapter sixty-two of the laws of two thousand six, against the tax imposed by this article. If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand twenty.

(kk) Conservation easement tax credit. (1) Credit allowed. In the case of a taxpayer who owns land that is subject to a conservation easement held by a public or private conservation agency, there shall be allowed a credit for twenty-five percent of the allowable school district, county and town real property taxes on such land. In no event shall the credit allowed under this subsection in combination with any other credit for such school district, county and town real property taxes under this section exceed such taxes.

(2) Conservation easement. For purposes of this subsection, the term "conservation easement" means a perpetual and permanent conservation easement as defined in article forty-nine of the environmental conservation law that serves to protect open space, scenic, natural resources, biodiversity, agricultural, watershed and/or historic preservation resources. Any conservation easement for which a tax credit is claimed under this subsection shall be filed with the department of environmental conservation, as provided for in article forty-nine of the environmental conservation law and such conservation easement shall comply with the provisions of title three of such article, and the provisions of subdivision (h) of section 170 of the internal revenue code.[30] Dedications of land for open space through the execution of conservation easements for the purpose of fulfilling density requirements to obtain subdivision or building permits shall not be considered a conservation easement under this subsection.

(3) Land. For purposes of this subsection, the term "land" means a fee simple title to real property located in this state, with or without improvements thereon; rights of way; water and riparian rights; easements; privileges and all other rights or interests of any land or description in, relating to or connected with real property, excluding buildings, structures, or improvements.

(4) Public or private conservation agency. For purposes of this subsection, the term "public or private conservation agency" means any state, local, or federal governmental body; or any private not-for-profit charitable corporation or trust which is authorized to do business in the state of New York, is organized and operated to protect land for natural resources, conservation or historic preservation purposes, is exempt from federal income taxation under section 501(c)(3) of the internal revenue code,[31] and has the power to acquire, hold and maintain land and/or interests in land for such purposes.

(5) Credit limitation. The amount of the credit that may be claimed by a taxpayer pursuant to this subsection shall not exceed five thousand dollars in any given year.

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

(ll) Home heating system credit. (1) Allowance of credit for replacement. A taxpayer shall be allowed a credit against the tax imposed by this article for costs incurred on or after July first, two thousand six and before July first, two thousand seven by a taxpayer which are directly associated with the replacement of an existing home heating system, in his or her principal residence, if such residence is located in this state, provided such home heating system after such replacement qualifies for, and is labeled with, an Energy Star label by the manufacturer, pursuant to an agreement among the manufacturer, the United States environmental protection agency and the United States department of energy. The amount of the credit shall be equal to fifty percent of the cost of such replacement but such credit shall not exceed five hundred dollars.

(2) Multiple taxpayers. If the principal residence is shared by two or more taxpayers, the amount of the credit allowable under this subsection for each such eligible taxpayer shall be prorated according to the percentage of the total expenditure for such replacement incurred by each taxpayer.

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

(mm) Clean heating fuel credit. (1) A taxpayer shall be allowed a credit against the tax imposed by this article. Such credit, to be computed as hereinafter provided, shall be allowed for bioheating fuel, used for space heating or hot water production for residential purposes within this state and purchased on or after July first, two thousand six and before July first, two thousand

seven and on or after January first, two thousand eight and before January first, two thousand twenty. Such credit shall be $0.01 per percent of biodiesel per gallon of bioheating fuel, not to exceed twenty cents per gallon, purchased by such taxpayer. Provided, however, that on or after January first, two thousand seventeen, this credit shall not apply to bioheating fuel that is less than six percent biodiesel per gallon of bioheating fuel.

(2) For purposes of this subsection, the following definitions shall apply:

(a) "Biodiesel" shall mean a fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designation D 6751.

(b) "Bioheating fuel" shall mean a fuel comprised of biodiesel or renewable hydrocarbon diesel blended with conventional home heating oil, which meets the specifications of the American Society of Testing and Materials designation D 396 or D 975.

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

(nn) Qualified emerging technology company facilities, operations and training credit. (1) A taxpayer that is a qualified emerging technology company pursuant to the provisions of section thirty-one hundred two-e (and specifically for the activities referenced in paragraph (b) of subdivision one of such section thirty-one hundred two-e) of the public authorities law, and that meets the eligibility requirements in paragraph two of this subsection, shall be allowed a credit against the tax imposed by this article. The amount of credit shall be equal to the sum (or pro rata share of the sum in the case of a partnership) of the amounts specified in paragraphs three, four, and five of this subsection, subject to the limitations in paragraph six of this subsection.

(2) An eligible taxpayer shall (i) have no more than one hundred full-time employees, of which at least seventy-five percent are employed in New York state,

(ii) have a ratio of research and development funds to net sales, as referred to in section thirty-one hundred two-e of the public authorities law, which equals or exceeds six percent during its taxable year, and

(iii) have gross revenues, along with the gross revenues of its affiliates and related members, not exceeding twenty million dollars for the taxable year immediately preceding the year the taxpayer is allowed a credit under this subsection. For purposes of this paragraph, the term "related member" shall have the same meaning as set forth in clauses (A) and (B) of subparagraph one of paragraph (o) of subdivision 9 of section two hundred eight of this chapter, and the term "affiliates" shall mean those corporations that are members of the same affiliated group (as defined in section fifteen hundred four of the

internal revenue code[32]) as the taxpayer.

(3) An eligible taxpayer shall be allowed a credit for eighteen per centum of the cost or other basis for federal income tax purposes of research and development property as defined in subparagraph (B) of paragraph two of subsection (a) of this section that is acquired by the taxpayer by purchase as defined in section 179(d) of the internal revenue code[3] and is placed in service during the taxable year. Provided, however, for the purposes of this paragraph only, an eligible taxpayer shall be allowed a credit for such percentage of the (i) cost or other basis for federal income purposes for property used in the testing or inspection of materials and products,

(ii) the costs or expenses associated with quality control of the research and development,

(iii) fees for use of sophisticated technology facilities and processes, and

(iv) fees for production or eventual commercial distribution of materials and products resulting from the activities of an eligible taxpayer as long as such activities fall under the activities listed in paragraph (b) of subdivision one of section thirty-one hundred two-e of the public authorities law. The costs, expenses and other amounts for which a credit is allowed and claimed under this paragraph shall not be used in the calculation of any other credit allowed under this article.

(4) An eligible taxpayer shall be allowed a credit for nine percentum of “qualified research expenses”, paid or incurred by the taxpayer in the taxable year. “Qualified research expenses” shall mean expenses associated with in-house research, use of sophisticated technology facilities and processes, and costs associated with the dissemination of the results of the products that directly result from such research and development activities; provided, however, that such costs shall not include advertising or promotion through media. In addition, costs associated with the preparation of patent applications, patent application filing fees, patent research fees, patent examinations fees, patent post allowance fees, patent maintenance fees, and grant application expenses and fees shall be eligible for such credit. In no case shall the credit allowed by this paragraph apply to expenses for litigation or the challenge of another entity’s intellectual property rights, or for contract expenses involving outside paid consultants.

(5) An eligible taxpayer shall be allowed a credit for qualified high-technology training expenditures as described in this paragraph paid or incurred by the taxpayer.

(a) The amount of credit shall be one hundred percent of the training expenses described in subparagraph (c) of this paragraph, subject to a limitation of no more than four thousand dollars per employee per year for such training expenses.

(b) Qualified high-technology training shall include a course or courses taken and satisfactorily completed by an employee of the taxpayer at an accredited, degree granting post-secondary college or university in New York state that

(i) directly relates to the activities referred to in paragraph (b) of subdivision one of section thirty-one hundred two-e of the public authorities law, and

(ii) is intended to upgrade, retrain or improve the productivity or theoretical awareness of the employee. Such course or courses may include, but are not limited to, instruction or research relating to techniques, meta, macro, or micro-theoretical or practical knowledge bases or frontiers, or ethical concerns related to such activities. Such course or courses shall not include classes in the disciplines of management, accounting or the law or any class designed to fulfill the discipline specific requirements of a degree program at the associate, baccalaureate, graduate or professional level of these disciplines. Satisfactory completion of a course or courses shall mean the earning and granting of credit or equivalent unit, with the attainment of a grade of "B" or higher in a graduate level course or courses, a grade of "C" or higher in an undergraduate level course or courses, or a similar measure of competency for a course that is not measured according to a standard grade formula.

(c) Qualified high-technology training expenditures shall include expenses for tuition and mandatory fees, and software required by the institution, fees for textbooks or other literature required by the institution offering the course or courses, minus applicable scholarships and tuition or fee waivers not granted by the taxpayer or any affiliate of the taxpayer, paid or reimbursed by the taxpayer. Qualified high technology expenditures do not include room and board, computer hardware or software not specifically assigned for such course or courses, late-charges, fines or membership dues and similar expenses. Such qualified expenditures shall not be eligible for the credit allowed by this subsection unless the employee for whom the expenditures are disbursed is continuously employed by the taxpayer in a full-time, full-year position primarily located at a qualified site during the period of such coursework and lasting through at least one hundred and eighty days after the satisfactory completion of the qualifying course-work. Qualified high-technology training expenditures shall not include expenses for in house or shared training outside of a New York state higher education institution or the use of consultants outside of credit granting courses whether such consultants function inside of such higher education institution or not.

(d) If a taxpayer relocates from an academic business incubator facility partnered with an accredited post-secondary education institution located within New York state, which provides space and business support services to taxpayers, to another site, the credit provided in this subsection shall be allowed for all expenditures referenced in subparagraph (c) of this paragraph paid or incurred in the two preceding taxable years that the taxpayer was located in such an incubator facility for employees of the taxpayer who also relocate from said incubator facility to such New York site and are employed and primarily located by the taxpayer in New York. Such expenditures in the two preceding years shall be added to the amounts otherwise qualifying for the credit provided by this subsection that were paid or incurred in the taxable year that the taxpayer relocated from such a facility. Such expenditures shall include expenses paid or incurred for an eligible employee who is a full-time, full-year employee of said taxpayer during the taxable year that the taxpayer relocated from an incubator facility notwithstanding (i) that such employee was employed full or part-time as an officer, staff-person or paid intern of the taxpayer when such taxpayer was located at such incubator facility or (ii) that such employee was not continuously employed when such taxpayer was located at the incubator facility during the one hundred eighty day period referenced in subparagraph (c) of this paragraph, provided such employee received wages or equivalent income for at least seven hundred fifty hours during any twenty-four month period when the taxpayer was located at the incubator facility. Such expenditures shall include payments made to such an employee after the taxpayer has relocated from the incubator facility for qualified expenditures if such payments are made to reimburse such an employee for qualified expenditures paid by the employee during such two preceding years. The credit provided under this subparagraph shall be allowed, in any year that said taxpayer qualifies as an eligible taxpayer.

(e) For purposes of this subsection the term "academic year" shall mean the annual period of sessions of a post-secondary college or university.

(f) For the purposes of this subsection the term "academic incubator facility" shall mean a facility providing low-cost space, technical assistance, support services and educational opportunities, including but not limited to central services provided by the manager of the facility to the tenants of the facility, to an entity located in New York state. Such entity's primary activity must be an activity described in paragraph (b) of subdivision one of section thirty-one hundred two-e of the public authorities law, and such entity must be in the formative stage of development. The academic incubator facility and the entity must act in partnership with an accredited post-secondary college or university located in New York state. An academic incubator facility's mission shall be to promote job creation, entrepreneurship, technology transfer, and provide support services to incubator tenants, including, but not limited to, business planning, management assistance, financial-packaging, linkages to financing services, and coordinating with other sources of assistance.

(6) An eligible taxpayer may claim credits under this subsection for four consecutive taxable years, except, if a taxpayer is located in an academic incubator facility and relocates within New York state to a nonacademic incubator site, then the taxpayer (i) may make a revocable election to defer the credit provided under this subsection to the first taxable year beginning after the taxpayer relocates from an academic incubator facility, and (ii) shall be eligible for such credit for five consecutive years. In no case shall the credit allowed by this subsection to a taxpayer exceed two hundred fifty thousand dollars per year. If the taxpayer is a partner in a partnership or shareholder of a New York S corporation, then the limit imposed by the preceding sentence shall be applied at the entity level, so that the aggregate credit allowed to all the partners or shareholders of each such entity in the taxable year does not exceed two hundred fifty thousand dollars.

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

(8) The credit allowed under this subsection shall not be applicable for taxable years beginning on or after January first, two thousand twelve.

(oo) Credit for rehabilitation of historic properties. (1)(A) For taxable years beginning on or after January first, two thousand ten and before January first, two thousand twenty-five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47,[10] with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand twenty-five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47, with respect to a certified historic structure located within the state; provided, however, the credit shall not exceed one hundred thousand dollars.

(B) If the taxpayer is a partner in a partnership or a shareholder of a New York S corporation, then the credit cap imposed in subparagraph (A) of this paragraph shall be applied at the entity level, so that the aggregate credit allowed to all the partners or shareholders of each such entity in the taxable year does not exceed the credit cap that is applicable in that taxable year.

(2) Tax credits allowed pursuant to this subsection shall be allowed in the taxable year that the qualified rehabilitation is placed in service under section 167 of the federal internal revenue code.[2]

(3) If the taxpayer is allowed a credit pursuant to section 47 of the internal revenue code[10] with respect to a qualified rehabilitation that is also the subject of the credit allowed by this subsection and that credit pursuant to such section 47 is recaptured pursuant to subsection (a) of section 50 of the internal revenue code,[33] a portion of the credit allowed under this subsection must be added back in the same taxable year and in the same proportion as the federal recapture.

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

(5) To be eligible for the credit allowable under this subsection the rehabilitation project shall be in whole or in part located within a census tract which is identified as being at or below one hundred percent of the state median family income as calculated as of April first of each year using the most recent five year estimate from the American community survey published by the United States Census bureau. If there is a change in the most recent five year estimate, a census tract that qualified for eligibility under this program before information about the change was released will remain eligible for a credit under this subsection for an additional two calendar years.

(pp) Historic homeownership rehabilitation credit. (1) For taxable years beginning on or after January first, two thousand seven, a taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article. The amount of the credit shall be equal to twenty percent of the qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic home and may be allowed in the taxable year in which the final certification step of the certified rehabilitation is completed.

(A) If such expenditures relate only to exterior work, the credit shall be allowed for qualified rehabilitation expenditures if the exterior work has been approved by a local landmark commission established pursuant to section ninety-six-a or one hundred nineteen-dd of the general municipal law or by the office of parks, recreation and historic preservation.

(B) If such expenditures relate to both exterior and interior work, the credit shall be allowed for qualified rehabilitation expenditures that have been approved by the office of parks, recreation and historic preservation or by a local government certified pursuant to section 101(c)(1) of the national historic preservation act.[34] Under this subparagraph, approval is necessary for the qualified rehabilitation expenditures related to both the exterior work on the qualified historic home and interior work affecting primary significant historic spaces of the qualified historic home.

(2)(A) With respect to any particular residence of a taxpayer, the credit allowed under paragraph one of this subsection shall not exceed fifty thousand dollars for taxable years beginning on or after January first, two thousand ten and before January first, two thousand twenty-five and twenty-five thousand dollars for taxable years beginning on or after January first, two

thousand twenty-five. In the case of a husband and wife, the amount of the credit shall be divided between them equally or in such other manner as they may both elect. If a taxpayer incurs qualified rehabilitation expenditures in relation to more than one residence in the same year, the total amount of credit allowed under paragraph one of this subsection for all such expenditures shall not exceed fifty thousand dollars for taxable years beginning on or after January first, two thousand ten and before January first, two thousand twenty-five and twenty-five thousand dollars for taxable years beginning on or after January first, two thousand twenty-five.

(B) For taxable years beginning on or after January first, two thousand ten and before January first, two thousand twenty-five, if the amount of credit allowable under this subsection shall exceed the taxpayer's tax for such year, and the taxpayer's New York adjusted gross income for such year does not exceed sixty thousand dollars, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon. If the taxpayer's New York adjusted gross income for such year exceeds sixty thousand dollars, the excess credit that may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years. For taxable years beginning on or after January first, two thousand twenty-five, if the amount of credit allowable under this subsection shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(3)(A) The term "qualified rehabilitation expenditure" means, for purposes of this subsection, any amount properly chargeable to a capital account:

(i) in connection with the certified rehabilitation of a qualified historic home, and

(ii) for property for which depreciation would be allowable under section 168 of the internal revenue code[6] if the qualified historic home were used in a trade or business.

(B) Such term shall not include (i) the cost of acquiring any building or interest therein, (ii) any expenditure attributable to the enlargement of an existing building, or (iii) any expenditure made prior to January first, two thousand seven.

(C) Such term shall not include any expenditure in connection with the rehabilitation of a qualified historic home unless at least five percent of the total expenditures made in the rehabilitation process are allocable to the rehabilitation of the exterior of such building.

(D) If only a portion of a building is used as a residence of the taxpayer, only qualified rehabilitation expenditures which are properly allocable to such residential portion shall be taken into account under this subsection.

(4)(A) The term "certified rehabilitation" means, for purposes of this subsection, any rehabilitation of a certified historic structure which has been approved and certified as being consistent with the standards established by the commissioner of parks, recreation and historic preservation for rehabilitation by the office of parks, recreation and historic preservation, a local

government certified pursuant to section 101(c)(1) of the national historic preservation act[34] or a local landmark commission established pursuant to section ninety-six-a or one hundred nineteen-dd of the general municipal law.

(B) A certified rehabilitation shall require:

(i) an initial certification that the structure meets the definition of the term "certified historic structure";

(ii) a second certification, to be issued prior to construction, certifying that the proposed rehabilitation work is consistent with standards established by the commissioner of parks, recreation and historic preservation for rehabilitation; and

(iii) a final certification issued when construction is completed, certifying that the work was completed as proposed and that the costs are consistent with the work completed. Such final certification shall be acceptable as proof that the expenditures related to such construction qualify as qualified rehabilitation expenditures for purposes of the credit allowed under either subparagraph (A) or (B) of paragraph one of this subsection.

(5)(A) The term "qualified historic home" means, for purposes of this subsection, a certified historic structure located within New York state:

(i) which has been substantially rehabilitated,

(ii) which, or any portion of which, is owned, in whole or part, by the taxpayer,

(iii) in which the taxpayer resides during the taxable year in which the taxpayer is allowed a credit under this subsection, and

(iv) which is in whole or in part a targeted area residence within the meaning of section 143(j) of the internal revenue code[35] or is located within a census tract which is identified as being at or below one hundred percent of the state median family income in the most recent federal census.

(B) A building shall be treated as having been "substantially rehabilitated" if the qualified rehabilitation expenditures in relation to such building total five thousand dollars or more.

(6) The term "certified historic structure" means, for purposes of this subsection, any building (and its structural components) which:

(i) is listed in the state or national register of historic places, or

(ii) is located in a state or national registered historic district and is certified as being of historic significance to the district.

(7) If the taxpayer holds stock as a tenant-shareholder in a cooperative housing corporation, such taxpayer shall be treated as owning the house or apartment which the taxpayer is entitled to occupy as such shareholder.

(8)(A) A percentage of the total expenditures made in the rehabilitation of the exterior of a building containing cooperative or condominium dwelling units shall be attributed to each such unit within the building based on the percentage of space each such unit occupies within the building.

(B) In the case of a building where less than the entire building is used as a residence of the taxpayer, only the portion of the total expenditures made in the rehabilitation of the building that is attributable to the residence of the taxpayer shall be treated as qualified rehabilitation expenditures for the purposes of this subsection.

(C) In the case of a building that is owned by and is a residence of two or more persons, other than a husband and wife, the portion of the total expenditures made in the rehabilitation of the building that is attributable to each taxpayer shall be equal to the taxpayer's share of ownership in such building.

(9) In the case of a building other than a building to which paragraph ten of this subsection applies, qualified rehabilitation expenditures shall be treated for purposes of this subsection as made on the date of the final certification referred to in clause (iii) of subparagraph (B) of paragraph four of this subsection.

(10)(A) In the case of a purchased qualified historic home, the taxpayer shall be treated as having made, on the date of purchase, the qualified rehabilitation expenditures made by the seller of such home. For purposes of this subsection, expenditures made by the seller shall be deemed qualified rehabilitation expenditures if such expenditures, if made by the purchaser, would have so qualified.

(B) The term "purchased qualified historic home" means any qualified historic home purchased by the taxpayer if:

(i) the taxpayer is the first purchaser of such home after the date of the final certification referred to in clause (iii) of subparagraph (B) of paragraph four of this subsection, and the purchase occurs within five years after such date,

(ii) the taxpayer, during the taxable year in which the taxpayer is allowed a credit under this subsection, resides in such home,

(iii) no credit was allowed to the seller under this subsection with respect to such rehabilitation, and

(iv) the taxpayer is furnished with such information as the commissioner determines is necessary to determine any credit under this subsection.

(11)(A) If, before the end of the two-year period beginning either on the date of the final certification referred to in clause (iii) of subparagraph (B) of paragraph four of this subsection or, if paragraph ten of this subsection applies, on the date of purchase of such building by the taxpayer, the taxpayer disposes of such taxpayer's interest in such building, or such building ceases to be used as a residence of the taxpayer, the taxpayer's tax imposed by this article for the taxable year in which such disposition or cessation occurs shall be increased by the recapture portion of the credit allowed under this subsection for all prior taxable years with respect to such rehabilitation.

(B) For purposes of subparagraph (A) of this paragraph, the recapture portion shall be the product of the amount of credit claimed by the taxpayer multiplied by a ratio, the numerator of which is equal to twenty-four less the number of months the building is used as the taxpayer's residence and the denominator of which is twenty-four.

(12) Nothing contained in this subsection shall be construed to impose a duty upon a local landmark commission established pursuant to section ninety-six-a or one hundred nineteen-dd of the general municipal law or a local government certified pursuant to section 101(c)(1) of the national historic preservation act[34] to undertake any review or approval of an application for the certification of the rehabilitation of historic structures and of rehabilitation expenditures provided for in this subsection.

(qq) [As added by L.2010, c. 59, pt. MM. See, also, subsecs. (qq) below.] Excelsior jobs program credit. (1) A taxpayer will be allowed a credit, to the extent allowed under section thirty-one of this chapter, against the tax imposed by this article.

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

(qq) [As added by L.2010, c. 57, pt. Q. See, also, subsecs. (qq) above and below.] Empire state film post production credit. (1) Allowance of credit. A taxpayer who is eligible pursuant to section thirty-one of this chapter shall be allowed a credit to be computed as provided in such section thirty-one against the tax imposed by this article.

(2) Application of credit. If the amount of the credit allowable under this subsection for any taxable year exceeds the taxpayer's tax for such year, fifty percent of the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon. The balance of such credit not credited or refunded in such taxable year may be carried over to the immediately succeeding taxable year and may be deducted from the taxpayer's tax for such year. The excess, if any, of the amount of the credit over the tax for such succeeding year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

(qq) [As added by L.2010, c. 57, pt. Y. See, also, subsecs. (qq) above.] Temporary deferral nonrefundable payout credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in subdivision one of section thirty-four of this chapter, against the tax imposed by this article.

(2) If the amount of credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years, and may be deducted from the taxpayer's tax for such year or years.

(rr) Temporary deferral refundable payout credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in subdivision two of section thirty-four of this chapter, against the tax imposed by this article.

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

(ss) [Expires and deemed repealed December 31, 2021, pursuant to L.2011, c. 61, pt. V, § 12.]Economic transformation and facility redevelopment program tax credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to the extent allowed under section thirty-five of this chapter, against the tax imposed by this article.

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

(tt) [As added by L.2011, c. 56, pt. D. See, also, subsecs. (tt) below.] New York youth jobs program tax credit. (1) [Eff. until Jan. 1, 2019. See, also, par. (1) below.] A taxpayer that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed a credit against the tax imposed by this article

equal to (A) seven hundred fifty dollars per month for up to six months for each qualified employee the employer employs in a full-time job or three hundred seventy-five dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (B) fifteen hundred dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a full-time job or seven hundred fifty dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (C) an additional fifteen hundred dollars for each qualified employee who is employed for at least an additional year after the completion of the time periods and satisfaction of the conditions set forth in subparagraphs A and B of this subsection by the qualified employer in a full-time job or seven hundred fifty dollars for each qualified employee who is employed for at least an additional year after the completion of the time periods and satisfaction of the conditions set forth in subparagraphs A and B of this subsection by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time. A taxpayer that is a partner in a partnership, member of a limited liability company or shareholder in an S corporation that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed its pro rata share of the credit earned by the partnership, limited liability company or S corporation. For purposes of this subsection, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law. The portion of the credit described in subparagraph (A) of this paragraph shall be allowed for the taxable year in which the wages are paid to the qualified employee, the portion of the credit described in subparagraph (B) of this paragraph shall be allowed in the taxable year in which the additional six month period ends, and the portion of the credit described in subparagraph (C) of this paragraph shall be allowed in the taxable year in which the additional year after the first year of employment ends.

(tt) [As added by L.2011, c. 56, pt. D. See, also, subsecs. (tt) above and below.] New York youth jobs program tax credit. (1) [Eff. Jan. 1, 2019. See, also, par. (1) above.] A taxpayer that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law and received an annual final certificate of tax credit from such commissioner shall be allowed a credit against the tax imposed by this article equal to the amount listed on the annual final certificate of tax credit issued by the commissioner of labor pursuant to section twenty-five-a of the labor law. A taxpayer that is a partner in a partnership, member of a limited liability company or shareholder in an S corporation that has received its annual final certificate of tax credit from the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed its pro rata share of the credit earned by the partnership, limited liability company or S corporation. If the qualified employer's taxable year is a calendar year, the employer shall be entitled to claim the credit as calculated on the annual final certificate of tax credit on the calendar year return for which the annual final certificate of tax credit was issued. If the qualified employer's taxable year is a fiscal year, the employer shall be entitled to claim the credit as calculated on the annual final certificate of tax credit on the return for the fiscal year that encompasses the date on which the annual final certificate of tax credit is issued. For the purposes of this subsection, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law.

(2) If the amount of the credit allowed under this subsection exceeds the taxpayer's tax for the taxable year, any amount of credit not deductible in that taxable year will be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article. Provided, however, no interest will be paid thereon.

(3) [Eff. until Jan. 1, 2019. See, also, par. (3) below.] The taxpayer may be required to attach to its tax return its certificate of eligibility issued by the commissioner of labor pursuant to section twenty-five-a of the labor law. In no event shall the taxpayer be allowed a credit greater than the amount of the credit listed on the certificate of eligibility. Notwithstanding any provision of this chapter to the contrary, the commissioner and the commissioner's designees may release the names and addresses of any taxpayer claiming this credit and the amount of the credit earned by the taxpayer. Provided, however, if a taxpayer claims this credit because it is a member of a limited liability company, a partner in a partnership, or a shareholder in a subchapter S corporation, only the amount of credit earned by the entity and not the amount of credit claimed by the taxpayer may be released.

(3) [Eff. Jan. 1, 2019. See, also, par. (3) above.] The taxpayer shall be required to attach to its tax return its annual final certificate of tax credit issued by the commissioner of labor pursuant to section twenty-five-a of the labor law. In no event shall the taxpayer be allowed a credit greater than the amount of the credit listed on the annual final certificate of tax credit. Notwithstanding any provision of this chapter to the contrary, the commissioner and the commissioner's designees may release the names and addresses of any taxpayer claiming this credit and the amount of the credit earned by the taxpayer. Provided, however, if a taxpayer claims this credit because it is a member of a limited liability company, a partner in a partnership, or a shareholder in a subchapter S corporation, only the amount of credit earned by the entity and not the amount of credit claimed by the taxpayer may be released.

(tt) [As added by L.2011, c. 56, pt. E. See, also, subsecs. (tt) above and below.] Empire state jobs program retention credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section thirty-six of this chapter, against the tax imposed by this article.

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

(tt) [Deemed repealed Dec. 31, 2022, pursuant to L.2011, c. 604, § 5. As added by L.2011, c. 604. See, also, subsecs. (tt) above.] Credit for companies who provide transportation to individuals with disabilities. (1) Allowance and amount of credit. A taxpayer, who provides a taxicab service as defined in section one hundred forty-eight-a of the vehicle and traffic law, or a livery service as defined in section one hundred twenty-one-e of the vehicle and traffic law, shall be allowed a credit, to be computed as provided in this subsection, against the tax imposed by this article. The amount of the credit shall be equal to the incremental cost associated with upgrading a vehicle so that it is accessible by individuals with disabilities as defined in paragraph two of this subsection. Provided, however, that such credit shall not exceed ten thousand dollars per vehicle. For purposes of this subsection, purchases of new vehicles that are initially manufactured to be accessible for individuals with disabilities and for which there is no comparable make and model that does not include the equipment necessary to provide accessibility to individuals with disabilities, the credit shall be ten thousand dollars per vehicle.

(2) Definition. The term "accessible by individuals with disabilities" shall, for the purposes of this subsection, refer to a vehicle that complies with federal regulations promulgated pursuant to the Americans with Disabilities Act[36] applicable to vans under twenty-two feet in length, by the federal Department of Transportation, in Code of Federal Regulations, title 49, parts 37 and 38, and by the federal Architecture and Transportation Barriers Compliance Board, in Code of Federal Regulations, title 36, section 1192.23, and the Federal Motor Vehicle Safety Standards, Code of Federal Regulations, title 29, part 57.

(3) Application of credit. If the amount of the credit shall exceed the taxpayer's tax for such year the excess shall be carried over to the following year or years, and may be deducted from the taxpayer's tax for such year or years.

(uu) Alcoholic beverage production credit. A taxpayer shall be allowed a credit, to be computed as provided in section

thirty-seven of this chapter, against the tax imposed by this article. If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(vv) Family tax relief credit. 1. An individual taxpayer who meets the eligibility standards in paragraph two of this subsection shall be allowed a credit against the taxes imposed by this article of three hundred fifty dollars per return for tax years two thousand fourteen, two thousand fifteen, and two thousand sixteen.

2. To be eligible for the credit, the taxpayer (or taxpayers filing joint returns) on the personal income tax return filed for the taxable year, must (a) be a resident, (b) claim one or more dependent children who were under the age of seventeen on the last day of the taxable year, (c) have New York adjusted gross income of at least forty thousand dollars but no greater than three hundred thousand dollars, and (d) have a tax liability as determined under paragraph three of this subsection of greater than or equal to zero.

3. For purposes of this subsection, tax liability shall be determined by applying the tax rate calculations in sections six hundred one and six hundred one-a of this part to the taxpayer's taxable income and then subtracting from that amount any other tax credits allowed under this section or section six hundred twenty of this article.

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

5. Deleted by L.2014, c. 59, pt. M, § 1, eff. March 31, 2014.

(ww) Tax-free NY area tax elimination credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided under section forty of this chapter, against the tax imposed by this article.

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

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

(2)(A) The term qualified New York manufacturer has the same meaning as under subparagraph (vi) of paragraph (a) of subdivision one of section two hundred ten of this chapter.

(B)(i) The term real property tax means a charge imposed upon real property by or on behalf of a county, city, town, village or school district for municipal or school district purposes, provided that the charge is levied for the general public welfare by the proper taxing authorities at a like rate against all property over which such authorities have jurisdiction, and provided that where taxes are levied pursuant to article eighteen or nineteen of the real property tax law, the property must have been taxed at the rate determined for the class in which it is contained, as provided by such article eighteen or nineteen, whichever is applicable. The term real property tax does not include a charge for local benefits, including any portion of that charge that is properly allocated to the costs attributable to maintenance or interest, when (I) the property subject to the charge is limited to the property that benefits from the charge, or (II) the amount of the charge is determined by the benefit to the property assessed, or (III) the improvement for which the charge is assessed tends to increase the property value.

(ii) In addition, the term real property tax includes taxes paid by the taxpayer upon real property principally used during the taxable year by the taxpayer in manufacturing where the taxpayer leases such real property from an unrelated third party if the following conditions are satisfied: (I) the tax must be paid by the taxpayer as lessee pursuant to explicit requirements in a written lease, and (II) the taxpayer as lessee has paid such taxes directly to the taxing authority and has received a written receipt for payment of taxes from the taxing authority. In the case of a taxpayer that, during the taxable year, is principally engaged in the production of goods by farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing, the taxpayer is eligible if the taxpayer satisfies the conditions in the preceding sentence and the taxpayer leases such real property from a related or unrelated party.

(iii) The term real property tax does not include a payment made by the taxpayer in connection with an agreement for the payment in lieu of taxes on real property, whether such property is owned or leased by the taxpayer.

(iv) The real property taxes must be paid by the taxpayer in the year such taxes become a lien on the real property.

(3) Credit recapture. Where a qualified New York manufacturer's real property taxes which were the basis for the allowance of the credit provided for under this subdivision are subsequently reduced as a result of a final order in any proceeding under article seven of the real property tax law or other provision of law, the taxpayer shall add back, in the taxable year in which such final order is issued, the excess of (i) the amount of credit originally allowed for a taxable year over (ii) the amount of credit determined based upon the reduced real property taxes. If such final order reduces real property taxes for more than one year, the taxpayer must determine how much of such reduction is attributable to each year covered by such final order and calculate the amount of credit which is required by this subdivision to be recaptured for each year based on such reduction.

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

(yy) The tax-free NY area excise tax on telecommunication services credit. A taxpayer that is a business or owner of a business that is located in a tax-free NY area approved pursuant to article twenty-one of the economic development law shall be allowed a credit equal to the excise tax on telecommunication services imposed by section one hundred eighty-six-e of this chapter and passed through to such business during the taxable year to the extent not otherwise deducted in computing New York adjusted gross income. This credit may be claimed only where any tax imposed by such section one hundred eighty-six-e has been separately stated on a bill from the provider of telecommunication services and paid by such taxpayer with respect to such services rendered within a tax-free NY area during the taxable year. If the amount of the credit allowed under this subsection for any taxable year exceeds the taxpayer's tax for such year, the excess will be treated as an overpayment to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest will be paid thereon.

(zz) [Expires and deemed repealed Jan. 1, 2020, pursuant to L.2014, c. 59, pt. MM, § 5.] Workers with disabilities tax credit. (1) A qualified employer, as defined in paragraph one of subdivision (b) of section twenty-five-b of the labor law, shall be entitled to a credit against the tax imposed by this article. The amount of the credit shall be: fifteen percent of the qualified wages paid after January first, two thousand fifteen to a qualified full-time employee who is employed for not less than six months and who works at least thirty hours per week; and shall be ten percent of the qualified wages paid after January first, two thousand fifteen to a qualified part-time employee who is employed for not less than six months and works at least eight hours per week. The credit allowed pursuant to this subsection shall not exceed, during any taxable year, five thousand dollars for any qualified full time employee and two thousand five hundred dollars for any qualified part time employee. "Qualified wages" means wages paid or incurred by the qualified employer during the taxable year to a qualified employee which are attributable, with respect to such employee, to services rendered by the qualified employee.

(2) If the amount of credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, any amount of credit not deductible in such taxable year may be carried over to the following three years, and may be deducted for the qualified employer's tax for such years.

(3) The taxpayer shall attach to its tax return its final certificate of eligibility issued by the commissioner of labor pursuant to section twenty-five-b of the labor law. In no event shall the taxpayer be allowed a credit greater than the amount of the credit listed on the final certificate of eligibility. Notwithstanding any provision of this chapter to the contrary, the commissioner and the commissioner's designees may release the names and addresses of any taxpayer claiming this credit and the amount of the credit earned by the taxpayer.

(4) A qualified employer may not claim the workers with disabilities tax credit if it claims any of the other credits for employment of persons with disabilities under either subsection (o) of section six hundred six, subdivision twelve of section two hundred ten-B, or subdivision (j) of section fifteen hundred eleven of this chapter.

(aaa) Minimum wage reimbursement credit. (1) A taxpayer shall be allowed a credit, to be computed as provided in section thirty-eight of this chapter, against the tax imposed by this article.

(2) Application of credit. If the amount of the credit allowed under this subsection for any taxable year exceeds the taxpayer's

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

(bbb) [Repealed by L.2018, c. 59, pt. E, § 1, eff. April 15, 2020.] Real property tax freeze credit. (1) As used in this subsection:

(A) The term "freeze-compliant budget" means a budget of a taxing jurisdiction that has met the requirements of section two thousand twenty-three-b of the education law or section three-d of the general municipal law, whichever is applicable.

(B) The terms "independent special district" and "dependent school district" have the same meaning as set forth in section three-d of the general municipal law.

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

(D) The term "taxing jurisdiction" means a county, city, town, village, school district or an independent special district, except that such term shall not include a city with a population of one million or more, nor shall it include a county wholly located within such a city.

(E) The term "levy credit factor" means the allowable levy growth factor for a taxing jurisdiction, as determined pursuant to section three-c of the general municipal law or section two thousand twenty-three-a of the education law, minus one.

(2) An individual taxpayer who meets the eligibility standards set forth in paragraph three of this subsection and whose primary residence is located in a taxing jurisdiction that has a freeze-compliant budget for the fiscal year starting in two thousand fourteen, two thousand fifteen or two thousand sixteen, whichever is applicable, shall be allowed a credit against the taxes imposed by this article. Subject to the provisions of paragraph six of this subsection, such credit shall be determined as follows:

(A) If a school district other than a dependent school district has a freeze-compliant budget for its fiscal year starting in two thousand fourteen, a credit shall be allowed for the eligible taxpayer's two thousand fourteen taxable year in the amount that is the greater of (i) the amount by which the real property taxes imposed upon such residence by or on behalf of that school district for the fiscal year starting in two thousand fourteen exceeds the real property taxes so imposed for the fiscal year starting in two thousand thirteen, or (ii) the product of the real property taxes imposed upon such residence by or on behalf of that school district for the fiscal year starting in two thousand thirteen multiplied by the levy credit factor for that school district for the fiscal year starting in two thousand fourteen.

(B) If a taxing jurisdiction, other than a school district or a city with a dependent school district, has a freeze-compliant

budget for its fiscal year starting in two thousand fifteen, a credit shall be allowed for the eligible taxpayer's two thousand fifteen taxable year in the amount that is the greater of (i) the amount by which the real property taxes imposed upon such residence by or on behalf of that taxing jurisdiction for the fiscal year starting in two thousand fifteen exceeds the real property taxes so imposed for the fiscal year starting in two thousand fourteen, or (ii) the product of the real property taxes imposed upon such residence by or on behalf of that taxing jurisdiction for the fiscal year starting in two thousand fourteen multiplied by the levy credit factor for that taxing jurisdiction for the fiscal year starting in two thousand fifteen.

(C) If a school district other than a dependent school district has a freeze-compliant budget for its fiscal year starting in two thousand fifteen, a credit shall be allowed for the eligible taxpayer's two thousand fifteen taxable year in the amount by which the real property taxes imposed upon such residence by or on behalf of such school district for the fiscal year starting in two thousand fifteen exceeds the real property taxes so imposed for the fiscal year identified as follows:

(i) if the school district's budget for the fiscal year starting in two thousand fourteen was a freeze-compliant budget, a credit shall be allowed for the eligible taxpayer's two thousand fifteen taxable year in the amount of the credit for school district taxes allowed for the eligible taxpayer's two thousand fourteen taxable year; together with the amount that is the greater of (I) the amount by which the real property taxes imposed upon such residence by or on behalf of that school district for the fiscal year starting in two thousand fifteen exceeds the real property taxes so imposed for the fiscal year starting in two thousand fourteen, or (II) the product of the real property taxes imposed upon such residence by or on behalf of such school district for the fiscal year starting in two thousand fourteen multiplied by the levy credit factor for that school district for the fiscal year starting in two thousand fifteen.

(ii) if the school district's budget for the fiscal year starting in two thousand fourteen was not a freeze-compliant budget, a credit shall be allowed for the eligible taxpayer's two thousand fifteen taxable year in the amount that is the greater of (I) the amount by which the real property taxes imposed upon such residence by on or behalf of that school district for the fiscal year starting in two thousand fifteen exceeds the real property taxes so imposed for the fiscal year starting in two thousand fourteen, or (II) the product of the real property taxes imposed upon such residence by or on behalf of such school district for the fiscal year starting in two thousand fourteen multiplied by the levy credit factor for such school district for the fiscal year starting in two thousand fifteen.

(D) If a taxing jurisdiction, other than a school district or a city with a dependent school district, has a freeze-compliant budget for its fiscal year starting in two thousand sixteen:

(i) if the taxing jurisdiction's budget for the fiscal year starting in two thousand fifteen was a freeze-compliant budget, a credit shall be allowed for the eligible taxpayer's two thousand sixteen taxable year in the amount of the credit for the taxes imposed by or on behalf of such taxing jurisdiction allowed for the eligible taxpayer's two thousand fifteen taxable year; together with the amount that is the greater of (I) the amount by which the real property taxes imposed upon such residence by or on behalf of such taxing jurisdiction for the fiscal year starting in two thousand sixteen exceeds the real property taxes imposed upon such residence by or on behalf of that taxing jurisdiction for the fiscal year starting in two thousand fifteen, or (II) the product of the real property taxes imposed upon such residence by or on behalf of such taxing jurisdiction for the fiscal year starting in two thousand fifteen multiplied by the levy credit factor for such taxing jurisdiction for the fiscal year starting in two thousand sixteen.

(ii) if the taxing jurisdiction's budget for the fiscal year starting in two thousand fifteen was not a freeze-compliant budget, a

credit shall be allowed for the eligible taxpayer's two thousand sixteen taxable year in the amount that is the greater of (I) the amount by which the real property taxes imposed upon such residence by or on behalf of such taxing jurisdiction for the fiscal year starting in two thousand sixteen exceeds the real property taxes so imposed for the fiscal year starting in two thousand fifteen, or (II) the product of the real property taxes imposed upon such residence by or on behalf of such taxing jurisdiction for the fiscal year starting in two thousand fifteen multiplied by the levy credit factor for such taxing jurisdiction for the fiscal year starting in two thousand sixteen.

(E) If a city with a dependent school district has a freeze-compliant budget for its fiscal year starting in two thousand fourteen, a tax credit shall be allowed for the eligible taxpayer's two thousand fourteen taxable year in the amount equivalent to sixty-seven percent of the amount that is the greater of (i) the amount by which the real property taxes imposed upon such residence by or on behalf of that city for the fiscal year starting in two thousand fourteen exceeds the real property taxes so imposed for the fiscal year starting in two thousand thirteen, or (ii) the product of the real property taxes imposed upon such residence by or on behalf of such city for the fiscal year starting in two thousand thirteen multiplied by the levy credit factor for such city for the fiscal year starting in two thousand fourteen.

(F) If a city with a dependent school district has a freeze-compliant budget for its fiscal year starting in two thousand fifteen:

(i) if the city's budget for the fiscal year starting in two thousand fourteen was a freeze-compliant budget, a credit shall be allowed for the eligible taxpayer's two thousand fifteen taxable year in an amount equivalent to thirty-three percent of the amount that is the greater of (I) the amount by which the real property taxes imposed upon such residence by that city for the fiscal year starting in two thousand fourteen exceeds the real property taxes so imposed for the fiscal year starting in two thousand thirteen, or (II) the product of the real property taxes imposed upon such residence by or on behalf of such city for the fiscal year starting in two thousand thirteen multiplied by the levy credit factor for such city for the fiscal year starting in two thousand fourteen; together with the amount of the credit for the taxes imposed by or on behalf of such city allowed for the eligible taxpayer's two thousand fourteen taxable year; and together with an amount equivalent to sixty-seven percent of the amount that is the greater of (I) the amount by which the real property taxes imposed upon such residence by that city for the fiscal year starting in two thousand fifteen exceeds the real property taxes so imposed for the fiscal year starting in two thousand fourteen; or (II) the product of the real property taxes imposed upon such residence by or on behalf of such city for the fiscal year starting in two thousand fourteen multiplied by the levy credit factor for such city for the fiscal year starting in two thousand fifteen; and a credit shall be allowed for the eligible taxpayer's two thousand sixteen taxable year in an amount equivalent to thirty-three percent of the amount that is the greater of (I) the amount by which the real property taxes imposed upon such residence by that city for the fiscal year starting in two thousand fifteen exceeds the real property taxes so imposed for the fiscal year starting in two thousand fourteen, or (II) the product of the real property taxes imposed upon such residence by or on behalf of such city for the fiscal year starting in two thousand fourteen multiplied by the levy credit factor for such city for the fiscal year starting in two thousand fifteen; together with an amount equivalent to 49.25 percent of the amount of the credit for the taxes imposed by or on behalf of such city allowed for the eligible taxpayer's two thousand fourteen taxable year.

(ii) if the city's budget for the fiscal year starting in two thousand fourteen was not a freeze-compliant budget, a credit shall be allowed for the eligible taxpayer's two thousand fifteen taxable year in an amount equivalent to sixty-seven percent of the amount that is the greater of (I) the amount by which the real property taxes imposed upon such residence by that city for the fiscal year starting in two thousand fifteen exceeds the real property taxes so imposed for the fiscal year starting in two thousand fourteen or (II) the product of the real property taxes imposed upon such residence by or on behalf of such city for the fiscal year starting in two thousand fourteen multiplied by the levy credit factor for such city for the fiscal year starting in two thousand fifteen; and a credit shall be allowed for the eligible taxpayer's two thousand sixteen taxable year in an amount equivalent to thirty-three percent of the amount that is the greater of (I) the amount by which the real property taxes imposed upon such residence by that city for the fiscal year starting in two thousand fifteen exceeds the real property taxes so imposed

for the fiscal year starting in two thousand fourteen or (II) the product of the real property taxes imposed upon such residence by or on behalf of such city for the fiscal year starting in two thousand fourteen multiplied by the levy credit factor for such city for the fiscal year starting in two thousand fifteen.

(G) If a city with a dependent school district has a freeze-compliant budget for its fiscal year starting in two thousand fourteen but does not have a freeze-compliant budget for its fiscal year starting in two thousand fifteen, a tax credit shall be allowed for the eligible taxpayer's two thousand fifteen taxable year an amount representing thirty-three percent of the amount that is the greater of (I) the amount by which the real property taxes imposed upon such residence by that city for the fiscal year starting in two thousand fourteen exceeds the real property taxes so imposed for the fiscal year starting in two thousand thirteen or (II) the product of the real property taxes imposed upon such residence by or on behalf of such city for the fiscal year starting in two thousand thirteen multiplied by the levy credit factor for such city for the fiscal year starting in two thousand fourteen.

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

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

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

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

(4) For each year this credit is allowed, the commissioner shall determine the taxpayer's eligibility for this credit utilizing the information available to the commissioner. When the commissioner has determined a taxpayer to be eligible for this credit, the commissioner shall advance a payment of the amount determined in accordance with this subsection. The taxpayer shall not apply for such credit in conjunction with the filing of his or her return. A taxpayer who has failed to receive an advance payment that he or she believes was due to him or her, or who has received an advance payment that he or she believes is less than the amount that was due to him or her, may request payment of the claimed deficiency in a manner prescribed by the commissioner.

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

(6) The following provisions shall apply to the calculation of the credit pursuant to paragraph two of this subsection:

(A) If the tax bill pertaining to the eligible taxpayer's primary residence includes taxes levied by or on behalf of multiple taxing jurisdictions, the credit shall be based upon the change in the aggregate tax liability of such residence, provided that any tax appearing on the tax bill that is not attributable to a freeze-compliant budget shall be disregarded when determining the aggregate tax liability of such residence.

(B) If the tax bill pertaining to the eligible taxpayer's primary residence includes relevied taxes or other taxes that were previously billed but not paid, those taxes shall be disregarded when determining the aggregate tax liability of such residence.

(C) If the tax bill pertaining to the eligible taxpayer's primary residence includes usage charges, unit charges or other charges that are based upon the consumption of a service, those charges shall be disregarded when determining the aggregate tax liability of such residence.

(D) Notwithstanding the foregoing provisions of this subsection, no credit shall be allowed to the extent that the tax liability of the eligible taxpayer's primary residence increased due to one or more of the following events:

(i) A physical improvement to the eligible taxpayer's primary residence.

(ii) A removal or reduction of an exemption on the eligible taxpayer's primary residence, including a reduction of the STAR exempt amount calculated pursuant to subdivision two of section four hundred twenty-five of the real property tax law.

(iii) A revaluation that caused the assessment of the eligible taxpayer's primary residence to increase by a percentage that is greater than the applicable change in level of assessment. As used herein, the terms "revaluation" and "change in level of assessment" shall have the same meanings as set forth in sections one hundred two and twelve hundred twenty of the real property tax law, respectively.

(E) In the case of property consisting of a cooperative apartment corporation that is described by paragraph (k) of subdivision two of section four hundred twenty-five of the real property tax law, an eligible owner shall be allowed a credit in the amount equal to sixty percent of the average tax credit in that taxing jurisdiction for that fiscal year, as determined by the commissioner, or in the case of a cooperative apartment corporation that is described by subparagraph (iv) of paragraph (k) of subdivision two of section four hundred twenty-five of the real property tax law, a credit of twenty percent of such average tax credit.

(F) In the case of property consisting of a mobile home that is described by paragraph (l) of subdivision two of section four hundred twenty-five of the real property tax law, an eligible owner shall be allowed a credit in the amount equal to twenty-five percent of the average tax credit in that taxing jurisdiction for that fiscal year, as determined by the commissioner.

(G) In the case of a city with a dependent school district, it shall be presumed that sixty-seven percent of the city tax bill is for school district purposes and that thirty-three percent is for general city purposes.

(H) The amount of the credit shall be rounded to the nearest dollar, except where such amount is greater than zero and less than one dollar and fifty cents, in which case the amount of the credit shall be rounded up to two dollars.

(7) No credit shall be allowed under this subsection in relation to property located within a city with a population of one million or more.

(ccc) Article twenty-four employee credit. A covered employee of an electing employer shall be entitled to a credit against the tax imposed by this article as provided in this subsection. For purposes of this subsection the terms "covered employee" and "electing employer" shall have the same meanings as under section eight hundred fifty of this chapter. (1) For two thousand nineteen, the credit shall be equal to the product of (i) the covered employee's wages and compensation in excess of forty thousand dollars received during the tax year from the electing employer that are subject to tax under this article and (ii) one and one-half percent and (iii) the result of one minus a fraction, the numerator of which shall be the tax imposed on the covered employee as determined pursuant to section six hundred one of this article before the application of any credits for the applicable tax year and the denominator of which shall be the covered employee's taxable income as determined pursuant to this article for the applicable tax year. (2) For two thousand twenty, the credit shall be equal to the product of (i) the covered employee's wages and compensation in excess of forty thousand dollars received during the tax year from the electing employer that are subject to tax under this article and (ii) three percent and (iii) the result of one minus a fraction, the numerator of which shall be the tax imposed on the covered employee as determined pursuant to section six hundred one of this article before the application of any credits for the applicable tax year and the denominator of which shall be the covered employee's taxable income as determined pursuant to this article for the applicable tax year. (3) For two thousand twenty-one and thereafter, the credit shall be equal to the product of (i) the covered employee's wages and compensation in excess of forty thousand dollars received during the tax year from the electing employer that are subject to tax under this article and (ii) five percent and (iii) the result of one minus a fraction, the numerator of which shall be the tax imposed on the covered employee as determined pursuant to section six hundred one of this article before the application of any credits for the applicable tax year and the denominator of which shall be the covered employee's taxable income as determined pursuant to this article for the applicable tax year. If the amount of the credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess allowed for a taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

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

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

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

(A) "Qualified taxpayer" means a resident individual of the state, who maintained his or her primary residence in this state on December thirty-first of the taxable year, and who was an owner of that property on that date, provided however: (i) A taxpayer whose primary residence received a STAR exemption for the associated fiscal year shall not be considered a qualified taxpayer for purposes of this subsection.

(ii) An individual may be considered a qualified taxpayer with respect to no more than one primary residence during any given taxable year.

(iii) If a resident individual was an owner of the property during the taxable year but did not own it on December thirty-first of the taxable year, he or she shall be considered a qualified taxpayer if the property was his or her primary residence during the taxable year and he or she paid qualifying taxes on that property while he or she was still an owner of that property.

(iv) If a resident individual has acquired ownership of property during a taxable year, such resident individual shall not be considered a qualified taxpayer for that taxable year to the extent that an advance payment of the credit for that taxable year has been issued to the prior owner with respect to the same property, unless such resident individual can demonstrate that he or she paid qualifying taxes on such property during the taxable year, and that the prior owner did not.

(B) "Affiliated income" shall mean for purposes of the basic STAR credit, the combined income of all of the owners of the parcel who resided primarily thereon as of December thirty-first of the taxable year, and of any owners' spouses residing primarily thereon as of such date, and for purposes of the enhanced STAR credit, the combined income of all of the owners of the parcel as of December thirty-first of the taxable year, and of any owners' spouses residing primarily thereon as of such date; provided that for both purposes the income to be so combined shall be the "adjusted gross income" for the taxable year as reported for federal income tax purposes, or that would be reported as adjusted gross income if a federal income tax return were required to be filed, reduced by distributions, to the extent included in federal adjusted gross income, received from an individual retirement account and an individual retirement annuity. For taxable years beginning on and after January first, two thousand nineteen, where an income-eligibility determination is wholly or partly based upon the income of one or more individuals who did not file a return pursuant to section six hundred fifty-one of this article for the applicable income tax year, then in order to be eligible for the credit authorized by this subsection, each such individual must file a statement with the department showing the source or sources of his or her income for that income tax year, and the amount or amounts thereof, that would have been reported on such a return if one had been filed. Such statement shall be filed at such time, and in such form and manner, as may be prescribed by the department, and shall be subject to the provisions of section six hundred ninety-seven of this article to the same extent that a return would be. The department shall make such forms and instructions available for the filing of such statements. The local assessor shall upon the request of a taxpayer assist such

taxpayer in the filing of the statement with the department. Provided further, that if the qualified taxpayer was an owner of the property during the taxable year but did not own it on December thirty-first of the taxable year, then the determination as to whether the income of an individual should be included in "affiliated income" shall be based upon the ownership and/or residency status of that individual as of the first day of the month during which the qualified taxpayer ceased to be an owner of the property, rather than as of December thirty-first of the taxable year.

(C) "Associated fiscal year" means the school district fiscal year that began on July first of the taxable year or, in the case of a city school district that is subject to article fifty-two of the education law, the city fiscal year that began on July first of the taxable year.

(D) "Owner" means:

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

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

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

(iv) a beneficial owner under a trust,

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

(vi) a resident of a farm dwelling that is owned either by a corporation of which the resident is a shareholder, a partnership of which the resident is a partner, or by a limited liability company of which the resident is an owner, or

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

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

that is subject to article fifty-two of the education law, the combined city and school district taxes that were levied upon the taxpayer's primary residence for the associated fiscal year that were actually paid by the taxpayer during the taxable year. Provided, however, that in the case of a cooperative apartment, "qualifying taxes" means the school district taxes that would have been levied upon the tenant-stockholder's primary residence if it were separately assessed, as determined by the commissioner based on the statement provided by the assessor pursuant to subparagraph (ii) of paragraph (k) of subdivision two of section four hundred twenty-five of the real property tax law, or in the case of a cooperative apartment corporation that is described in subparagraph (iv) of paragraph (k) of subdivision two of section four hundred twenty-five of the real property tax law, one third of such amount. In no case shall the term "qualifying taxes" be construed to include penalties or interest.

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

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

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

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

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

(i) the basic STAR tax savings for the school district portion in which the taxpayer's primary residence is located, or

(ii) the taxpayer's qualifying taxes.

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

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

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

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

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

(i) the enhanced STAR tax savings for the school district portion in which the taxpayer's primary residence is located, or

(ii) the taxpayer's qualifying taxes.

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

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

(6) Special cases.

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

(B) In the case of property consisting of a mobile home that is described in paragraph (1) of subdivision two of section four hundred twenty-five of the real property tax law, the amount of the credit allowable with respect to such mobile home shall be equal to the basic STAR tax savings for the school district portion, or the enhanced STAR tax savings for the school district portion, whichever is applicable, that would be applied to a separately assessed parcel in the school district portion with a taxable assessed value equal to twenty thousand dollars multiplied by the latest state equalization rate or special equalization rate for the assessing unit in which the mobile home is located. Provided, however, that if the commissioner is in possession of information, including but not limited to assessment records, that demonstrates to the commissioner's satisfaction that the taxpayer's mobile home is worth more than twenty thousand dollars, or if the taxpayer provides the commissioner with such information, the taxpayer's credit shall be increased accordingly, but in no case shall the credit exceed the basic STAR tax savings or enhanced STAR tax savings, whichever is applicable, for the school district portion.

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

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

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

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

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

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

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

(8) Proof of claim. The commissioner may require a qualified taxpayer to furnish the following information in support of his or her claim for credit under this subsection: affiliated income, the total school district taxes levied on the property for the associated fiscal year or, in the case of a city school district that is subject to article fifty-two of the education law, the total combined city and school district taxes levied on the property for the associated fiscal year, the qualifying taxes paid by the taxpayer, the names and taxpayer identification numbers of all owners of the property and spouses who primarily reside on the property, the parcel identification number and all other information that may be required by the commissioner to determine the credit.

(9) Returns. Whether or not the taxpayer is required to file a return pursuant to section six hundred fifty-one of this article, the process for requesting advance payment of such credit shall be as provided by paragraph ten of this subsection.

(10) Advance payments. (A) The commissioner shall establish a mechanism by which a qualified taxpayer may apply for an advance payment of the credit authorized by this section, provided that:

(i) If the taxpayer acquired a new primary residence between January first and July first of the taxable year, inclusive, any such application must be submitted to the commissioner by the first day of July of the taxable year, or such later date as may be prescribed by the commissioner in order for the taxpayer's payment to be subject to the processing schedule provided by subparagraph (B) of this paragraph, and

(ii) A qualified taxpayer who fails to apply for an advance payment of such credit by such date may apply for and receive such credit in the manner prescribed by the commissioner, provided that such application shall be made within three years from the time that a return for the taxable year would have had to be filed pursuant to section six hundred fifty-one of this article. If approved, such payment shall be issued as soon as is practicable after the submission of the application but shall not be subject to the processing schedule prescribed by subparagraph (B) of this paragraph, and

(iii) A qualified taxpayer who has applied for an advance payment of such credit in a taxable year may continue to receive such advance payments in future taxable years without reapplying as long as he or she remains eligible therefor.

(B) On or before the date specified below, or as soon thereafter as practicable, the commissioner shall determine the eligibility of taxpayers for this credit utilizing the information available to him or her as obtained from the applications submitted on or before July first of that year, or such later date as may have been prescribed by the commissioner for that purpose, and from such other sources as the commissioner deems reliable and appropriate. For those taxpayers whom the commissioner has determined eligible for this credit, the commissioner shall advance a payment in the amount specified in paragraph three, four or six of this subsection, whichever is applicable. Such payment shall be issued by the date specified

below, or as soon thereafter as is practicable; provided that if such payment is issued after such date, it shall be subject to interest at the rate prescribed by subparagraph (A) of paragraph two of subsection (j) of section six hundred ninety-seven of this article. Nothing contained herein shall be deemed to preclude the commissioner from issuing payments after such date to qualified taxpayers whose applications were made after July first of that year, or such later date as may have been prescribed by the commissioner for such purpose.

(i) The applicable dates for this purpose are as follows:

(I) If the school district tax roll is filed with the commissioner on or before July first, the determination of eligibility shall be made by July fifteenth, or as soon thereafter as is practicable, and the advance payment shall be issued by July thirtieth, or as soon thereafter as is practicable.

(II) If the school district tax roll is filed with the commissioner after July first and on or before September first, the determination of eligibility shall be made by September fifteenth, or as soon thereafter as is practicable, and the advance payment shall be issued by September thirtieth, or as soon thereafter as is practicable.

(III) If the school district tax roll is filed with the commissioner after September first, the determination of eligibility shall be made by the fifteenth day after such filing, or as soon thereafter as is practicable, and the advance payment shall be issued by the thirtieth day after such filing, or as soon thereafter as is practicable.

(ii) Notwithstanding the foregoing provisions of this subparagraph, in the case of taxpayers whose primary residence is a cooperative apartment or a mobile home that is subject to the provisions of subparagraph (A) or (B) of paragraph six of this subsection, the payment shall be issued by the sixtieth day following receipt of all of the data needed to properly calculate the credit, or as soon thereafter as is practicable.

(C) A taxpayer who has failed to receive an advance payment that he or she believes was due to him or her, or who has received an advance payment that he or she believes is less than the amount that was due to him or her, may request payment of the claimed deficiency in a manner prescribed by the commissioner.

(D) An advance payment of credit provided pursuant to this subsection that exceeds the taxpayer's qualifying taxes for that taxable year shall be added back as tax on the income tax return for that taxable year.

(E) If the commissioner determines after issuing an advance payment that it was issued in an excessive amount or to an ineligible or incorrect party, the commissioner shall be empowered to utilize any of the procedures for collection, levy and lien of personal income tax set forth in this article, any other relevant procedures referenced within the provisions of this article, and any other law as may be applicable, to recoup the improperly issued amount.

(11) Administration. The provisions of this article, including the provisions of sections six hundred fifty-three, six hundred

fifty-eight, and six hundred fifty-nine of this article and the provisions of part six of this article relating to procedure and administration, including the judicial review of the decisions of the commissioner, except so much of section six hundred eighty-seven of this article that permits a claim for credit or refund to be filed after the period provided for in paragraph nine of this subsection and except sections six hundred fifty-seven, six hundred eighty-eight and six hundred ninety-six of this article, shall apply to the provisions of this subsection in the same manner and with the same force and effect as if the language of those provisions had been incorporated in full into this subsection and had expressly referred to the credit allowed or returns filed under this subsection, except to the extent that any such provision is either inconsistent with a provision of this subsection or is not relevant to this subsection. As used in such sections and such part, the term "taxpayer" shall include a qualified taxpayer under this subsection and, notwithstanding the provisions of subsection (e) of section six hundred ninety-seven of this article, where a qualified taxpayer has protested the denial of a claim for credit under this subsection and the time to file a petition for redetermination of a deficiency or for refund has not expired, he or she shall, subject to such conditions as may be set by the commissioner, receive such information (A) that is contained in any return filed under this article by a member of his or her household for the taxable year for which the credit is claimed, and (B) that the commissioner finds is relevant and material to the issue of whether such claim was properly denied.

(12) When the calculation of any other personal income tax credit is based in whole or in part upon the real property taxes paid by the taxpayer, the amount of real property taxes so paid shall be reduced by the credit authorized by this subsection, if applicable, in the course of performing such calculation. When the calculation of any other personal income tax credit is based in whole or in part upon an individual's state tax liability, the credit authorized by this subsection shall not be taken into account in the calculation of such state tax liability. When the calculation of a city tax surcharge is based in whole or in part upon the net state tax of an individual, the credit authorized by this subsection shall not be taken into account in the calculation of such net state tax.

(13)(A) Nothing herein shall be construed to preclude the commissioner from making a preliminary advance payment of the credit based upon an estimate of the STAR tax savings applicable to a school district portion, where he or she finds that attempting to ascertain the actual STAR tax savings applicable to the school district portion would jeopardize the timely issuance of the payment. When making such an estimate, the commissioner shall consider the STAR tax savings applicable in the school district fiscal year preceding the associated fiscal year, the allowable levy growth factor applicable to the calculation of the tax levy limit for the associated fiscal year pursuant to paragraph a of subdivision two of section two thousand twenty-three-a of the education law, taxable assessed value where appropriate, and such other information that in his or her judgment will help make the estimate as accurate as possible.

(B) Nothing herein shall be construed to preclude the commissioner from making a preliminary advance payment of the credit without attempting to ascertain the taxpayer's qualifying taxes, where he or she finds that attempting to ascertain the taxpayer's qualifying taxes would jeopardize the timely issuance of the payment.

(C) If the commissioner determines that a taxpayer received a preliminary advance payment that is above or below the advance payment to which he or she was entitled under this subsection, the commissioner shall provide notice to such taxpayer that the next advance payment due to such taxpayer under this subsection shall be adjusted to reconcile such underpayment or overpayment; provided, however, the commissioner shall permit a taxpayer to request that such adjustment be made on an originally filed timely income tax return for the tax year in which such overpayment or underpayment occurred, provided such return is filed on or before the due date for such return, determined without regard to extensions.

(D) A taxpayer who received a preliminary advance payment that constitutes an overpayment shall not be required to pay

interest on the amount of the overpayment.

(fff) Farm workforce retention credit. (1) A taxpayer shall be allowed a credit, to be computed as provided in section forty-two of this chapter, against the tax imposed by this article.

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

(ggg) School tax reduction credit for residents of a city with a population over one million. (1) For taxable years beginning after two thousand fifteen, a school tax reduction credit shall be allowed to a resident individual of the state who is a resident of a city with a population over one million, as provided below. The credit shall be allowed against the taxes authorized by this article reduced by the credits permitted by this article. If the credit exceeds the tax as so reduced, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided however, that no interest will be paid thereon. For purposes of this subsection, no credit shall be granted to an individual with respect to whom a deduction under subsection (c) of section one hundred fifty-one of the internal revenue code is allowable to another taxpayer for the taxable year.

(2) The amount of the credit under this subsection shall be determined based upon the taxpayer's income as defined in subparagraph (ii) of paragraph (b) of subdivision four of section four hundred twenty-five of the real property tax law.

(3) For taxable years beginning in two thousand sixteen, the credit shall be determined as provided in this paragraph, provided that for the purposes of this paragraph, any taxpayer under subparagraphs (A) and (B) of this paragraph with income of more than two hundred fifty thousand dollars shall not receive a credit.

(A) Married individuals filing joint returns and surviving spouses. In the case of married individuals who make a single return jointly and of a surviving spouse, the credit shall be one hundred twenty-five dollars.

(B) All others. In the case of an unmarried individual, a head of a household or a married individual filing a separate return, the credit shall be sixty-two dollars and fifty cents.

(4) For taxable years beginning after two thousand sixteen, the credit shall equal the "fixed" amount provided by paragraph (4-a) of this subsection plus the "rate reduction" amount provided by paragraph (4-b) of this subsection.

(4-a) The "fixed" amount of the credit shall be determined as provided in this paragraph, provided that any taxpayer with income of more than two hundred fifty thousand dollars shall not receive such amount.

(A) Married individuals filing joint returns and surviving spouses. In the case of married individuals who make a single return jointly and of a surviving spouse, the "fixed" amount of the credit shall be one hundred twenty-five dollars.

(B) All others. In the case of an unmarried individual, a head of a household or a married individual filing a separate return, the "fixed" amount of the credit shall be sixty-two dollars and fifty cents.

(4-b) The "rate reduction" amount of the credit shall be determined as provided in this paragraph, provided that any taxpayer with income of more than five hundred thousand dollars shall not receive such amount.

(A) For married individuals who make a single return jointly and for a surviving spouse:

If the city taxable income is:	The "rate reduction" amount is:
Not over $21,600	0.171% of the city taxable income
Over $21,600 but not over $500,000	$37 plus 0.228% of excess over $21,600
Over $500,000	Not applicable

(B) For a head of household:

If the city taxable income is:	The "rate reduction" amount is:
Not over $14,400	0.171% of the city taxable income
Over $14,400 but not over $500,000	$25 plus 0.228% of excess over $14,400
Over $500,000	Not applicable

(C) For an unmarried individual or a married individual filing a separate return:

If the city taxable income is:	The "rate reduction" amount is:

Not over $12,000	0.171% of the city taxable income
Over $12,000 but not over $500,000	$21 plus 0.228% of excess over $12,000
Over $500,000	Not applicable

(5) Part-year residents. If a taxpayer changes status during the taxable year from resident to nonresident, or from nonresident to resident, the school tax reduction credit authorized by this subsection shall be prorated according to the number of months in the period of residence.

(hhh) Life sciences research and development tax credit. (1) Allowance of credit. A taxpayer who is eligible pursuant to section forty-three of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article.

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

(iii) Credit for contributions to certain funds. For taxable years beginning on or after January first, two thousand nineteen, an individual taxpayer shall be allowed a credit against the tax imposed under this article for an amount equal to eighty-five percent of the sum of:

(1) the amount contributed by the taxpayer during the immediately preceding taxable year to any or all of the following accounts within the charitable gifts trust fund set forth in section ninety-two-gg of the state finance law: the health charitable account established by paragraph a of subdivision four of section ninety-two-gg of the state finance law, or the elementary and secondary education charitable account established by paragraph b of subdivision four of section ninety-two-gg of the state finance law; (2) the amount of qualified contributions made by the taxpayer to Health Research, Inc. in accordance with section two of the chapter of the laws of two thousand eighteen that added this subsection; and (3) the amount of qualified contributions made by the taxpayer to the State University of New York Impact Foundation and/or the Research Foundation of the City University of New York in accordance with section three of the chapter of the laws of two thousand eighteen that added this subsection.

(vvv) Empire state apprenticeship tax credit. (1)(A) A taxpayer that has been certified by the commissioner of labor as a certified employer pursuant to section twenty-five-c of the labor law shall be allowed a credit against the tax imposed by this

article equal to the amount specified under subdivision (c) of section twenty-five-c of the labor law. In no event shall the taxpayer be allowed a credit greater than the amount of the credit listed on the final certificate of tax credit.

(B) A taxpayer that is a partner in a partnership, member of a limited liability company or shareholder in an S corporation that has been certified by the commissioner of labor as a certified employer pursuant to section twenty-five-c of the labor law shall be allowed its pro rata share of the credit earned by the partnership, limited liability company or S corporation.

(2) If the amount of the credit allowed under this subsection exceeds the taxpayer's tax for the taxable year, any amount of credit not deductible in that taxable year will be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article. Provided, however, no interest will be paid thereon.

(yyy) Order of credits. Credits allowable under this article which cannot be carried over and which are not refundable shall be deducted first. Credits allowable under this article which can be carried over, and carryovers of such credits, shall be deducted next, and among such credits, those whose carryover is of limited duration shall be deducted before those whose carryover is of unlimited duration. Credits allowable under this article which are refundable shall be deducted last.

(zzz) Cross references.--For credit in respect of:

(1) taxes withheld on wages, see section six hundred seventy-three,

(2) taxes imposed on a resident by other states, see section six hundred twenty,

(3) taxes overpaid for a prior taxable year, see section six hundred eighty-six,

(4) taxes paid by a trust for a prior taxable year on income subsequently distributed, see sections six hundred twenty-one and six hundred thirty-five.

Credits

(Added L.1960, c. 563, § 2. Amended L.1962, c. 2, § 1; L.1962, c. 1011, § 2; L.1963, c. 272, § 1; L.1969, c, 1072, § 5; L.1970, c. 98, § 1; L.1970, c. 424, §§ 1 to 3; L.1970, c. 1005, § 3; L.1972, c. 1, §§ 6, 7; L.1973, c. 698, §§ 4 to 6; L.1974, c. 190, § 2; L.1977, c. 59, § 2; L.1977, c. 70, § 2; L.1977, c. 675, §§ 59, 60, 66; L.1978, c. 69, § 4; L.1978, c. 70, §§ 6, 7; L.1978, c. 71, § 1; L.1978, c. 729, §§ 2 to 5; L.1978, c. 788, § 25; L.1978, c. 790, § 4; L.1980, c. 888, §§ 4 to 7; L.1981, c. 103, §§ 15, 16, 19, 20, 22, 25, 68, 70 to 73; L.1981, c. 852, § 1; L.1981, c. 853, § 1; L.1981, c. 1043, §§ 8 to 10; L.1982, c. 55, §§ 10 to 15; L.1983, c. 15, §§ 71, 72; L.1984, c. 606, §§ 6, 7; L.1985, c. 29, §§ 22 to 26; L.1986, c. 258, § 2; L.1986, c. 410, § 1; L.1986, c. 638, § 7; L.1986, c. 686, §§ 13 to 16; L.1987, c. 13, § 13; L.1987, c. 28, §§ 9 to 25; L.1987, c. 59, § 5; L.1987, c. 265, § 3; L.1987, c. 333, §§ 10 to 16, 18 to 24; L.1987, c. 442, §§ 2 to 5; L.1987, c. 817, §§ 57-c to 57-h, 57-l, 57-m; L.1989, c. 61, § 116; L.1990, c. 23, § 3; L.1990, c. 190, § 155; L.1990, c. 624, §§ 21 to 25; L.1991, c. 423, § 2;

L.1992, c. 55, § 10; L.1992, c. 760, §§ 39 to 43; L.1993, c. 57, §§ 10, 128, 129; L.1993, c. 708, §§ 25 to 29; L.1994, c. 170, §§ 67, 104, 261 to 269; L.1994, c. 385, § 63; L.1995, c. 2, §§ 4 to 6; L.1996, c. 309, §§ 202, 203, 209, 213, 214; L.1996, c. 713, § 2; L.1997, c. 142, §§ 4, 5, eff. June 25, 1997; L.1997, c. 389, pt. A, §§ 41, 56, 102, 104, 105, 129, 130, eff. Aug. 7, 1997; L.1997, c. 399, § 4, eff. Aug. 13, 1997; L.1998, c. 56, pt. A, §§ 8, 21, 22, 24, 25, 73, eff. April 28, 1998; L.1998, c. 315, § 2, eff. July 14, 1998; L.1998, c. 467, §§ 1, 2, eff. July 22, 1998; L.1999, c. 115, §§ 5, 6, eff. June 22, 1999; L.1999, c. 407, pt. I, §§ 1, 2, eff. Aug. 9, 1999; L.1999, c. 407, pt. J, § 3, eff. Aug. 9, 1999; L.1999, c. 407, pt. N, § 2, eff. Aug. 9, 1999; L.1999, c. 407, pt. BB, §§ 3, 4, eff. Aug. 9, 1999; L.1999, c. 407, pt. EE, § 1, eff. Aug. 9, 1999; L.2000, c. 63, pt. E, §§ 3, 4, eff. Jan. 1, 2002; L.2000, c. 63, pt. I, §§ 4, 5, eff. May 15, 2000; L.2000, c. 63, pt. M, § 1, eff. May 15, 2000; L.2000, c. 63, pt. N, § 1, eff. May 15, 2000; L.2000, c. 63, pt. Q, § 1, eff. May 15, 2000; L.2000, c. 63, pt. Y, §§ 47, 48, eff. May 15, 2000; L.2000, c. 63, pt. Z, § 1, eff. Jan. 1, 2003; L.2000, c. 63, pt. CC, §§ 4, 5, eff. May 15, 2000; L.2000, c. 63, pt. DD, § 1, eff. May 15, 2000; L.2000, c. 63, pt. GG, §§ 4, 5, eff. May 15, 2000; L.2000, c. 63, pt. II, §§ 5, 6, eff. May 15, 2000; L.2002, c. 85, pt. C, § 1, eff. April 1, 2002; L.2002, c. 85, pt. C, § 2, eff. Jan. 1, 2004; L.2002, c. 85, pt. N, § 1, eff. May 29, 2002; L.2002, c. 85, pt. R, § 5, eff. April 1, 2003; L.2002, c. 85, pt. V, § 2, eff. May 29, 2002; L.2002, c. 85, pt. CC, §§ 3 to 6, 15-a, 16, eff. May 29, 2002; L.2002, c. 311, § 3, eff. Aug. 6, 2002, deemed eff. Jan. 1, 2002; L.2002, c. 597, §§ 12 to 16, eff. Sept. 24, 2002; L.2003, c. 1, pt. H, §§ 4, 5, 15, 16, 23, 24, eff. Oct. 7, 2003; L.2003, c. 527, § 2, eff. Sept. 17, 2003; L.2004, c. 58, pt. B, § 19, eff. Aug. 20, 2004; L.2004, c. 60, pt. D, § 4, eff. Aug. 20, 2004; L.2004, c. 60, pt. P, §§ 3, 4, eff. Aug. 20, 2004; L.2004, c. 60, pt. V, § 3, eff. Aug. 20, 2004; L.2004, c. 577, pt. H, § 7, eff. Oct. 5, 2004; L.2005, c. 58, pt. C, § 22, as added by L.2005, c. 63, pt. E, §§ 24, eff. April 12, 2005, deemed eff. April 1, 2005; L.2005, c. 61, pt. I, § 1, eff. April 12, 2005; L.2005, c. 61, pt. P, § 1, eff. April 12, 2005; L.2005, c. 61, pt. U, § 2, eff. April 12, 2005, as amended by L.2005, c. 63, pt. A, § 1-a, eff. April 12, 2005; L.2005, c. 61, pt. U, §§ 3, 5, eff. April 12, 2005; L.2005, c. 61, pt. W, §§ 23 to 26, eff. April 12, 2005, as amended by L.2005, c. 63, pt. A, § 5, eff. April 12, 2005; L.2005, c. 161, § 26, eff. July 3, 2005, deemed eff. April 12, 2005; L.2005, c. 378, § 1, eff. Aug. 2, 2005; L.2005, c. 393, §§ 4 to 6, eff. Aug. 2, 2005; L.2005, c. 446, §§ 3, 6, eff. Aug. 9, 2005; L.2005, c. 537, §§ 4, 8, eff. Aug. 16, 2005; L.2005, c. 632, § 2, eff. Jan. 1, 2006; L.2005, c. 728, § 1, eff. Oct. 11, 2005; L.2005, c. 763, § 2, eff. Dec. 20, 2005; L.2006, c. 35, pt. C, § 1, eff. May 21, 2006; L.2006, c. 35, pt. D, §§ 2, 3, eff. May 21, 2006; L.2006, c. 58, pt. I, § 1, eff. April 12, 2006; L.2006, c. 61, pt. N, §§ 1, 4, eff. April 28, 2006; L.2006, c. 62, pt. A, § 1, eff. April 28, 2006; L.2006, c. 62, pt. F, §§ 1, 2, eff. April 28, 2006; L.2006, c. 62, pt. K, §§ 1 to 3, eff. April 28, 2006; L.2006, c. 62, pt. U, § 1, eff. April 28, 2006; L.2006, c. 62, pt. V, §§ 4, 5, eff. April 28, 2006; L.2006, c. 62, pt. X, §§ 4, 5, eff. April 28, 2006; L.2006, c. 105, §§ 3, 4, eff. June 23, 2006; L.2006, c. 109, pt. F, § 1, eff. June 23, 2006; L.2006, c. 109, pt. L-1, § 1, eff. June 23, 2006; L.2006, c. 109, pt. W-1, § 16, eff. June 23, 2006; L.2006, c. 109, pt. Z-1, § 3, eff. June 23, 2006; L.2006, c. 251, § 1, eff. July 26, 2006, deemed eff. Aug. 2, 2005; L.2006, c. 522, §§ 2, 3, eff. Aug. 16, 2006, deemed eff. Jan. 1, 2006; L.2006, c. 547, §§ 1, 2, eff. Aug. 16, 2006; L.2007, c. 57, pt. D-1, § 5, eff. April 9, 2007; L.2007, c. 128, §§ 1, 2, eff. July 3, 2007; L.2007, c. 532, § 1, eff. Aug. 15, 2007; L.2008, c. 57, pt. WW-1, § 3, eff. April 23, 2008; L.2008, c. 57, pt. ZZ-1, §§ 2, 3, eff. April 23, 2008; L.2008, c. 57, pt. AAA-1, § 2, eff. April 23, 2008; L.2008, c. 637, §§ 5 to 8, eff. Sept. 25, 2008; L.2009, c. 57, pt. C-1, §§ 3, 7, eff. April 7, 2009; L.2009, c. 57, pt. S-1, §§ 12, 16, 18, 20, eff. April 7, 2009; L.2009, c. 239, §§ 1, 2, eff. July 28, 2009; L.2010, c. 56, pt. W, § 23, eff. June 22, 2010; L.2010, c. 57, pt. A, § 3, eff. Aug. 11, 2010; L.2010, c. 57, pt. Q, §§ 14, 15, eff. Aug. 11, 2010; L.2010, c. 57, pt. R, §§ 9, 11, 15, eff. Aug. 11, 2010; L.2010, c. 57, pt. Y, § 5, eff. Aug. 11, 2010; L.2010, c. 59, pt. MM, §§ 4, 5, eff. July 1, 2010; L.2010, c. 182, § 2, eff. Oct. 13, 2010; L.2010, c. 297, § 2, eff. July 30, 2010; L.2010, c. 472, §§ 1, 2, eff. Aug. 30, 2010; L.2011, c. 56, pt. D, §§ 3, 4, eff. Dec. 9, 2011; L.2011, c. 56, pt. E, §§ 4, 5, eff. Dec. 9, 2011; L.2011, c. 61, pt. V, §§ 6, 7, eff. March 31, 2011; L.2011, c. 604, §§ 1, 2, eff. Jan. 3, 2012, deemed eff. Dec. 31, 2010; L.2012, c. 59, pt. I, § 4, eff. March 30, 2012, deemed eff. Dec. 31, 2011; L.2012, c. 59, pt. K, § 4, eff. March 30, 2012; L.2012, c. 59, pt. T, § 3, eff. March 30, 2012; L.2012, c. 109, §§ 3, 4, eff. July 18, 2012; L.2012, c. 193, § 1, eff. July 18, 2012; L.2012, c. 375, § 1, eff. Aug. 17, 2012; L.2013, c. 59, pt. F, § 1; L.2013, c. 59, pt. G, §§ 3, 4, eff. March 28, 2013; L.2013, c. 59, pt. V, § 1, eff. March 28, 2013; L.2013, c. 59, pt. AA, §§ 2, 3, eff. March 28, 2013; L.2013, c. 59, pt. CC, § 1, pt. EE, §§ 4, 5, eff. March 28, 2013; L.2013, c. 68, pt. A, §§ 8, 9, eff. June 24, 2013; L.2013, c. 384, § 20, eff. Jan. 15, 2014; L.2014, c. 59, pt. A, §§ 67 to 69, eff. Jan. 1, 2015; L.2014, c. 59, pt. J, § 2, eff. March 31, 2014; L.2014, c. 59, pt. K, §§ 1, 2, eff. March 31, 2014; L.2014, c. 59, pt. M, § 1, eff. March 31, 2014; L.2014, c. 59, pt. O, § 4, eff. March 31, 2014; L.2014, c. 59, pt. R, §§ 3, 4, eff. March 31, 2014; L.2014, c. 59, pt. S, § 30, eff. Jan. 1, 2018; L.2014, c. 59, pt. T, §§ 4, 5, eff. March 31, 2014; L.2014, c. 59, pt. U, § 2, eff. March 31, 2014; L.2014, c. 59, pt. FF, § 1, eff. March 31, 2014; L.2014, c. 59, pt. HH, §§ 3, 4, eff. March 31, 2014; L.2014, c. 59, pt. MM, §§ 3, 4, eff. Jan. 1, 2015; L.2015, c. 20, pt. C, subpt. B, § 1, eff. June 26, 2015; L.2015, c. 56, pt. AA, §§ 3, 4, eff. April 13, 2015; L.2015, c. 59, pt. I, §§ 4, 5, 8, 9, eff. April 13, 2015, deemed eff. March 31, 2014; L.2015, c. 59, pt. I, § 6, eff. April 13, 2015; L.2015, c. 59, pt. O, §§ 3, 4, eff. April 13, 2015; L.2015, c. 59, pt. RR, § 3, eff. April 13, 2015; L.2016, c. 60, pt. A, §§ 6, 7, pt. E, § 1, pt. I, § 2, pt. J, § 3, pt. N, § 2, pt. V, §§ 5, 6, pt. RR, §§ 3, 4, eff. April 13, 2016; L.2016, c. 73, pt. A, §§ 1, 8, pt. B, §§ 2, 3, eff. June 23, 2016, deemed eff. April 13, 2016; L.2017, c. 59, pt. C, § 2, pt. G, § 1, pt. H, §§ 2, 3, pt. K, §§ 9, 10, pt. N, subpt. A, §§ 3,

4, pt. N, subpt. B, §§ 3, 4, pt. O, § 3, pt. P, § 3, pt. T, §§ 1, 2, pt. TT, §§ 1, 2, pt. DDD, §§ 1, 2, eff. April 10, 2017; L.2017, c. 315, § 3, eff. Sept. 13, 2017; L.2017, c. 485, § 1, eff. Dec. 18, 2017; L.2018, c. 14, § 1, eff. Dec. 18, 2017; L.2018, c. 59, pt. B, § 10, pt. E, §§ 7, 8, pt. P, § 1, pt. Q, § 2, pt. R, § 7, pt. LL, § 4, pt. MM, § 2, pt. RR, §§ 1, 4, eff. April 12, 2018; L.2018, c. 59, pt. E, § 1, eff. April 15, 2020; L.2018, c. 59, pt. R, §§ 8, 9, eff. Jan. 1, 2019.)

Notes of Decisions (9)

Footnotes

1 26 USCA § 46 (prior to amendment by Pub.L. 101-508, Title XI, § 11813(a), Nov. 5, 1990, 104 Stat. 1388-536).

2 26 USCA § 167.

3 26 USCA § 179.

4 26 USCA § 475.

5 26 USCA § 851.

6 26 USCA § 168.

7 See 26 USCA § 1 et seq.

8 26 USCA § 38.

9 26 USCA § 48.

10 26 USCA § 47.

11 26 USCA § 1033.

12 So in original (“he” should be “the”).

13 26 USCA § 151.

14 26 USCA § 21.

15 26 USCA § 24.

16 26 USCA § 32.

17 26 USCA § 152.

18 So in original ("(c)" should be "(C)").

19 26 USCA § 911.

20 See 42 USCA § 301 et seq.

21 See note under 42 USCA § 1437a.

22 26 USCA § 216.

23 So in original.

24 26 USCA § 1034.

25 26 USCA § 51.

26 See 29 USCA § 1501 et seq.

27 26 USCA § 465.

28 So in original. Should be "vocational".

29 26 USCA §§ 51 and 52.

30 26 USCA § 170.

31 26 USCA § 501.

32 26 USCA § 1504.

33 26 USCA § 50.

34 16 USCA § 470a.

35 26 USCA § 143.

36 See 42 USCA § 12101 et seq.

McKinney's Tax Law § 606, NY TAX § 606
Current through L.2018, chapters 1 to 263.

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