

2013 Governor's Program Bill

June 7, 2013

PROGRAM BILL # 11

AN ACT to amend the economic development law, the tax law, the real property tax law, the administrative code of the city of New York, and the education law, in relation to establishing the tax-free NY program

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

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

TAX-FREE NY PROGRAM

3
4 430 Short title

5 431 Definitions

6 432 Eligibility criteria for universities and colleges

7 433 Eligibility criteria for businesses

8 434 Tax benefits

9 435 Approval of tax-free NY areas

10 436 Businesses locating in tax-free NY areas

11 437 MWBE and prevailing wage requirements

12 438 Disclosure authorization and reporting requirements

13 439 Conflict of interest guidelines

14 § 430. Short title

15 This article shall be known and may be cited as the tax-free NY program.

1 § 431. Definitions

2 For purposes of this article:

3 1. “State university campus” shall mean any of the colleges and universities described in
4 subdivision three of section three hundred fifty-two of the education law.

5 2. “Community college” means a college established and operated pursuant to the
6 provisions of article one hundred twenty-six of the education law, and providing two-year or
7 four-year post secondary programs in general and technical educational subjects and receiving
8 financial assistance from the state, other than a community college of the city university of New
9 York.

10 3. “City university campus” means a campus of the city university of New York, as
11 defined in article one hundred twenty-five of the education law.

12 4. “Private college or university” means a not-for-profit two or four year university or
13 college given the power to confer associate, baccalaureate or higher degrees in this state by the
14 legislature or by the regents under article five of the education law.

15 5. “Net new job” means a job created in a tax-free NY area that satisfies all of the
16 following criteria:

17 (a) is new to the state;

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

22 (c) is not filled by an individual employed within the state within the immediately
23 preceding sixty months by a related person;

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

3 (e) is filled for more than six months.

4 6. "New business" means a business that satisfies all of the following tests:

5 (a) the business must not be operating or located within the state at the time it submits its
6 application to participate in the tax-free NY program;

7 (b) the business must not be moving existing jobs into the tax-free NY area from another
8 area in the state;

9 (c) the business is not substantially similar in operation and in ownership to a business
10 entity (or entities) taxable, or previously taxable within the last five taxable years, under section
11 one hundred eighty-three, one hundred eighty-four, one hundred eighty-five or one hundred
12 eighty-six of article nine of the tax law, article nine-A, thirty-two or thirty-three of the tax law,
13 article twenty-three of the tax law or which would have been subject to tax under such article
14 twenty-three (as such article was in effect on January first, nineteen hundred eighty), or the
15 income (or losses) of which is (or was) includable under article twenty-two of the tax law; and

16 (d) the business must not have caused individuals to transfer from existing employment
17 with a related person located in the state to similar employment with the business, unless such
18 business has received approval for such transfers from the commissioner after demonstrating that
19 the related person has not eliminated those existing positions.

20 7. "Tax-free NY area" means the land or vacant space of a university or college that
21 meets the eligibility criteria specified in section 432 of this article and that has been approved as
22 a tax-free NY area pursuant to the provisions in section 435 of this article. It also means a

1 strategic state asset that has been approved by the tax-free NY approval board pursuant to the
2 provisions of subdivision four of section 435 of this article.

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

5 9. "Strategic state asset" means land or a building or group of buildings owned by the
6 state of New York and located outside of New York city, that, as of June fifteenth, two thousand
7 thirteen, is (a) closed, (b) vacant, or (c) for which notice of closure has been given pursuant to
8 any statutory notice requirement or which is otherwise authorized to be closed pursuant to any
9 chapter of the laws of New York.

10 10. "Tax-free NY approval board" means a board consisting of three members, one each
11 appointed by the Governor, the speaker of the Assembly and the temporary president of the
12 Senate. Each member of the tax-free NY program approval board must have significant
13 expertise and experience in academic based economic development.

14 § 432. Eligibility criteria for universities and colleges.

15 1. State university campuses, community colleges and city university campuses. (a)
16 Subject to the limitations in paragraph (c) the following will constitute the eligible land of a state
17 university campus, community college, or city university campus:

18 (i) any vacant space in any building located on a campus of a state university campus,
19 community college or city university campus;

20 (ii) any vacant land on a campus of a state university campus, community college or city
21 university campus;

22 (iii) a total of two hundred thousand square feet of vacant land or vacant building space
23 owned or leased by a state university campus or community college that is located within one

1 mile of a campus of the state university campus or community college; and

2 (iv) a total of two hundred thousand square feet of vacant land or vacant building space
3 owned or leased by a city university campus, that is adjacent to the city university campus

4 (b) A state university campus or community college may apply to the commissioner for a
5 determination that identified vacant land or identified vacant space in a building owned or leased
6 by that state university campus or community college that is located more than one mile from its
7 campus is eligible land for purposes of this program. The commissioner may qualify the
8 identified land or space in a building as eligible land if the commissioner, in consultation with
9 the chancellor or his or her designee, determines that the state university campus or community
10 college has shown that the use of the land or space will be consistent with the requirements of
11 this program and the plan submitted by the state university campus or community college
12 pursuant to section 435 of this article.

13 (c) The provisions of paragraphs (a) and (b) shall apply only to:

14 (i) a state university campus other than the following: (a) any empire state college
15 campus except for the empire state college campus in Saratoga Springs, (b) any property of
16 downstate medical center located in Nassau county, Suffolk county, Westchester county, or New
17 York city except for property that constitutes a New York state business incubator as the term is
18 used in subdivision four of section four hundred thirty-three, and (c) any property of the college
19 of optometry or maritime college located in Nassau county, Suffolk county, Westchester county,
20 or New York city.

21 (ii) a community college, except that for a community college whose main campus is in
22 New York city, paragraphs (a) and (b) shall not apply to property of such community college in
23 Nassau county, Suffolk county, Westchester county or New York city.

1 (iii) a total of five city university campuses, one each in the boroughs of Manhattan,
2 Brooklyn, Bronx, Queens and Staten Island, which will be designated by the board of trustees of
3 the city university of New York. The campus designated in each borough must be located in the
4 area with the highest poverty rate based on the latest available data from the United States census
5 bureau of city university campuses in that borough, using the smallest geographic units for which
6 such data are available. The tax-free NY approval board shall certify that the chosen campus in
7 each borough is located in the area with the highest poverty rate of city university campuses in
8 that borough. In addition, paragraphs (a) and (b) shall apply to property of the city university
9 located outside of Nassau county, Suffolk county, Westchester county and New York city.

10 (d) The eligible land of a state university campus, community college, or city university
11 campus will also include eligible land designated under paragraph (c) of subdivision two.

12 2. Private colleges and universities and certain other campuses. (a) Subject to the
13 limitations in paragraph (c), the following will constitute the eligible land of a private college or
14 university:

15 (i) any vacant space in any building located on a campus of a private university or
16 college other than a campus which is located in Nassau county, Suffolk county, Westchester
17 county or New York city;

18 (ii) any vacant land on a campus of a private university or college other than a campus
19 which is located in Nassau county, Suffolk county, Westchester county or New York city; and

20 (iii) any vacant land or vacant space in a building owned or leased by a private university
21 or college which is not located in Nassau county, Suffolk county, Westchester county or New
22 York city.

23 (b) Subject to the limitations in paragraph (c), three million square feet is the maximum

1 aggregate amount of tax-free NY areas of private universities and colleges that may be utilized
2 for this program, which shall be designated in a manner that ensures regional balance among
3 eligible areas in the state. The commissioner shall maintain an accounting of the vacant land and
4 space of private universities and colleges that have been approved as tax-free NY areas and shall
5 stop accepting applications for approval of tax-free NY areas when that maximum amount has
6 been reached.

7 (c) Of the maximum aggregate amount in paragraph (b), thirty thousand square feet shall
8 be designated as tax-free NY areas in each of the following: Nassau county, Suffolk county,
9 Westchester county and the boroughs of Brooklyn, Bronx, Queens and Staten Island. Eligible
10 land under this paragraph must be located in an area with one of the ten percent highest poverty
11 rates based on the latest available data from the United States census bureau for that county or
12 borough, using the smallest geographic units for which such data are available. Vacant land and
13 vacant space owned or leased by the following shall be eligible for designation under this
14 paragraph:

15 (i) a private university or college which campus is located in Nassau county, Suffolk
16 county, Westchester county or New York City.

17 (ii) a state university campus that meets the criteria of clauses (b) or (c) of subparagraph
18 (i) of paragraph (c) of subdivision one.

19 (iii) a community college whose main campus is in New York city.

20 (iv) a city university campus that is not designated under subparagraph (iii) of paragraph
21 (c) of subdivision one.

22 3. Prohibition. A state university campus, community college or city university campus
23 is prohibited from relocating or eliminating any academic programs, any administrative

1 programs, offices, housing facilities, dining facilities, athletic facilities, or any other facility,
2 space or program that actively serves students, faculty or staff in order to create vacant land or
3 space to be utilized for the program authorized by this article. In addition, nothing in this article
4 shall be deemed to waive or impair any rights or benefits of employees of the state university of
5 New York that otherwise would be available to them pursuant to the terms of agreements
6 between the certified representatives of such employees and the state of New York pursuant to
7 article 14 of the civil service law.

8 § 433. Eligibility criteria for businesses. 1. In order to participate in the tax-free NY
9 program, a business must satisfy all of the following criteria.

10 (a) The mission and activities of the business must align with or further the academic
11 mission of the campus, college or university sponsoring the tax-free NY area in which it seeks to
12 locate, and the business's participation in the tax-free NY program must have positive
13 community and economic benefits.

14 (b) The business must demonstrate that it will, in its first year of operation, create net new
15 jobs. After its first year of operation, the business must maintain net new jobs. In addition, the
16 average number of employees of the business and its related persons in the state during the year
17 must equal or exceed the sum of (i) the average number of employees of the business and its
18 related persons in the state during the year immediately preceding the year in which the business
19 submits its application to locate in a tax-free NY area and (ii) the net new jobs of the business in
20 the tax-free NY area during the year. The average number of employees of the business and its
21 related persons in the state shall be determined by adding together the total number of employees
22 of the business and its related persons in the state on March 31, June 30, September 30 and
23 December 31 and dividing the total by the number of such dates occurring within such year.

1 (c) Except as provided in paragraphs (g) and (h) of this subdivision, at the time it submits
2 its application for the tax-free NY program, the business must be a new business to the state.

3 (d) The business may be organized as a corporation, a partnership, limited liability
4 company or a sole proprietorship.

5 (e) Each year, the business must complete and timely file the annual report required
6 under section 438 of this article.

7 (f) Except as provided in paragraphs (g) and (h) of this subdivision, the business must not
8 be engaged in a line of business that is currently or was previously conducted by the business or
9 a related person in the last five years in New York state.

10 (g) If a business does not satisfy the eligibility standard set forth in paragraph (c) or (f) of
11 this subdivision, because at one point in time it operated in New York state but moved its
12 operations out of New York state on or before June 1, 2013, the commissioner shall grant that
13 business permission to apply to participate in the tax-free NY program if the commissioner
14 determines that the business has demonstrated that it will substantially restore the jobs in New
15 York state that it previously had moved out of state.

16 (h) If a business seeks to expand its current operations in New York state into a tax-free
17 NY area but the business does not qualify as a new business because it does not satisfy the
18 criteria in paragraph (c) of subdivision six of section 431 of this article or the business does not
19 satisfy the eligibility standard set forth in paragraph (f) of this subdivision, the commissioner
20 shall grant the business permission to apply to participate in the tax-free NY program if the
21 commissioner determines that the business has demonstrated that it will create net new jobs in
22 the tax-free NY area and that it or any related person has not eliminated any jobs in the state in
23 connection with this expansion.

1 2. The following types of businesses are prohibited from participating in the tax-free NY
2 program.

3 (a) retail and wholesale businesses;

4 (b) restaurants;

5 (c) real estate brokers;

6 (d) law firms;

7 (e) medical or dental practices;

8 (f) real estate management companies;

9 (g) hospitality;

10 (h) finance and financial services;

11 (i) businesses providing personal services

12 (j) businesses providing business administrative or support services, unless such business
13 has received permission from the commissioner to apply to participate in the tax-free NY
14 program upon demonstration that the business would create no fewer than 100 net new jobs in
15 the tax-free NY area;

16 (k) accounting firms;

17 (l) businesses providing utilities; and

18 (m) businesses engaged in the generation or distribution of electricity, the distribution of
19 natural gas, or the production of steam associated with the generation of electricity.

20 3. A business must be in compliance with all worker protection and environmental laws
21 and regulations. In addition, a business may not owe past due state taxes or local property taxes.

22 4. Any business that has successfully completed residency in a New York state business
23 incubator pursuant to section 16-v of section 1 of chapter 174 of the laws of 1968 constituting

1 the urban development corporation act, and that meets requirements (i), (ii) and (iii) of the
2 definition of a "qualified entity" under section 16-v, subject to approval of the commissioner,
3 may participate in the tax-free NY program provided that such business locates in a tax-free NY
4 area, notwithstanding the fact that the business may not constitute a new business. Such election
5 to participate in the tax-free NY program shall operate prospectively only.

6 § 434. Tax benefits. A business that is accepted into the tax-free NY program and
7 locates in a tax-free NY area or the owner of a business that is accepted into the tax-free NY
8 program and locates in a tax-free NY area is eligible for the tax benefits specified in section 39
9 of the tax law. Employees of such business satisfying the eligibility requirements specified in
10 section 39 of the tax law shall be eligible for the personal income tax benefits described in
11 section 39.

12 § 435. Approval of tax-free NY areas. 1. The president or chief executive officer of any
13 state university campus, community college or city university campus seeking to sponsor a tax-
14 free NY area and have some of its eligible land specified under subdivision one of section four
15 hundred thirty-two be designated as a tax-free NY area must submit a plan to the commissioner
16 that specifies the land or space the campus or college wants to include, describes the type of
17 business or businesses that may locate on that land or in that space, explains how those types of
18 businesses align with or further the academic mission of the campus or college and how
19 participation by those types of businesses in the tax-free NY program would have positive
20 community and economic benefits, and describes the process the campus or college will follow
21 to select participating businesses. At least thirty days prior to submitting such plan, the campus
22 or college must provide the municipality or municipalities in which the proposed tax-free NY
23 area is located, the applicable campus or college faculty union head and the campus student

1 government with a copy of the plan. In addition, if the plan of the campus or college includes
2 land or space located outside of the campus boundaries, the campus or college must consult with
3 the municipality or municipalities in which such land or space is located prior to including such
4 space or land in its proposed tax-free NY area. Before approving or rejecting the plan submitted
5 by a state university campus, community college or city university campus, the commissioner
6 shall consult with the chancellor of the applicable university system or his or her designee.

7 2. The president or chief executive officer of any private college or university or of any
8 state university campus, community college or city university campus seeking to sponsor a tax-
9 free NY area and have some of its eligible land specified under subdivision two of section four
10 hundred thirty-two be designated as a tax-free NY area must submit a plan to the commissioner
11 that specifies the land or space the college or university wants to include, describes the type of
12 business or businesses that may locate on that land or in that space, explains how those types of
13 businesses align with or further the academic mission of the college or university and how
14 participation by those the types of businesses in the tax-free NY program would have positive
15 community and economic benefits, and describes the process the campus or college will follow
16 to select participating businesses. In addition, if the plan of the campus or college includes land
17 or space located outside of the campus boundaries, the campus or college must consult with the
18 municipality or municipalities in which such land or space is located prior to including such
19 space or land in its proposed tax-free NY area. The commissioner shall forward the plan
20 submitted under this subdivision to the tax-free NY program approval board. In evaluating such
21 plans, the board shall examine the merits of each proposal. No preference shall be given based
22 on the time of submission of the plan, provided that any submission deadlines established by the
23 board are met. The board shall give preference to private colleges or universities that are

1 affiliated with a New York state incubator. In addition, the board shall give preference to private
2 colleges or universities that include underutilized properties within their proposed tax-free NY
3 areas. The board by a majority vote shall approve or reject each plan forwarded to it by the
4 commissioner.

5 3. A campus, university or college may amend its approved plan, provided that the
6 campus, university or college may not violate the terms of any lease with a business located in
7 the approved tax-free NY area. The amendment must be approved pursuant to the procedures
8 and requirements set forth in subdivision one or two of this section, whichever is applicable.

9 4. The tax-free NY program approval board, by majority vote, shall designate up to
10 twenty strategic state assets as tax-free NY areas. Each shall be affiliated with a state university
11 campus, city university campus, community college, or private college or university and such
12 designation shall require the support of the affiliated campus, college or university. Designation
13 of strategic state assets as tax-free NY areas shall not count against any square footage
14 limitations in section 432 of this article.

15 5. The commissioner shall promulgate regulations to effectuate the purposes of this
16 section, including, but not limited to, establishing the process for the plan submissions and
17 approvals of tax-free NY areas and the eligibility criteria that will be applied in evaluating those
18 plans.

19 § 436. Businesses locating in tax-free NY areas.

20 1. A campus, university or college that has sponsored a tax-free NY area (including any
21 strategic state asset affiliated with the campus, university or college) shall solicit and accept
22 applications from businesses to locate in such area that are consistent with the plan of such
23 campus, university or college or strategic state asset that has been approved pursuant to section

1 435 of this article. Any business that wants to locate in a tax-free NY area must submit an
2 application to the campus, university or college which is sponsoring the tax-free NY area.

3 2. (a) The sponsoring campus, university or college shall provide the application and all
4 supporting documentation of any business it decides to accept into its tax-free NY area to the
5 commissioner for review. Such application shall be in a form prescribed by the commissioner
6 and shall contain all information the commissioner determines is necessary to properly evaluate
7 the business's application, including, but not limited to, the name, address, and employer
8 identification number of the business; a description of the land or space the business will use, the
9 terms of the lease agreement between the sponsoring campus, university or college and the
10 business, and whether or not the land or space being used by the business is being transferred or
11 sublet to the business from some other business. The application must include a certification by
12 the business that it meets the eligibility criteria specified in section 433 of this article and will
13 align with or further the academic mission of the sponsoring campus, college or university, and
14 that the business's participation in the tax-free NY program will have positive community and
15 economic benefits. The application must also describe whether or not the business competes
16 with other businesses in the same community but outside the tax-free NY area. In addition, the
17 application must include a description of how the business plans to recruit employees from the
18 local workforce.

19 (b) The commissioner shall review such application and documentation within sixty days
20 and may reject such application upon a determination that the business does not meet the
21 eligibility criteria in section 433 of this article, has failed to comply with subdivision three of this
22 section, has submitted an incomplete application, or has failed to demonstrate that the business's
23 participation in the tax-free NY program will have positive community and economic benefits.

1 which shall be evaluated based on factors including but not limited to whether or not the business
2 competes with other businesses in the same community but outside the tax-free NY area. If the
3 commissioner rejects such application, it shall provide notice of such rejection to the sponsoring
4 campus, university or college and business. If the commissioner does not reject such application
5 within sixty days, such business is accepted to locate in such tax-free NY area. The sponsoring
6 campus, university or college must provide accepted businesses with documentation of their
7 acceptances in such form as prescribed by the commissioner of taxation and finance which will
8 be used to demonstrate such business's eligibility for the tax benefits specified in section 39 of
9 the tax law.

10 (c) If a state university campus proposes to enter into a lease with a business for eligible
11 land in a NY tax-free area with a term greater than forty years or for eligible land in a NY tax-
12 free area of one million or more square feet, the state university campus, at the same time as the
13 application is provided to the commissioner, also must submit the lease for review to the tax-free
14 NY program approval board. If the board does not disapprove of the lease terms within thirty
15 days, the lease is deemed approved. If the board disapproves the lease terms, the state university
16 campus must submit modified lease terms to the commissioner for review. The commissioner's
17 sixty day review period is suspended while the board is reviewing the lease and during the time it
18 takes for the state university campus to modify the lease terms.

19 3. The business submitting the application, as part of the application, must:

20 (a) agree to allow the department of taxation and finance to share its tax information with
21 the department and the sponsoring campus, university or college.

22 (b) agree to allow the department of labor to share its tax and employer information with
23 the department and the sponsoring campus, university or college.

1 (c) allow the department and its agents and the sponsoring campus, university or college
2 access to any and all books and records the department or sponsoring campus, university or
3 college may require to monitor compliance;

4 (d) include performance benchmarks, including the number of net new jobs that must be
5 created, the schedule for creating those jobs, and details on job titles and expected salaries. The
6 application must specify the consequences for failure to meet such benchmarks, as determined by
7 the business and the sponsoring campus, university or college: (i) suspension of such business's
8 participation in the tax-free NY program for one or more tax years as specified in such
9 application; (ii) termination of such business's participation in the tax-free NY program; and/or
10 (iii) proportional recovery of tax benefits awarded under the tax-free NY program as specified in
11 section 39 of the tax law;

12 (e) provide the following information to the department and sponsoring campus,
13 university or college upon request:

14 (i) the prior three years of federal and state income or franchise tax returns,
15 unemployment insurance quarterly returns, real property tax bills and audited financial
16 statements;

17 (ii) the employer identification or social security numbers for all related persons to the
18 business, including those of any members of a limited liability company or partners in a
19 partnership;

20 (f) provide a clear and detailed presentation of all related persons to the business to assure
21 the department that jobs are not being shifted within the state.

1 (g) certify, under penalty of perjury, that it is in substantial compliance with all
2 environmental, worker protection, and local, state, and federal tax laws, and that it satisfies all
3 the eligibility requirements to participate in the tax-free NY program.

4 4. (a) At the conclusion of the lease term of a lease by the sponsoring campus, university
5 or college to a business of land or space in tax-free NY area owned by the sponsoring campus,
6 university or college, the leased land or space shall revert back to the sponsoring campus,
7 university or college.

8 (b) If, at any time, the sponsoring campus, university or college or the commissioner
9 determines that a business no longer satisfies any of the eligibility criteria specified in section
10 433 of this article, the sponsoring campus, university or college shall recommend to the
11 commissioner that the commissioner terminate or the commissioner on his or her own initiative
12 shall immediately terminate such business's participation in the tax-free NY program. Such
13 business shall be notified of such termination by a method which allows for verification of
14 receipt of such termination notice. A copy of such termination notice shall be sent to the
15 commissioner of taxation and finance. Upon such termination, such business shall not be
16 eligible for the tax benefits specified in section 39 of the tax law for that or any future taxable
17 year, calendar quarter or sales tax quarter, although employees of such business may continue to
18 claim the tax benefit for their wages during the remainder of that taxable year. Further, the lease
19 of land or space by the sponsoring campus, university or college to such business shall be
20 rescinded, effective on the thirtieth day after the commissioner mailed such termination notice to
21 such business.

22 5. The commissioner shall promulgate regulations to effectuate the purposes of this
23 section, including, but not limited to, establishing the process for the evaluation and possible

1 rejection of applications, the eligibility criteria that will be applied in evaluating those
2 applications, and the grounds and process for terminations from the tax-free NY program and
3 administrative appeals of such terminations.

4 § 437. MWBE and prevailing wage requirements. 1. For prevailing wage and minority
5 and women-owned business enterprises requirements applicable to tax-free NY areas on state
6 university campuses, city university campuses and community colleges, see section 361 of the
7 education law.

8 2. Any contract to which a business on a strategic state asset in a tax-free NY area is a
9 party, and any contract entered into by a third party acting in place of, on behalf of and for the
10 benefit of the business pursuant to any lease, permit or other agreement between such third party
11 and the business, for the construction, reconstruction, demolition, excavation, rehabilitation
12 repair, renovation, alteration, or improvement, of a project, shall be subject to all of the
13 provisions of article eight of the labor law, including the enforcement of prevailing wage
14 requirements by the fiscal officer as defined in paragraph e of subdivision five of section two
15 hundred twenty of the labor law to the same extent as a contract of the state, and shall be deemed
16 a public work for purposes of such article..

17 3. (a) Any individual, public corporation or authority, private corporation, limited
18 liability company or partnership or other entity entering into a contract, subcontract, lease, grant,
19 bond, covenant or other agreement for a project undertaken on a strategic state asset in a tax-free
20 NY area shall be deemed a state agency as that term is defined in article 15-a of the executive
21 law and such contracts shall be deemed state contracts within the meaning of that term as set
22 forth in such article.

1 (b) For the purposes of this section and for the purposes of any lease or contract
2 authorized pursuant to this section: "project" shall mean capital improvement work on a strategic
3 state asset to be subject to any lease, transfer or conveyance, other than conveyance of title.
4 Such capital improvement work shall include the design, construction, reconstruction,
5 demolition, excavation, rehabilitation, repair, renovation, alteration or improvement of a strategic
6 state asset.

7 4. A business on a strategic state asset in a tax-free NY area may require a contractor
8 awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a project to
9 enter into a project labor agreement pursuant to section 222 of the labor law during and for the
10 work involved with such project when such requirement is part of the business's request for
11 proposals for the project and when the business determines that the record supporting the
12 decision to enter into such an agreement establishes that the interests underlying the competitive
13 bidding laws are best met by requiring a project labor agreement including: obtaining the best
14 work at the lowest possible price; preventing favoritism, fraud and corruption; the impact of
15 delay; the possibility of cost savings; and any local history of labor unrest.

16 § 438. Disclosure authorization and reporting requirements. 1. The commissioner and
17 the department shall disclose publicly the names and addresses of the businesses located within a
18 tax-free NY area. In addition, the commissioner and the department shall disclose publicly and
19 include in the annual report required under subdivision two of this section such other information
20 contained in such businesses' applications and annual reports, including the projected number of
21 net new jobs to be created, as they determine is relevant and necessary to evaluate the success of
22 this program.

1 2. (a) The commissioner shall prepare an annual report to the Governor and the
2 legislature. Such report shall include number of business applicants, number of businesses
3 approved, the names and addresses of the businesses located within a tax-free NY area, total
4 amount of benefits distributed, benefits received per business, number of net new jobs created,
5 net new jobs created per business, new investment per business, the types of industries
6 represented and such other information as the commissioner determines is necessary to evaluate
7 the progress of the tax-free NY program.

8 (b) Any business located in a tax-free NY area must submit an annual report to the
9 commissioner in a form and at such time and with such information as prescribed by the
10 commissioner in consultation with the commissioner of taxation and finance. Such information
11 shall be sufficient for the commissioner to (i) monitor the continued eligibility of the business to
12 participate in the tax-free NY program, (ii) evaluate the progress of the tax-free NY program and
13 (iii) prepare the annual report required by paragraph (a) of this subdivision. Such annual report
14 shall also include information regarding the wages paid during the year to its employees
15 employed in the net new jobs created and maintained in the tax-free NY area.

16 § 439. Conflict of interest guidelines 1. Each campus, university or college participating
17 in the tax-free NY program shall adopt a conflict of interest policy. Such conflict of interest
18 policy shall provide, as it relates to the tax-free NY program, (i) as a general principle, that
19 service as an official of the campus, university or college shall not be used as a means for private
20 benefit or inurement for the official, a relative thereof, or any entity in which the official, or
21 relative thereof, has a business interest; (ii) no official who is a vendor or employee of a vendor
22 of goods or services to the campus, university or college, or who has a business interest in such
23 vendor, or whose relative has a business interest in such vendor, shall vote on, or participate in

1 the administration by the campus, university or college, as the case may be, of any transaction
2 with such vendor; and (iii) upon becoming aware of an actual or potential conflict of interest, an
3 official shall advise the president or chief executive officer of the campus, university college, as
4 the case may be, of his or a relative's business interest in any such existing or proposed vendor
5 with the campus, university or college. Each campus, university or college shall maintain a
6 written record of all disclosures of actual or potential conflicts of interest made pursuant to (iii)
7 above, and shall report such disclosures, on a calendar year basis, by January 31 of each year, to
8 the auditor for such campus, university or college. The auditor shall forward such reports to the
9 commissioner, who shall make public such reports.

10 2. For purposes of such conflict of interest policies, (a) an official of a campus,
11 university or college has a "business interest" in an entity if the individual (i) owns or controls
12 ten percent or more of the stock of the entity (or one percent in the case of an entity the stock of
13 which is regularly traded on an established securities exchange), or (ii) serves as an officer,
14 director or partner of the entity; and (b) a "relative" of an official of a campus, university or
15 college shall mean any person living in the same household as the individual and any person who
16 is a direct descendant of that individual's grandparents or the spouse of such descendant.

17 § 2. The tax law is amended by adding a new section 39 to read as follows:

18 § 39. Tax benefits for businesses located in tax-free NY areas and employees of such
19 businesses. (a) (1) Any business or owner of a business in the case of a business taxed as a sole
20 proprietorship, partnership or New York S corporation, that is located in a tax-free NY area
21 approved pursuant to article twenty-one of the economic development law is eligible for the tax
22 benefits described in this section. Unless otherwise specified, such business or owner of such

1 business shall be eligible for these tax benefits for a period of ten consecutive taxable years,
2 commencing with the taxable year during which it locates in the tax-free NY area.

3 (2) In order to be eligible for these tax benefits during any taxable year, calendar quarter
4 or sales tax quarter, such business must be approved to participate in the tax-free NY program,
5 must operate at the approved location in the tax-free NY area, and must satisfy the eligibility
6 criteria specified in paragraph (b) of subdivision one of section 433 of the economic
7 development law.

8 (b) Tax-free NY area elimination credit. Such business or the owner of such business
9 shall be eligible for the tax-free NY area tax elimination credit described in section forty of this
10 article.

11 (c) Organization tax and license and maintenance fees. Such business, if located
12 exclusively in a tax-free NY area, shall be exempt from the organization tax imposed under
13 section one hundred eighty of this chapter or the license and maintenance fees imposed under
14 section one hundred eighty-one of this chapter, whichever is applicable.

15 (d) Metropolitan commuter transportation district mobility tax. If the tax-free NY area at
16 which such business is located is within the metropolitan commuter transportation district
17 (MCTD), and such business is an employer engaged in business within the MCTD, the payroll
18 expense of such business at such location within the tax-free NY area shall be exempt from the
19 metropolitan commuter transportation district mobility tax imposed under article twenty-three of
20 this chapter for forty consecutive calendar quarters, commencing with the calendar quarter
21 during which the employer locates in the tax-free NY area within the MCTD. If the tax-free NY
22 area at which such business is located is within the MCTD and the owner of such business is an
23 individual who has net earnings from self-employment at such location, such net earnings shall

1 be exempt from the metropolitan commuter transportation district mobility tax imposed under
2 article twenty-three of this chapter for ten consecutive taxable years commencing with the
3 taxable year during which the business locates in the tax-free NY area.

4 (e) To the extent specified, the wages of an individual who is an employee of such
5 business located within a tax-free NY area received from such business for employment in such
6 tax-free NY area shall be excluded from taxation under the personal income tax imposed under
7 article twenty-two of this chapter, the New York City personal income tax imposed under the
8 authority of article thirty of this chapter, the Yonkers city income tax imposed under the
9 authority of article thirty-A of this chapter, and the Yonkers earnings tax on non-residents during
10 the ten taxable year period for such business specified in subdivision (a) of this section, provided
11 the requirements of this subdivision are satisfied.

12 (i) The individual when employed by such business must be engaged in work performed
13 exclusively at the location within the tax-free NY area during the taxable year.

14 (ii) The individual when employed by such business must be engaged in work at the
15 location of such business within the tax-free NY area for at least one-half of the taxable year.

16 (iii) Such business must be in compliance with the requirements set forth in subdivision
17 (a) of this section.

18 (iv) The individual must be employed by such business in a net new job created by such
19 business in the tax-free NY area.

20 (f) Sales and use tax. Such business shall be eligible for a credit or refund for sales and
21 use taxes imposed on the retail sale of tangible personal property or services under subdivisions
22 (a), (b), and (c) of section eleven hundred five and section eleven hundred ten and similar taxes
23 imposed pursuant to the authority of article twenty-nine of this chapter. The credit or refund

1 shall be allowed for one hundred twenty consecutive months beginning with the month during
2 which such business locates in the tax-free NY area.

3 (g) Real estate transfer taxes. Any lease of property to such business shall be exempt
4 from any state or local real estate transfer tax or real property transfer tax.

5 (h) (A) Notwithstanding any provision of this chapter to the contrary, the commissioner,
6 to the extent practicable, may disclose publicly the names and addresses of the businesses
7 receiving any of the tax benefits specified in this section. In addition, the commissioner may
8 disclose publicly the amounts of such benefits allowed to each such business, the required
9 number of net new jobs of a business and whether or not a business created or maintained the
10 required number of net new jobs during the taxable year. With regard to the income tax
11 exemption specified in subdivision (e) of this section, the commissioner may publicly disclose
12 the aggregate amounts of such tax exemption allowed to employees. In addition, the
13 commissioner may publicly disclose the amount of net new jobs such business reports on its tax
14 return or report or any other information necessary for the commissioner of economic
15 development or the campus, college or university sponsoring the tax-NY area approved pursuant
16 to article twenty-one of the economic development law to monitor and enforce compliance with
17 the law, rules and regulations governing the tax-free NY program.

18 (B) Notwithstanding any provision of this chapter to the contrary, the commissioner, in
19 determining whether a business or any of its owners is entitled to the tax benefits described in
20 this section, may utilize and, if necessary, disclose to the commissioner of economic
21 development, information derived from the tax returns of such business or related persons of
22 such business and wage reporting information relating to any employees of such business or its
23 related persons.

1 (i) Such business shall not be allowed to claim any other tax credit allowed under this
2 chapter with respect to its activities or employees in such tax-free NY area.

3 (j) If the application of a business for participation in the tax-free NY program specifies
4 that failure to meet the performance benchmarks specified in such application shall result in
5 proportional recovery of tax benefits awarded under the tax-free NY program, the business shall
6 be required to reduce the total amount of tax benefits described in this section that the business
7 or its owners claimed or received during the taxable year by the percentage reduction in net new
8 jobs promised by the performance benchmarks, and if the tax benefits are reduced to an amount
9 less than zero, those negative amounts shall be added back as tax. The amount required to be
10 added back shall be reported on such business's corporate franchise tax report if such business is
11 taxed as a corporation or on the corporate franchise tax reports or personal income tax returns of
12 the owners of such business if such business is taxed as a sole proprietorship, partnership or New
13 York S corporation.

14 (k) Cross-references. For application of the tax benefits provided for in this section, see
15 the following provisions of this chapter:

16 (i) section 40

17 (ii) Article 9, sections 180.3; 181.3

18 (iii) Article 9-A, section 210.47

19 (iv) Article 22, section 606, subsections (i)(1)(B)(xxxvi) and (ww)

20 (v) Article 22, section 612 (c)(41).

21 (vi) Article 23, section 803

22 (vii) Article 28, section 1119(d)

23 (viii) Article 31, section 1405(b)(11)

1 § 3. The tax law is amended by adding a new section 39-a to read as follows:

2 § 39-a. Penalties for fraud in the tax-free NY program. If the commissioner of economic
3 development on his or her own initiative or on the recommendation of a sponsoring campus,
4 university or college finally determines that any such business participating in the tax free NY
5 program authorized under article twenty- one of the economic development law has acted
6 fraudulently in connection with its participation in such program, such business:

7 (a) shall be immediately terminated from such program;

8 (b) shall be subject to applicable criminal penalties, which for the purpose of the tax-free
9 NY program includes the felony crime of offering a false instrument for filing in the first degree
10 pursuant to 175.35 of the penal law. In addition, when the falsification includes conduct with
11 respect to the tax-free NY program that would constitute falsifying business records in the
12 second degree pursuant to 175.05 of the penal law, such offense shall constitute a class E felony;
13 and

14 (c) shall be required in that year to add back to tax the total value of any of the tax
15 benefits described in section thirty nine of this article that such business has received and that the
16 employees of such business have received up to the date of such finding. The amount required to
17 be added back shall be reported on such business's corporate franchise report if such business is
18 taxed as a corporation or on the corporate franchise tax reports or personal income tax returns of
19 the owners of such business if such business is taxed as a sole proprietorship, partnership or New
20 York S corporation.

21 § 4. The tax law is amended by adding a new section 40 to read as follows:

22 § 40. The tax-free NY area tax elimination credit. (a) Allowance of credit. A taxpayer
23 that is a business or owner of a business in the case of a business taxed as a sole proprietorship,

1 partnership or New York S corporation, that is located in a tax-free NY area approved pursuant
2 to article twenty-one of the economic development law and is subject to tax under article nine-A,
3 or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the
4 provisions referenced in subdivision (g) of this section, to be computed as hereinafter provided.

5 (b) Amount of credit. The amount of the credit shall be the product of (i) the tax-free
6 area allocation factor and (ii) the tax factor.

7 (c) Tax-free area allocation factor. The tax-free area allocation factor shall be the
8 percentage representing the business's economic presence in the tax-free NY area in which the
9 business was approved to locate pursuant to article twenty-one of the economic development
10 law. This percentage shall be computed by:

11 (1) ascertaining the percentage that the average value of the business's real and tangible
12 personal property, whether owned or rented to it, in the tax-free NY area in which the business
13 was located during the period covered by the taxpayer's report or return bears to the average
14 value of the business's real and tangible personal property, whether owned or rented to it, within
15 the state during such period; provided that the term "value of the business's real and tangible
16 personal property" shall have the same meaning as such term has in subparagraph one of
17 paragraph (a) of subdivision three of section two hundred ten of this chapter; and

18 (2) ascertaining the percentage that the total wages, salaries and other personal service
19 compensation, similarly computed, during such period of employees, except general executive
20 officers, employed at the business's location in the tax-free NY area, bears to the total wages,
21 salaries and other personal service compensation, similarly computed, during such period, of all
22 the business's employees within the state, except general executive officers; and

23 (3) adding together the percentages so determined and dividing the result by two.

1 For purposes of article twenty-two of this chapter, references in this subdivision to
2 property, wages, salaries and other personal service compensation shall be deemed to be
3 references to such items connected with the conduct of a business.

4 (d) Tax factor. (1) General. The tax factor shall be, in the case of article nine-A of this
5 chapter, the larger of the amounts of tax determined for the taxable year under paragraphs (a)
6 through (d) of subdivision one of section two hundred ten of such article after the deduction of
7 any other credits allowable under such article. The tax factor shall be, in the case of article
8 twenty-two of this chapter, the tax determined for the taxable year under subsections (a) through
9 (d) of section six hundred one of such article after the deduction of any other credits allowable
10 under such article.

11 (2) Sole proprietors, partners and S corporation shareholders. (A) Where the taxpayer is
12 a sole proprietor of a business located in a tax-free NY area, the taxpayer's tax factor shall be that
13 portion of the amount determined in paragraph one of this subdivision that is attributable to the
14 income of the business at its location in the tax-free NY area. Such attribution shall be made in
15 accordance with the ratio of the taxpayer's income from such business allocated within the state,
16 entering into New York adjusted gross income, to the taxpayer's New York adjusted gross
17 income, or in accordance with such other methods as the commissioner may prescribe as
18 providing an apportionment that reasonably reflects the portion of the taxpayer's tax attributable
19 to the income of such business. In no event may the ratio so determined exceed 1.0. The income
20 from such business allocated within the state shall be determined as if the sole proprietor was a
21 non-resident.

22 (B) (i) Where the taxpayer is a member of a partnership that is a business located in a tax-
23 free NY area, the taxpayer's tax factor shall be that portion of the amount determined in

1 paragraph one of this subdivision that is attributable to the income of the partnership. Such
2 attribution shall be made in accordance with the ratio of the partner's income from the
3 partnership allocated within the state to the partner's entire income, or in accordance with such
4 other methods as the commissioner may prescribe as providing an apportionment that reasonably
5 reflects the portion of the partner's tax attributable to the income of the partnership. In no event
6 may the ratio so determined exceed 1.0. The income from the partnership allocated within the
7 state shall be determined as if any of the partners was a non-resident.

8 (ii) For purposes of article nine-A of this chapter, the term "partner's income from the
9 partnership" means partnership items of income, gain, loss and deduction, and New York
10 modifications thereto, entering into entire net income or minimum taxable income and the term
11 "partner's entire income" means entire net income or minimum taxable income, allocated within
12 the state. For purposes of article twenty-two of this chapter, the term "partner's income from the
13 partnership" means partnership items of income, gain, loss and deduction, and New York
14 modifications thereto, entering into New York adjusted gross income, and the term "partner's
15 entire income" means New York adjusted gross income.

16 (C) Where the taxpayer is a shareholder of a New York S corporation that is a business
17 located in a tax-free NY area, the shareholder's tax factor shall be that portion of the amount
18 determined in paragraph one of this subdivision that is attributable to the income of the S
19 corporation. Such attribution shall be made in accordance with the ratio of the shareholder's
20 income from the S corporation allocated within the state, entering into New York adjusted gross
21 income, to the shareholder's New York adjusted gross income, or in accordance with such other
22 methods as the commissioner may prescribe as providing an apportionment that reasonably
23 reflects the portion of the shareholder's tax attributable to the income of such business. The

1 income of the S corporation allocated within the state shall be determined by multiplying the
2 income of the S corporation by the business allocation factor computed under paragraph (a) of
3 subdivision three of section two hundred ten of this article without regard to subparagraph ten of
4 such paragraph (a). In no event may the ratio so determined exceed 1.0.

5 (3) Combined returns or reports. (A) Where the taxpayer is a business located in a tax-
6 free NY area and is required or permitted to make a return or report on a combined basis under
7 article nine-A of this chapter, the taxpayer's tax factor shall be the amount determined in
8 paragraph one of this subdivision that is attributable to the income of such business. Such
9 attribution shall be made in accordance with the ratio of the business's income allocated within
10 the state to the combined group's income, or in accordance with such other methods as the
11 commissioner may prescribe as providing an apportionment that reasonably reflects the portion
12 of the combined group's tax attributable to the income of such business. In no event may the
13 ratio so determined exceed 1.0.

14 (B) The term "income of the business located in a tax-free NY area" means entire net
15 income or minimum taxable income calculated as if the taxpayer was filing separately and the
16 term "combined group's income" means entire net income or minimum taxable income as shown
17 on the combined report, allocated within the state.

18 (4) If a business is generating or receiving income from a line of business or intangible
19 property that was previously conducted, created or developed by the business or a related person
20 (as that term is defined in section 431 of the economic development law), the tax factor specified
21 in this subdivision shall be adjusted to disregard such income.

22 (e) Cross-references. For application of the credit provided for in this section, see the
23 following provisions of this chapter:

1 (1) Article 9-A: Section 210. 47

2 (2) Article 22: Section 606: subsections (i)(1)(B)(xxxvi) and (ww).

3 § 5. Section 180 of the tax law is amended by adding a new subdivision 3 to read as
4 follows:

5 3. A corporation that is located exclusively within the state in a tax-free NY area
6 approved pursuant to article twenty-one of the economic development law shall be exempt from
7 the tax imposed by this section.

8 § 6. Section 181 of the tax law is amended by adding a new subdivision 3 to read as
9 follows:

10 3. A corporation that is located exclusively within the state in a tax-free NY area
11 approved pursuant to article twenty-one of the economic development law shall be exempt from
12 (a) the license fee imposed by subdivision one of this section, and, (b) provided that the
13 corporation satisfies the requirements in subdivision (a) of section thirty-nine of this chapter, the
14 annual maintenance fee imposed by subdivision two of this section.

15 § 7. Section 210 of the tax law is amended by adding a new subdivision 47 to read as
16 follows:

17 47. The tax-free NY area tax elimination credit. A taxpayer shall be allowed a credit to
18 be computed as provided in section forty of this chapter, against the tax imposed by this article.
19 Unless the taxpayer has a tax-free area allocation factor of one hundred percent, the credit
20 allowed under this subdivision for any taxable year shall not reduce the tax due for such year to
21 less than the amount prescribed in paragraph (d) of subdivision one of this section. However,
22 any amount of credit not deductible in such taxable year shall be treated as an overpayment of
23 tax to be credited or refunded in accordance with the provisions of section one thousand eighty-

1 six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand
2 eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

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

5 (xxxvi) Tax-free NY area Amount of credit under subdivision 47
6 tax elimination credit of section two hundred ten

7 § 9. Section 606 of the tax law is amended by adding a new subsection (ww) to read as
8 follows:

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

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

16 § 10. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph
17 (40) to read as follows:

18 (40) Any wages received by an individual as an employee of a business located within a
19 Tax-free NY area during the first five years of such business's ten year taxable period specified
20 in subdivision (a) of section thirty-nine of this chapter, to the extent included in federal adjusted
21 gross income and allowed under section thirty-nine of this chapter. During the second five years
22 of such business's ten year taxable period, the first two hundred thousand dollars of such wages
23 in the case of a taxpayer filing as a single individual, the first two hundred fifty thousand dollars

1 of such wages in the case of a taxpayer filing as a head of household, and three hundred thousand
2 dollars of such wages in the case of a taxpayer filing a joint return, to the extent included in
3 federal adjusted gross income and allowed under section thirty-nine of this chapter.

4 § 11. Section 803 of the tax law is amended to read as follows:

5 §803. Exemption override. [Any] (a) Except as provided in subdivision (b) of this
6 section, any exemption from tax specified in any other New York state law will not apply to the
7 tax imposed by this article.

8 (b) If a tax-free NY area approved pursuant to the provisions of article twenty-one of the
9 economic development law is located within the MCTD, the payroll expense in such tax-free NY
10 area of any employer that is located in such area and accepted into the tax-free NY program shall
11 be exempt from the tax imposed under this article. In addition, the net earnings from self-
12 employment of an individual from a business in such tax-free NY area that is accepted into the
13 tax-free NY program shall be exempt from the tax imposed under this article.

14 § 12. Paragraphs 1 and 2 of subdivision (d) of section 1119 of the tax law, paragraph 1 as
15 amended by part C of chapter 59 of the laws of 2013 and paragraph 2 as amended by part S1 of
16 chapter 57 of the laws of 2009, are amended to read as follows:

17 (1) Subject to the conditions and limitations provided for in this section, a refund or credit
18 will be allowed for taxes imposed on the retail sale of tangible personal property described in
19 subdivision (a) of section eleven hundred five of this article, and on every sale of services
20 described in subdivisions (b) and (c) of such section, and consideration given or contracted to be
21 given for, or for the use of, such tangible personal property or services, where such tangible
22 personal property or services are sold to a qualified empire zone enterprise or to a qualified entity
23 that is also a tenant in or part of a New York state innovation hot spot as provided in section

1 thirty-eight of this chapter or to a business located in a tax-free NY area approved pursuant to
2 article twenty-one of the economic development law, provided that (A) such tangible personal
3 property, or tangible personal property upon which such a service has been performed or such
4 service (other than a service described in subdivision (b) of section eleven hundred five of this
5 article) is directly and predominantly, or such a service described in clause (A) or (D) of
6 paragraph one of such subdivision (b) of section eleven hundred five of this article is directly and
7 exclusively, used or consumed by (i) such qualified empire zone enterprise in an area designated
8 as an empire zone pursuant to article eighteen-B of the general municipal law with respect to
9 which such enterprise is certified pursuant to such article eighteen-B, or (ii) such qualified entity
10 at its location in or as part of a New York state innovation hot spot, or (iii) such business at its
11 location in such tax-free NY area, or (B) such a service described in clause (B) or (C) of
12 paragraph one of subdivision (b) of section eleven hundred five of this article is delivered and
13 billed to (i) such enterprise at an address in such empire zone or (ii) such qualified entity at its
14 location in or as part of the New York state innovation hot spot, or (iii) such business at its
15 location in such tax-free NY area, or (C) the enterprise's place of primary use of the service
16 described in paragraph two of such subdivision (b) of section eleven hundred five is at an address
17 in such empire zone or at its location in or as part of a New York state innovation hot spot, or at
18 its location in such tax-free NY area; provided, further, that, in order for a motor vehicle, as
19 defined in subdivision (c) of section eleven hundred seventeen of this article, or tangible personal
20 property related to such a motor vehicle to be found to be used predominantly in such a zone, at
21 least fifty percent of such motor vehicle's use shall be exclusively within such zone or at least
22 fifty percent of such motor vehicle's use shall be in activities originating or terminating in such
23 zone, or both; and either or both such usages shall be computed either on the basis of mileage or

1 hours of use, at the discretion of such enterprise. For purposes of this subdivision, tangible
2 personal property related to such a motor vehicle shall include a battery, diesel motor fuel, an
3 engine, engine components, motor fuel, a muffler, tires and similar tangible personal property
4 used in or on such a motor vehicle.

5 (2) Subject to the conditions and limitations provided for in this section, a refund or credit
6 will be allowed for taxes imposed on the retail sale of, and consideration given or contracted to
7 be given for, or for the use of, tangible personal property sold to a contractor, subcontractor or
8 repairman for use in (A) erecting a structure or building of a qualified empire zone enterprise or
9 a business located in a tax-free NY area approved pursuant to article twenty-one of the economic
10 development law, (B) adding to, altering or improving real property, property or land of such an
11 enterprise or such business, or (C) maintaining, servicing or repairing real property, property or
12 land of such an enterprise or of such business, as the terms real property, property or land are
13 defined in the real property tax law; provided, however, no credit or refund will be allowed under
14 this paragraph unless such tangible personal property is to become an integral component part of
15 such structure, building, real property, property or land located in an area designated as an
16 empire zone pursuant to article eighteen-B of the general municipal law in, and with respect to
17 which such enterprise is certified pursuant to such article eighteen-B, or in an area approved as a
18 tax-free NY area pursuant to article twenty-one of the economic development law where such
19 business is located.

20 § 13. Subdivision (b) of section 1405 of the tax law is amended by adding a new
21 paragraph 10 to read as follows:

22 10. Conveyances of real property located in tax-free NY areas approved pursuant to
23 article twenty- one of the economic development law to businesses located in such areas.

1 § 14. The exemption described in paragraph 10 of subdivision (b) of section 1405 of the
2 tax law, as added by section thirteen of this act, shall also apply to any local real estate transfer
3 tax or local real property transfer tax imposed by a county or municipality pursuant to the
4 authority of the tax law.

5 § 15. Subdivision (c) of section 11-1712 of the administrative code of the city of New
6 York is amended by adding a new paragraph (36) to read as follows:

7 (36) Any wages received by an individual as an employee of a business located within a
8 tax-free NY area during the first five years of such business's ten year taxable period specified in
9 subdivision (a) of section thirty-nine of the tax law to the extent included in federal adjusted
10 gross income and allowed under section thirty-nine of the tax law. During the second five years
11 of such business's ten year taxable period, the first two hundred thousand dollars of such wages
12 in the case of a taxpayer filing as a single individual, the first two hundred fifty thousand dollars
13 of such wages in the case of a taxpayer filing as a head of household, and three hundred thousand
14 dollars of such wages in the case of a taxpayer filing a joint return, to the extent included in
15 federal adjusted gross income and allowed under section thirty-nine of the tax law.

16 § 16. Section 1340 of the tax law is amended by adding a new subdivision (d) to read as
17 follows:

18 (d) Any wages received by an individual as an employee of a business located in a tax-
19 free NY area within the city during the first five years of such business's ten year taxable period
20 specified in subdivision (a) of section thirty-nine of this chapter and earned at such location shall
21 be exempt from the tax authorized to be imposed by this article to the extent included in federal
22 adjusted gross income and allowed under section thirty-nine of this chapter. During the second
23 five years of such business's ten year taxable period, the first two hundred thousand dollars of

1 such wages in the case of a taxpayer filing as a single individual, the first two hundred fifty
2 thousand dollars of such wages in the case of a taxpayer filing as a head of household, and three
3 hundred thousand dollars of such wages in the case of a taxpayer filing a joint return, to the
4 extent included in federal adjusted gross income and allowed under section thirty-nine of this
5 chapter.

6 § 17. Subdivision 2 of section 420-a of the real property tax law, as amended by chapter
7 534 of the laws of 2003, is amended to read as follows:

8 2. If any portion of such real property is not so used exclusively to carry out thereupon
9 one or more of such purposes but is leased or otherwise used for other purposes, such portion
10 shall be subject to taxation and the remaining portion only shall be exempt; provided, however,
11 that such real property shall be fully exempt from taxation although it or a portion thereof is used
12 (a) for purposes which are exempt pursuant to this section or sections four hundred twenty-b,
13 four hundred twenty-two, four hundred twenty-four, four hundred twenty-six, four hundred
14 twenty-eight, four hundred thirty or four hundred fifty of this chapter by another corporation
15 which owns real property exempt from taxation pursuant to such sections or whose real property
16 if it owned any would be exempt from taxation pursuant to such sections, (b) for purposes which
17 are exempt pursuant to section four hundred six or section four hundred eight of this chapter by a
18 corporation which owns real property exempt from taxation pursuant to such section or if it
19 owned any would be exempt from taxation pursuant to such section, (c) for purposes which are
20 exempt pursuant to section four hundred sixteen of this chapter by an organization which owns
21 real property exempt from taxation pursuant to such section or whose real property if it owned
22 any would be exempt from taxation pursuant to such section [ø], (d) for purposes relating to
23 civil defense pursuant to the New York state defense emergency act, including but not limited to

1 activities in preparation for anticipated attack, during attack, or following attack or false warning
2 thereof, or in connection with drill or test ordered or directed by civil defense authorities; or (e)
3 for purposes of a tax-free NY area that has been approved pursuant to article twenty-one of the
4 economic development law, subject to the conditions that the real property must have been
5 owned by the corporation or association organized exclusively for educational purposes and
6 exempt pursuant to this section on June 1, 2013, and that the exemption shall apply only to the
7 portion of such real property that is used for purposes of the tax-free NY program; and provided
8 further that such real property shall be exempt from taxation only so long as it or a portion
9 thereof, as the case may be, is devoted to such exempt purposes and so long as any moneys paid
10 for such use do not exceed the amount of the carrying, maintenance and depreciation charges of
11 the property or portion thereof, as the case may be.

12 § 18. Paragraph a of subdivision 2 of section 355 of the education law, as amended by
13 chapter 552 of the laws of 1985, is amended to read as follows:

14 a. To take, hold and administer on behalf of the state university or any institution therein,
15 real and personal property or any interest therein and the income thereof either absolutely or in
16 trust for any educational or other purpose within the jurisdiction and corporate purposes of the
17 state university. The trustees may acquire property for such purposes by purchase, appropriation
18 or lease and by the acceptance of gifts, grants, bequests and devises, and, within appropriations
19 made therefor, may equip and furnish buildings and otherwise improve property owned, used or
20 occupied by the state university or any institution therein. The trustees may acquire property by
21 the acceptance of conditional gifts, grants, devises or bequests, the provisions of section eleven
22 of the state finance law notwithstanding. Where real property is to be acquired by purchase or
23 appropriation, such acquisition shall be in accordance with the provisions of section three

1 hundred seven of this chapter except that the powers and duties in said section mentioned to be
2 performed by the commissioner [~~of education~~] shall be performed by the state university trustees.
3 The provisions of section three of the public lands law notwithstanding, the trustees may provide
4 for the lease of state-owned real property under the jurisdiction of the state university that is part
5 of a tax-free NY area approved pursuant to article twenty-one of the economic development law,
6 in such manner and upon such terms as the trustees shall determine, provided such lease is
7 consistent with the approved plan for such tax-free NY area.

8 §19. Paragraph s of subdivision 2 of section 355 of the education law, as amended by
9 chapter 552 of the laws of 1985, is amended to read as follows:

10 s. To lease or make available to the state university construction fund, the dormitory
11 authority or other public benefit corporation, the New York state teachers' retirement system [~~or~~],
12 the New York state employees' retirement system, or a business that intends to locate in a tax-
13 free NY area approved pursuant to article twenty-one of the economic development law, a
14 portion of the grounds or real property occupied by a state-operated institution or statutory or
15 contract college for the construction, acquisition, reconstruction, rehabilitation or improvement
16 of academic buildings, dormitories or other facilities thereon pursuant to article eight-A of this
17 chapter and for the purpose of facilitating such construction, acquisition, reconstruction,
18 rehabilitation or improvement, to enter into leases and agreements for the use of any such
19 academic building, dormitory or other facility in accordance with the provisions of section three
20 hundred seventy-eight of this chapter; provided, however, that nothing herein contained shall
21 affect the provisions of any lease or agreement heretofore executed by the state university with
22 the dormitory authority. The state university trustees may also enter into agreements with the
23 state university construction fund, the dormitory authority or other public benefit corporation, the

1 New York state teachers' retirement system [øf], the New York state employees' retirement
2 system or any business that intends to locate in a tax-free NY area approved pursuant to article
3 twenty-one of the economic development law, to furnish heat from a central heating plant to any
4 academic building, dormitory or other facility erected by them or with moneys supplied by them.
5 Any such academic building, dormitory or other facility shall not be subject to taxation for any
6 purpose.

7 §20. Subdivision 2 of section 355 of the education law is amended by adding a new
8 paragraph y to read as follows:

9 y. In connection with business/university partnerships in support of the corporate
10 purposes of the state university, to participate in joint and cooperative arrangements with
11 businesses that have located in a tax-free NY area approved pursuant to article twenty-one of the
12 economic development law provided such arrangements are consistent with the approved plan
13 for such tax-free NY area.

14 §21. The education law is amended by adding a new section 361 to read as follows:

15 § 361. Tax-free NY program leases. 1. Any lease or contract between a state university
16 campus, city university campus or community college as defined in section 431 of the economic
17 development law and a business for the use of vacant land or vacant space in a tax-free NY area
18 approved pursuant to article 21 of the economic development law shall provide:

19 (a) The term of the lease or contract;

20 (b) A requirement that any contract to which a campus or college is a party, and any
21 contract entered into by a third party acting in place of, on behalf of and for the benefit of the
22 campus or college therein pursuant to any lease, permit or other agreement between such third
23 party and the campus or college, for a project shall be subject to all of the provisions of article

1 eight of the labor law, including the enforcement of prevailing wage requirements by the fiscal
2 officer as defined in paragraph e of subdivision five of section two hundred twenty of the labor
3 law to the same extent as a contract of the state, and shall be deemed a public work for purposes
4 of such article.

5 (c) A requirement that for the purposes of article 15-A of the executive law, any
6 individual, public corporation or authority, private corporation, limited liability company or
7 partnership or other entity entering into a contract, subcontract, lease, grant, bond, covenant or
8 other agreement for a project undertaken by a business authorized pursuant to article 21 of the
9 economic development law shall be deemed a state agency as that term is defined in such article
10 and such contracts shall be deemed state contracts within the meaning of that term as set forth in
11 such article, except that this paragraph shall not apply to any lease or contract entered into by a
12 community college of the state university of New York or city university of New York.

13 (d) The metes and bounds or other applicable description that can be easily identified,
14 shared and verified by an independent third party of the vacant land or vacant space subject to
15 the contract or lease.

16 (e) A requirement that any lease, contract or other agreement shall include an indemnity
17 provision whereby the lessee or sublessee promises to indemnify, hold harmless, and defend the
18 lessor against all claims, suits, actions, and liability to all persons on the leased premises,
19 including tenant, tenant's agents, contractors, subcontractors, employees, customers, guests,
20 licensees, invitees, and members of the public, for damage to any such person's property,
21 whether real or personal, or for personal injuries arising out of tenant's use or occupation of the
22 demised premises.

23 (f) A requirement that upon the expiration of the lease or agreement covering property

1 owned by the campus or college, the demised premises shall revert to the campus or college.

2 (g) A requirement that in the event the demised premises shall cease to be used for the
3 purposes described in the lease or contract, the lease or contract shall terminate on the thirtieth
4 day after notice of such termination is mailed to the business, and the demised premises shall
5 revert to the campus or college.

6 (h) A requirement that any and all proceeds relating to the lease or contract shall be
7 allocated by the board of trustees to the campus or college for which such contract or lease
8 applies, deposited in the general fund of such campus or college, and used for purposes including
9 but not limited to student financial aid for students who are eligible to receive a tuition assistance
10 award or supplemental tuition assistance pursuant to section 667 or 667-a of the education law
11 and to support additional full-time faculty positions.

12 2. For the purposes of this section and for the purposes of any lease or contract
13 authorized pursuant to this section: "project" shall mean capital improvement work on real
14 property under the jurisdiction of the campus or college to be subject to any lease, transfer or
15 conveyance, other than conveyance of title. Such capital improvement work shall include the
16 design, construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation,
17 alteration or improvement of real property under the jurisdiction of the campus or college.

18 3. A party to any lease or contract authorized pursuant to this section may require a
19 contractor awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a
20 project to enter into a project labor agreement pursuant to section 222 of the labor law during and
21 for the work involved with such project when such requirement is part of such party's request for
22 proposals for the project and when the party determines that the record supporting the decision to
23 enter into such an agreement establishes that the interests underlying the competitive bidding

1 laws are best met by requiring a project labor agreement including: obtaining the best work at the
2 lowest possible price; preventing favoritism, fraud and corruption; the impact of delay; the
3 possibility of cost savings; and any local history of labor unrest.

4 § 22. This act shall take effect immediately; provided however that the tax benefits
5 specified in section 39 of the tax law, as added by section two of this act shall apply to taxable
6 years beginning on or after January 1, 2014, calendar quarters beginning on or after January 1,
7 2014, sales tax quarters beginning on or after March 1, 2014, or transactions occurring on or
8 after January 1, 2014, whichever is applicable; provided, further, that the amendments to
9 paragraph a of subdivision 2 of section 355 of the education law made by section eighteen of this
10 act shall not affect the expiration of such paragraph and shall be deemed to expire therewith.