

Amend Senate S6359-A, Assembly A8559-A, A BUDGET BILL, AN ACT to amend the tax law, the general municipal law, the urban development corporation act, the business corporation law, the general associations law, and the administrative code of the city of New York, in relation to reforming taxation of business corporations...

Page	Line	Amendment
Page 3,	Unnumbered line 41 (AN ACT CLAUSE),	After "(Part EE);" strike out "and"
Page 3,	Unnumbered line 44 (AN ACT CLAUSE),	After "(Part FF)" insert "; and to amend the tax law, in relation to the temporary exemption from sales and use taxes for premises used for commercial office space in lower Manhattan; and to amend part C of chapter 2 of the laws of 2005 amending the tax law relating to exemptions from sales and use taxes, in relation to the effectiveness thereof (Subpart A); to amend the real property tax law and the administrative code of the city of New York, in relation to extending a real property tax abatement program for certain commercial properties in cities having a population of one million or more and in relation to extending a special reduction under the commercial rent tax in the city of New York (Subpart B); to amend the real property tax law and the administrative code of the city of New York, in relation to applications for tax abatements for industrial and commercial construction work on properties in a city of one million or more persons (Subpart C); to amend the general city law and the administrative code of the city of New York, in relation to extending the relocation and employment assistance program and the Lower Manhattan relocation and employment assistance program (Subpart D); to amend the general city law and the administrative code of the city of New York, in relation to extending the special rebates and discounts provided pursuant to the energy cost savings program and the Lower Manhattan energy program (Subpart E); to amend the administrative code of the city of New York, in relation to the amount of special reduction allowed (Subpart F); and to amend the real property tax law, in relation to a real estate tax abatement program for certain commercial, industrial and manufacturing properties in a city of one million or more persons (Subpart G) (Part GG);
Page 3,	Line 4,	After "through" strike out FF" and insert "GG"
Page 5,	Line 17,	After "act," insert "subparagraph 22 of paragraph (b) of subdivision 9 as added by section 109-b of this act,"

Page 8,	Between Lines 14 and 15,	Insert " <u>(c) Investment income shall not include any amount treated as dividends pursuant to section seventy-eight of the internal revenue code.</u> "
Page 8,	Line 55,	After " <u>income</u> " insert " <u>, loss</u> "
Page 12,	Lines 26 and 27,	After "paragraph]" strike out " <u>treated as other exempt income under subdivision six-a of this section;</u> "
Page 16,	Between Lines 49 and 50,	Insert "(22) The amount of any deduction allowed for federal income tax purposes for (i) any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or governmental entity in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law, other than any amount that constitutes restitution (including remediation of property) for damage or harm which was or may be caused by the violation of any law or the potential violation of any law, or is paid to come into compliance with any law which was violated or otherwise involved in such investigation or inquiry, that is paid directly to the aggrieved parties, and is identified as restitution or as an amount paid to come into compliance with such law, as the case may be, in the court order or settlement agreement; or (ii) any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation. This subparagraph shall not apply to any amount paid or incurred by reason of any order of a court in a suit in which no government or governmental entity is a party or any amount paid or incurred as taxes due. For purposes of this subparagraph, the following nongovernmental entities shall be treated as governmental entities any nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7) of the internal revenue code or any nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function."
Page 28,	Line 40,	After "(iii)" strike out "["
Page 28,	Line 54,	After "(iv)" strike out "]"
Page 32,	Line 1,	After " <u>banks</u> " Insert " <u>and small thrifts</u> "
Page 32,	Line 3,	After " <u>paragraph or a</u> " insert " <u>small</u> "

Page 32,	Line 3,	After " <u>subparagraph</u> " strike out " <u>three</u> " and insert " <u>two-a</u> "
Page 32,	Line 4,	Before " <u>paragraph</u> " insert " <u>this</u> "
Page 32,	Line 4,	After " <u>paragraph</u> " strike out " <u>(r) of this subdivision</u> "
Page 32,	Between Lines 18 and 19,	<p>Insert "<u>(2-a) To be a small thrift institution, a taxpayer must satisfy the following conditions.</u></p> <p><u>(A) It is a savings bank, a savings and loan association, or other savings institution chartered and supervised as such under federal or state law.</u></p> <p><u>(B) The average value during the taxable year of the assets of the taxpayer, or the assets of the affiliated group of the taxpayer, must not exceed eight billion dollars. For purposes of this clause, the affiliated group of the taxpayer includes any corporation that meets the ownership requirements to be included in a combined report specified in paragraph (a) of subdivision two of section two hundred ten-c of this article."</u></p>
Page 32,	Line 53,	After " <u>originated</u> " insert " <u>by the qualified community bank or small thrift institution or</u> "
Page 32,	Line 54,	After " <u>bank or</u> " insert " <u>small</u> "
Page 32,	Line 55,	After " <u>by the bank</u> " insert " <u>or thrift institution</u> "
Page 33,	Between lines 5 and 6,	Insert " <u>(iii) A loan that has been determined to be a qualifying loan in a prior taxable year remains a qualifying loan in taxable years during and after which such loan is acquired by another corporation in the taxpayer's combined group."</u>
Page 35,	Between Lines 51 and 52,	Insert " <u>(f) If a partnership is doing business, employing capital, owning or leasing property in this state, maintaining an office in the state, or deriving receipts from activity in this state, any corporation that is a partner in such partnership shall be subject to tax under this article as described in the regulations of the commissioner."</u>
Page 39,	Line 48,	After " <u>group</u> " insert " <u>that</u> "
Page 45,	Line 15,	After "For" strike out "a qualified" and

		insert "an upstate"
Page 45,	Line 15, through 18,	After "manufacturer" strike out "that has an apportionment factor for purposes of the metropolitan transportation business tax surcharge computed pursuant to subdivision two of section two hundred nine-B of this article equal to zero for the taxable year"
Page 45,	Line 21,	After "base." insert "An upstate New York manufacturer is a qualified New York manufacturer that does not own or lease any tangible personal property or real property in the metropolitan commuter transportation district and does not pay any wages, salaries or other personal service compensation within such district."
Page 45,	Line 22,	<p>After "(viii)" insert "<u>(A) In computing the business income base, taxpayers shall be allowed both a prior net operating loss conversion subtraction under this subparagraph and a net operating loss deduction under subparagraph (ix) of this paragraph. The prior net operating loss conversion subtraction computed under this subparagraph shall be applied against the business income base before the net operating loss deduction computed under subparagraph (ix) of this paragraph.</u></p> <p><u>(B) Prior net operating loss conversion subtraction.</u></p> <p><u>(1) Definitions.</u></p> <p><u>(I) "Base year" means the last taxable year beginning on or after January first, two thousand fourteen and before January first, two thousand fifteen.</u></p> <p><u>(II) "Unabsorbed net operating loss" means the unabsorbed portion of net operating loss as calculated under paragraph (f) of subdivision nine of section two hundred eight of this article or subsection(k-1) of section fourteen hundred fifty-three of this chapter as such sections were in effect on December thirty-first, two thousand fourteen, that was not deductible in previous taxable years and was eligible for carryover on the last day of the base year, including any net operating loss sustained by the taxpayer during the base year.</u></p> <p><u>(III) "Base year BAP" means the taxpayer's business allocation percentage as calculated under paragraph (a) of subdivision three of section two hundred ten of this article for the base year, or the taxpayer's allocation percentage as calculated under section fourteen hundred fifty-four of this chapter for purposes of calculating entire net income for the base year, as such sections were in effect on</u></p>

December thirty-first, two thousand fourteen.

(IV) "Base year tax rate" means the taxpayer's tax rate for the base year as calculated under this paragraph or subsection (a) of section fourteen hundred fifty-five of this chapter, as such provisions were in effect on December thirty-first, two thousand fourteen.

(2) The prior net operating loss conversion subtraction shall be calculated as follows:

(I) The taxpayer shall first calculate the tax value of its unabsorbed net operating loss for the base year. The value is equal to the product of (I) the amount of the taxpayer's unabsorbed net operating loss, (II) the taxpayer's base year BAP, and (III) the taxpayer's base year tax rate.

(II) The product determined under item I of this subclause is then divided by six and one-half percent, or in the case of a qualified New York manufacturer, five and seven tenths percent. This result shall equal the taxpayer's prior net operating loss conversion subtraction pool.

(III) The taxpayer's prior net operating loss conversion subtraction for the taxable year shall equal one tenth of its net operating loss conversion subtraction pool plus any amount of unused prior net operating loss conversion subtraction from preceding taxable years. Provided, however, the prior net operating loss conversion subtraction of a small business corporation, as defined in paragraph (f) of this subdivision, as of the last day of the base year, shall not be subject to the one tenth limitation in the previous sentence.

(3) Combined groups. (I) Where a taxpayer was properly included or required to be included in a combined report for the base year pursuant to section two hundred eleven of this article or a combined return under section fourteen hundred sixty-two of this chapter, as such sections were in effect on December thirty-first, two thousand fourteen, and the members of the combined group for the base year are the same as the members of the combined group for the taxable year immediately succeeding the base year, the combined group shall calculate its prior net operating loss conversion subtraction pool using the combined group's total unabsorbed net operating loss, base year BAP, and base year tax rate.

(II) If a combined group includes additional members in the taxable year

		<p><u>immediately succeeding the base year that were not included in the combined group during the base year, each base year combined group and each taxpayer that filed separately in the base year but is included in the combined group in the taxable year succeeding the base year shall calculate its prior net operating loss conversion subtraction pool, and the sum of the pools shall be the combined prior net operating loss conversion subtraction pool of the combined group.</u></p> <p><u>(III) If a taxpayer was properly included in a combined report for the base year and files a separate report in a subsequent taxable year, then the amount of remaining prior net operating loss conversion subtraction allowed to the taxpayer filing such separate report shall be proportionate to the amount that such taxpayer contributed to the prior net operating loss conversion subtraction pool on a combined basis, and the remaining prior net operating loss conversion subtraction allowed to the remaining members of the combined group shall be reduced accordingly.</u></p> <p><u>(4) The prior net operating loss conversion subtraction may be used to reduce the taxpayer's tax on allocated business income to the higher of the tax on the capital base under paragraph (b) of this subdivision or the fixed dollar minimum under paragraph (d) of this subdivision. Any amount of unused subtraction shall be carried forward to subsequent tax year or years until tax years beginning on or after January first, two thousand thirty-six, and shall not be subject to the one tenth limitation in the subsequent tax year or years.</u></p> <p><u>(ix) Net operating loss deduction."</u></p>
Page 58,	Line 7,	After " <u>securities</u> " insert " <u>and other government agency debt</u> "
Page 58,	Line 8,	After " <u>securities</u> " insert " <u>or other securities issued by government agencies</u> "
Page 58,	Line 8,	After " <u>including</u> " insert " <u>but not limited to</u> "
Page 58,	Line 10,	After " <u>(FNMA),</u> " strike out " <u>or</u> "
Page 58,	Line 11,	After " <u>(FHLMC)</u> " insert " <u>or</u> "
Page 58,	Line 11,	After " <u>Administration</u> " strike out " <u>or other government agency</u> "
Page 58,	Line 13,	After " <u>from</u> " insert " <u>(i)</u> "
Page 58,	Line 14,	After " <u>securities</u> " insert " <u> or other</u> "

		<u>securities issued by government agencies"</u>
Page 58,	Line 15,	After " <u>agency</u> " strike out " <u>and</u> " and insert " <u>, or (ii)</u> "
Page 58,	Line 17,	After " <u>exchange</u> " insert " <u>,</u> "
Page 58,	Line 19,	After " <u>securities</u> " insert " <u>referenced in clause (ii)</u> "
Page 59,	Line 6,	After " <u>taxpayer's</u> " strike out " <u>and</u> "
Page 60,	Line 3,	After " <u>Receipts</u> ", insert " <u>of a registered securities broker or dealer</u> "
Page 62,	Line 56,	After " <u>taxpayer</u> " insert " <u>or information that would be known upon reasonable inquiry</u> "
Page 63,	Line 8,	After " <u>exchange commission or</u> " insert " <u>a broker or dealer registered as such by</u> "
Page 95,	Lines 20 through 56,	<p>Strike out "<u>28. Net operating loss conversion credit. (a) Base year designation. For the purposes of this subdivision, the term "base year" means the last taxable year beginning on or after January first, two thousand fourteen and before January first, two thousand fifteen.</u></p> <p><u>(b) Allowance of credit. A taxpayer which has any unabsorbed net operating loss carryover, referred to in this subdivision as a "NOL", after calculating its entire net income under article nine-A or article thirty-two for the base year shall be allowed a credit against the tax imposed by this article for taxable years beginning on or after January first, two thousand fifteen.</u></p> <p><u>(c) Calculation of credit. The total amount of the NOL conversion credit shall be the product of:</u></p> <p><u>(i) any unabsorbed portion of net operating loss as calculated under paragraph (f) of subdivision nine of section two hundred eight of this article or subsection (k-1) of section fourteen hundred fifty-three of article thirty-two, as such sections were in effect on December thirty-first, two thousand fourteen, that was not deductible in previous taxable years and was eligible for carryover on the last day of the base year, including any net operating loss sustained by the taxpayer during the base year;</u></p> <p><u>(ii) the taxpayer's business allocation percentage as calculated under paragraph (a) of subdivision three of section two hundred ten of this article for the base year, or the taxpayer's allocation percentage as calculated under section fourteen hundred fifty-four of article thirty-two for purposes of allocating entire net income for</u></p>

		<p>the base year (such allocation percentages referred to in this subdivision as "BAP"), as such sections were in effect on December thirty-first, two thousand fourteen; and</p> <p>(iii) the taxpayer's tax rate for the base year as calculated under paragraph (a) of subdivision one of section two hundred ten of this article or subsection (a) of section fourteen hundred fifty-five of article thirty-two, as such sections were in effect on December thirty-first, two thousand fourteen.</p> <p>(d) Application of credit. A taxpayer, other than a small business corporation as defined in paragraph (e) of this subdivision, is allowed an annual NOL conversion credit that is equal to one-tenth of the total NOL conversion credit as calculated in paragraph (c) of this subdivi-"</p>
Page 96,	Lines 1 through 53,	<p>Strike out "sion. Such credit shall not be allowed against the tax computed under paragraph (b) or (d) of subdivision one of section two hundred ten of this article.</p> <p>(e) Small business provisions. (i) For purposes of this subdivision, a small business corporation is a corporation defined in paragraph three of subsection (c) of section twelve hundred forty-four of the internal revenue code (without regard to the second sentence of subparagraph (A) thereof) as of the last day of the base year.</p> <p>(ii) Application of credit. A small business corporation is allowed to claim the total NOL conversion credit as calculated in paragraph (c) of this subdivision in a taxable year. Such credit shall not be allowed against the tax computed under paragraph (b) or (d) of subdivision one of section two hundred ten of this article.</p> <p>(f) Carryover. (i) The credit allowed by this subdivision for any taxable year may only reduce the tax due for such year to the higher of the amount prescribed in paragraph (b) or (d) of subdivision one of section two hundred ten of this article.</p> <p>(ii) However, if the amount of credit allowable under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, or, if the taxpayer is required to pay a tax under paragraph (b) of subdivision one of section two hundred ten of this article, any remaining amount of credit allowed for that taxable year may be carried over to the next taxable year or years following such taxable year and may be deducted from the taxpayer's tax for such year or years.</p> <p>(g) Combined groups. (i) Where a taxpayer</p>

		<p><u>was properly included or required to be included in a combined report for the base year pursuant to subdivision four of section two hundred eleven of this article, the combined group shall calculate its credit using the combined group's total NOL, BAP, and tax rate according to paragraph (c) of this subdivision.</u></p> <p><u>(ii) If the members of the combined group in a combined report for the base year are the same as the members of the combined group in a combined report for the taxable year immediately succeeding the base year, the credit shall be calculated using the combined group's NOL, BAP and applicable tax rate according to paragraph (c) of this subdivision. If a taxpayer was properly included in a combined report for the base year and files a separate report in a subsequent taxable year, then the amount of remaining NOL conversion credit allowed to the separate filer shall be proportionate to the amount that such taxpayer contributed to the original NOL conversion credit on a combined basis, and the remaining NOL conversion credit allowed to the remaining members of the combined group shall be reduced by the amount of proportionate NOL conversion credit allowed to the taxpayer or taxpayers filing separately. If a combined group includes additional members in the taxable year immediately succeeding the base year who were not included in the combined group during the base year, each individual combined group and separately filing taxpayer shall calculate its credit for the base year and the sum of the credits shall be the combined NOL conversion credit of the combined group.</u></p> <p><u>(h) Expiration of credit. The credit allowed under this subdivision shall not be applicable to taxable years beginning on or after January first, two thousand thirty-five."</u></p>
Page 103,	Line 26,	After " <u>(b)</u> " insert " <u>(1)</u> "
Page 103,	Line 38,	After " <u>interest, when</u> " strike out " <u>(1)</u> " and insert " <u>(i)</u> "
Page 103,	Line 39,	After " <u>charge, or</u> " strike out " <u>(2)</u> " and insert " <u>(ii)</u> "
Page 103,	Line 41,	After " <u>assessed, or</u> " strike out " <u>(3)</u> " and insert " <u>(iii)</u> "
Page 103,	Lines 42 through 44,	After " <u>property value.</u> " strike out "The term real property tax does not include a payment in lieu of taxes made by the qualified New York manufacturer."

Page 103,	Between Lines 44 and 45,	<p><u>Insert "(2) In addition, the term real property tax includes taxes paid by the taxpayer upon real property principally used during the taxable year by the taxpayer in manufacturing where the taxpayer leases such real property from an unrelated third party if the following conditions are satisfied: (i) the tax must be paid by the taxpayer as lessee pursuant to explicit requirements in a written lease, and (ii) the taxpayer as lessee has paid such taxes directly to the taxing authority and has received a written receipt for payment of taxes from the taxing authority. In the case of a combined group that constitutes a qualified New York manufacturer, the conditions in the preceding sentence are satisfied if one corporation in the combined group is the lessee and another corporation in the combined group makes the payments to the taxing authority.</u></p> <p><u>(3) 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.</u></p> <p><u>(4) The real property taxes must be paid by the taxpayer in the year such taxes become a lien on the real property."</u></p>
Page 157,	Lines 15 through 55,	<p>Strike out "§91. Subclauses (III) and (IV) of clause (ii) of subparagraph (B) of paragraph 6 of subdivision (a) of section 292 of the tax law, as amended 17 by section 3 of part E of chapter 59 of the laws of 2013, are amended to read as follows:</p> <p>(III) [The adjustment required in this paragraph shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner, that: (a) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (b) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (c) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (d) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this state; and (e) the royalty payment was</p>

		<p>paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.</p> <p>(IV)] The adjustment required in this paragraph shall not apply if the taxpayer and the commissioner agree in writing to the application or use of alternative adjustments or computations. The commissioner may, in his 36 or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.</p> <p>§92. Clauses (iii) and (iv) of subparagraph (B) of paragraph 2 of 41 subsection (r) of section 612 of the tax law, as amended by section 5 of part E of chapter 59 of the laws of 2013, are amended to read as follows:</p> <p>(iii) [The adjustment required in this subsection shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner, that: (I) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (II) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (III) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (IV) the related member's income from the transaction was taxed in such country at an effective tax rate at least equal to that imposed by this state; and (V) the royalty payment was paid, accrued or"</p>
<p>Page 158,</p>	<p>Lines 1 through 56,</p>	<p>Strike out "incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.</p> <p>(iv)] The adjustment required in this subsection shall not apply if the taxpayer and the commissioner agree in writing to the application or use of alternative adjustments or computations. The commissioner may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.</p> <p>§93. Intentionally omitted.</p> <p>§94. Subclauses (III) and (IV) of clause (ii) of subparagraph (B) of paragraph 14</p>

of subdivision (b) of section 1503 of the tax law, as amended by section 8 of part E of chapter 59 of the laws of 2013, are amended to read as follows:

(III) ~~[The adjustment required in this paragraph shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner, that: (a) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (b) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (c) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (d) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this state; and (e) the royalty payment was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.~~

(IV)] The adjustment required in this paragraph shall not apply if the taxpayer and the commissioner agree in writing to the application or use of alternative adjustments or computations. The commissioner may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.

§95. Clauses (iii) and (iv) of subparagraph (B) of paragraph 2 of subdivision (e) of section 11-506 of the administrative code of the city of New York, as amended by section 9 of part E of chapter 59 of the laws of 2013, are amended to read as follows:

(iii) ~~[The adjustment required in this subdivision shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner of finance, that: (I) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (II) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (III) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid,~~

		<p>accrued or incurred by the taxpayer; (IV) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this city; and (V) the royalty payment was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.</p> <p>(iv)] The adjustment required in this subdivision shall not apply if the taxpayer and the commissioner of finance agree in writing to the application or use of alternative adjustments or computations. The"</p>
<p>Page 159,</p>	<p>Lines 1 through 56,</p>	<p>Strike out "commissioner of finance may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.</p> <p>§96. Subclauses (iii) and (iv) of clause (B) of subparagraph 2 of paragraph (n) of subdivision 8 of section 11-602 of the administrative code of the city of New York, as amended by section 10 of part E of 8 chapter 59 of the laws of 2013, are amended to read as follows:</p> <p>(iii) [The adjustment required in this paragraph shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner of finance, that: (I) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (II) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (III) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (IV) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this city; and (V) the royalty payment was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.</p> <p>(iv)] The adjustment required in this paragraph shall not apply if the taxpayer and the commissioner of finance agree in writing to the application or use of alternative adjustments or computations. The</p>

		<p>commissioner of finance may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.</p> <p>§97. Clauses (iii) and (iv) of subparagraph (B) of paragraph 2 of 31 subdivision (q) of section 11-641 of the administrative code of the city of New York, as amended by section 11 of part E of chapter 59 of the laws of 2013, are amended to read as follows:</p> <p>(iii) [The adjustment required in this subdivision shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner of finance, that: (I) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (II) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (III) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (IV) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this city; and (V) the royalty payment was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.]</p> <p>(iv) The adjustment required in this subdivision shall not apply if the taxpayer and the commissioner of finance agree in writing to the application or use of alternative adjustments or computations. The commissioner of finance may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.</p> <p>§98. Clauses (iii) and (iv) of subparagraph (B) of paragraph 2 of subdivision (t) of section 11-1712 of the administrative code of the"</p>
<p>Page 160,</p>	<p>Lines 1 through 23,</p>	<p>Strike out "city of New York, as amended by section 12 of part E of chapter 59 of the laws of 2013, are amended to read as follows:</p> <p>(iii) [The adjustment required in this subdivision shall not apply if the taxpayer establishes, by clear and convincing</p>

		<p>evidence of the type and in the form specified by the commissioner of finance, that: (I) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (II) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (III) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (IV) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this city; and (V) the royalty payment was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.</p> <p>(iv)] The adjustment required in this subdivision shall not apply if the taxpayer and the commissioner of finance agree in writing to the application or use of alternative adjustments or computations. The commissioner of finance may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected."</p>
Page 215,	Line 26,	After " <u>(b)</u> " insert " <u>(1)</u> "
Page 215,	Line 38,	After " <u>when</u> ," strike out " <u>(1)</u> " and insert " <u>(i)</u> "
Page 215,	Line 39,	After " <u>or</u> ," strike out " <u>(2)</u> " and insert " <u>(ii)</u> "
Page 215,	Line 41,	After " <u>or</u> ," strike out " <u>(3)</u> " and insert " <u>(iii)</u> "
Page 215,	Lines 42 through 44,	<p>After "value." strike out "The term <u>real property tax</u> does not include a payment in lieu of taxes made by the <u>qualified New York manufacturer.</u>" and insert</p> <p>"(2) In addition, the term <u>real property tax</u> includes taxes paid by the taxpayer upon <u>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:</u></p> <p><u>(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</u></p>

		<p><u>authority. In the case of a combined group that constitutes a qualified New York manufacturer, the conditions in the preceding sentence are satisfied if one corporation in the combined group is the lessee and another corporation in the combined group makes the payments to the taxing authority.</u></p> <p><u>(3) 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.</u></p> <p><u>(4) The real property taxes must be paid by the taxpayer in the year such taxes become a lien on the real property."</u></p>
Page 216,	Line 39,	After " <u>B</u> " insert " <u>(i)</u> "
Page 216,	Line 50,	After " <u>when</u> " strike out " <u>(i)</u> " and insert " <u>(I)</u> "
Page 216,	Line 52,	After " <u>or</u> " strike out " <u>(ii)</u> " and insert " <u>(II)</u> "
Page 216,	Line 53,	After " <u>or</u> " strike out " <u>(iii)</u> " and insert " <u>(III)</u> "
Page 216,	Line 54,	After " <u>value.</u> " strike out " <u>The term</u> "
Page 217,	Lines 1 and 2,	<p>Strike out "<u>real property tax does not include a payment in lieu of taxes made by the qualified New York manufacturer.</u>" and insert "<u>(ii) In addition, the term real property tax includes taxes paid by the taxpayer upon real property principally used during the taxable year by the taxpayer in manufacturing where the taxpayer leases such real property from an unrelated third party if the following conditions are satisfied: (I) the tax must be paid by the taxpayer as lessee pursuant to explicit requirements in a written lease, and (II) the taxpayer as lessee has paid such taxes directly to the taxing authority and has received a written receipt for payment of taxes from the taxing authority. In the case of a combined group that constitutes a qualified New York manufacturer, the conditions in the preceding sentence are satisfied if one corporation in the combined group is the lessee and another corporation in the combined group makes the payments to the taxing authority. (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</u></p>

		<u>real property taxes must be paid by the taxpayer in the year such taxes become a lien on the real property."</u>
Page 226,	Line 28,	After " <u>For</u> " strike out " <u>a qualified</u> " and insert " <u>an upstate</u> "
Page 226,	Lines 28 through 31,	After "manufacturer" strike out " <u>that has an apportionment factor for purposes of the metropolitan transportation business tax surcharge computed pursuant to subdivision two of section two hundred nine-B of this article equal to zero for the taxable year</u> "
Page 226,	Line 34,	After " <u>base.</u> " insert " <u>An upstate New York manufacturer is a qualified New York manufacturer that does not own or lease any tangible personal property or real property in the metropolitan commuter transportation district and does not pay any wages, salaries or other personal service compensation within such district.</u> "
Page 229,	Line 7,	After "§23." insert " Notwithstanding the repeal of the investment tax credits provided in clauses (D), (E), (F) and (G) of subparagraph (i) of paragraph (b) of subdivision twelve of section two hundred ten of the tax law by section five of this act, clauses (iv), (v) and (vi) of subparagraph A of paragraph 2 of subsection (a) of section 606 of the tax law by section 9 of this act, subsection (i) of section 1456 of the tax law by section 14 of this act and subdivision (q) of section 1511 of the tax law by section 15 of this act, a taxpayer shall be allowed to utilize any carry forward amounts of credits to which the taxpayer was entitled as of the close of the taxable year beginning on or after January first, two thousand thirteen and before January first, two thousand fourteen. Notwithstanding such repeal, a taxpayer shall be required in a taxable year beginning on or after January first, two thousand fourteen, to recapture all or a portion of such investment tax credit if recapture would have been otherwise required. § 24."
Page 343,	Between lines 52 and 53,	Insert New Part GG (LBD 74049-04-4)
Page 344,	Line 7,	After "through" strike out "FF" and insert "GG"