

Charitable Reserve Funds Overview

The 2018-2019 New York state budget put forth substantive changes to the calculation of personal income taxes and real property taxes. These changes, prompted in response to the \$10,000 limitation on State and Local Tax (SALT) adopted at the federal level with the Tax Cuts and Jobs Act (H.R. 1) in December 2017, seek to ameliorate the tax burden felt by New Yorkers who itemize their federal income taxes by enabling such taxpayers to make charitable donations to certain state and municipally-established funds and receive a tax credit in return – thereby allowing such taxpayers to write off the charitable donations, reduce their taxable income at the federal level, and receive a reduction in their personal income tax and real property tax through the resulting credits. It is unclear whether these charitable write-offs will be recognized at the federal level. The text of the new laws can be found in Part LL of the Revenue Article VII Bill.

Charitable Gifts Trust Fund: State Level

- Creates State Finance Law § 92-gg, which establishes a charitable gifts trust fund
- Administered by the Department of Taxation and Finance and the NYS Comptroller
- Two separate accounts created:
 1. Health Charitable Account – moneys donated to this account must be spent on support to services relating to healthcare, dental and vision care, hunger prevention and nutritional assistance, and other services that ensure access to health care for New Yorkers
 2. Elementary and Secondary Education Charitable Account – moneys donated to this fund must be expended for the provision of elementary and secondary education of children in NYS
- Taxpayers may send donations to either account

Tax Implications: State Level

- After January 1, 2019, taxpayers are entitled to 85% credit against their personal income tax of the amount contributed to the aforementioned funds during the immediately preceding taxable year – Tax Law § 606 (iii)

Charitable Fund: Schools (Optional)

- Established by resolution of trustees or board or by the chancellor (New York City) (Education Law § § 1604 [44], 1709 [12-b], 2590-h [54])
- Taxpayers may make a charitable donation to fund, to be used for public educational purposes
- Trustees, board or chancellor determine time and amount to transfer to school's general fund, to be expended in a manner that is consistent with the charitable purpose of the fund
- Taxes levied shall be determined without regard to any transfer made to the general fund

Charitable Gifts Reserve Fund: Counties and NYC (Optional)

- Creates General Municipal Law § 6-t
- Charitable gifts reserve fund established by governing boards of counties and New York City
- Within 60 days of the close of the fiscal year, the governing board must transfer the funds donated to the general fund or other funds to be used for charitable purposes

- Governing board establishes procedure to make contributions, which includes written acknowledgement to taxpayer

Charitable Gifts Reserve Fund: Towns, Villages, Cities other than NYC (Optional)

- Creates General Municipal Law § 6-u
- Governing board establishes reserve fund to receive charitable contributions
- Within 60 days of the close of fiscal year, discretion of governing board to transfer funds in this reserve fund to general fund or any other fund of local government, so that funds are used for charitable purposes (does not contain the directive imposed on NYC and counties)
- Governing board must establish a procedure for property owners to make contribution to charitable gifts reserve fund, which includes provision of written acknowledgement of the gift

Tax Implications: Local Level

Tax Credit for Charitable Gifts Made to Funds Created by Schools, Counties, NYC, Towns, Villages and Other Cities:

- Real Property Tax Law § 980-a: Tax Credits for Contributions to Certain Funds
- Governing board may adopt a local law (resolution- school district) authorizing a tax credit for contributions made to charitable reserve funds
- After the date specified in the local law or resolution, taxpayers are allowed a 95% credit against real property taxes imposed by local government that received a contribution during “associated credit year,” which is the 12 month period where taxpayer made the donation and ends on the last day to pay real property taxes without penalty
 - Installment payments and “associated credit year:” 12 month period ends on last day on which first installment can be paid without penalty
- Local government can establish a limit to the credit (less than 95%) which can thereafter be amended or repealed
 - A copy of the local law or resolution reducing the credit must be provided to the collecting officer
- Administrator of the charitable reserve fund must issue an acknowledgement to taxpayer
 - Taxpayer then presents it to collecting officer by the last day to pay penalty free
 - Collecting officer then reduces the tax liability on the parcel accordingly
 - The credit cannot exceed the liability due
 - Installments- if credit exceeds first installment, remainder applied to next installment until exhausted
- Municipality may adopt a local law or resolution (school district) providing that if the taxpayer presents the collecting officer with the credit prior to the receipt of the tax warrant (or other date specified), the associated tax bill must be reduced by the credit amount
- Escrows: the Department of Financial Services will promulgate regulations related to the adjustment of mortgage escrow accounts to reflect any credits received
- If the taxpayer fails to present the credit to the collecting officer by the last day to pay without penalty:
 - Taxpayer presents the credit to the chief fiscal officer, who is directed to grant a refund in the amount of the credit

- Assuming that taxpayer paid full amount of taxes due prior to interest-free period expiring
- Taxpayer can seek refund at any time during the three year period beginning immediately after the last day to pay such taxes without penalty

Issues to Consider

- What about taxpayers that escrow their taxes?
 - DFS will promulgate regulations
- What about payments that are made online?
- How are warrants going to be satisfied?
 - There is no directive compelling the transfer of the donations to satisfy the warrant; indeed, school levies cannot take such charitable funds into account
 - A town collecting officer must first satisfy any fire district warrant, then the town, then the county (note: towns located in special tax act counties function differently)- if a collecting officer is only receiving five percent of the taxes due on the warrant with no transfers from the charitable fund, how will these entities be made whole?
- What about fire districts and improvement districts? How will the donations and tax payments be allocated?
 - While taxpayers may all be residents of a certain town or village, there are many different improvement districts within each locality
- What about penalties?
 - The legislation provides that a taxpayer can present their credit to the chief fiscal officer, who can then provide a refund. What about those taxpayers that failed to pay their taxes in the first instance and thereafter present the credit to the chief fiscal officer?
 - Interest would accrue on balance due, credit applied to that total amount
- How will the three-year refund period impact the satisfaction of warrants / future warrant calculations?
- Will taxpayers be able to claim the donations as charitable deductions?

New York's Proposed Strategies and Potential Solutions to the Limitation of the State and Local Tax Deductions

Introduction

The enactment of the Tax Cuts and Jobs Act (H.R. 1) in December 2017 represented an unprecedented shift away from historically protected principles against double taxation with the limitation on the deductibility of state and local taxes (SALT). Specifically, taxpayers are now limited to \$10,000 when deducting state and local taxes from their federal income tax return. This presents a crushing blow to New Yorkers, as over 3.3 million households in the state claimed an average SALT deduction of \$24,000 in 2015 – the highest average of any state in the country. Reducing the SALT deduction and including state and local taxes in one's taxable federal income arguably results in double taxation and severely limits a fundamental principle of federalism, as one is paying federal taxes on their state and local tax payments.

Historical Protection

State and local tax deductions were protected well before the inception of the federal income tax in 1913. On July 1, 1862, President Abraham Lincoln signed the Revenue Act of 1862 in order to fund the Civil War. Even during those pressing emergency conditions, President Lincoln recognized the importance of state and local tax deductions, as the act provides that in estimating income, "all other national, state, and local taxes . . . shall be first deducted." (Revenue Act of 1862, sec. 91, Thirty-seventh Congress). Indeed, Justin Smith Morrill, Chairman of the House Ways and Means Committee and author of the Morrill Act noted that "it is a question of vital importance . . . that the general government should not absorb all [the states'] taxable resources – that the accustomed objects of state taxation should, in some degree at least, go untouched . . . otherwise, we might perplex and jostle, if we did not actually crush, some of the most loyal states in the union."¹ These words still ring true even over 150 years later, perhaps even more so now.

The SALT deduction has been a central feature of the federal income tax framework since it began in 1913. The Tax Cuts and Jobs Act was not the first attempt to limit this deduction; proposals during the Reagan administration sought to eliminate SALT, prompting the late Senator Daniel P. Moynihan to opine that "there are arenas of government that must not be invaded by other governments . . . [n]owhere is this more important than in the sphere of taxation, wherein the initiative and independence of different spheres of government commences."² Ultimately, SALT deductions remained protected until the passage of the Tax Cuts and Jobs Act in 2017.

Impact on New York

New York taxpayers have been relying on the SALT deduction since the official inception of the federal income tax. Prior to the Tax Cuts and Jobs Act, taxpayers that itemized their deductions could deduct state and local taxes from their federal income when calculating taxable federal income, thereby resulting in a reduced tax liability. The SALT deduction has a huge impact in New York; in 2015, New Yorkers reported more than \$72 billion in these deductions for income and property taxes. The average

¹ "Constitutional Dimensions of State and Local Tax Deductibility," Daniel Patrick Moynihan, *Publius: The Journal of Federalism* (Summer 1986) at 76.

² see *id.* at 74.

SALT deduction for taxpayers in Westchester County was \$34,345, with taxpayers in Saratoga County taking an average deduction of \$18,492.³ The diminishment of the SALT deduction and the subsequent cost shift from the federal government onto local governments can result in decreased revenue for essential municipal services and an acceleration of residential and business flight out of New York to states that do not impose such a high tax burden.

Proposals at the Federal and State Level to Mitigate the Damage

While the Tax Cuts and Jobs Act was ultimately adopted at the federal level, in the words of Senator Moynihan, “[s]tate and local governments do not have to accept this,” as their budgets, their basic services and their fundamental relationship to the federal government are threatened all in the service in an abstract theory of taxation.”⁴ As of press time, there are various proposals at the federal and state level to address the reduction in SALT deductibility.

Repeal and Replace

At the federal level, bipartisan legislation – the SALT Deductibility Act (H.R. 4740) – was introduced on January 8, 2018 by Representative Nita Lowey (D-NY-17) and Representative Peter King (R-NY-2) to repeal the limitation on the SALT deduction. The legislation was referred to the House Committee on Ways and Means upon its introduction, where it sits as of press time.

Multi-State Coalition Lawsuit Challenging the Tax Cuts and Jobs Act

As part of his Tax Fairness for New York Campaign, Governor Cuomo announced a multi-state coalition lawsuit challenging the Tax Cuts and Jobs Act. Specifically, New York, New Jersey, Connecticut and Maryland intend to file a lawsuit challenging the discriminatory impacts of the SALT limitation, as such limitation preempts the ability to govern at the state level by reducing the ability to provide for citizens and, additionally, unfairly targets New York and similarly situated states. As of press time, the lawsuit has not yet been filed.

Changing the Structure of New York State Tax Policy

Governor Cuomo introduced substantive changes to New York’s tax code in the 30-Day Amendments to his proposed 2018-2019 Executive Budget. These changes were adopted as part of the 2018-2019 budget.

Optional Payroll Tax

This proposal creates a new Employer Compensation Expense Tax (ECET) wherein employers that opt-in will transition to a five percent tax on annual payroll expenses in excess of \$40,000 per employee over the course of three years. The employer can deduct the payroll taxes paid, while the qualifying employees would receive a state income tax credit to offset their state income tax liability.

³ see “The Proposed Framework for Federal Tax Changes: A New York Perspective,” Thomas P. DiNapoli, State Comptroller, October 2017 at 12

⁴ see “Constitutional Dimensions of State and Local Tax Deductibility” at 76

Charitable Reserve Funds

This proposal creates two state operated charitable contribution funds for healthcare and education. Essentially, a taxpayer can donate to these funds and then claim a state tax credit equal to 85% of their donation after January 1, 2019. At the local level, counties and New York City are authorized to establish charitable funds that must be transferred to the general or other charitable fund within 60 days of the close of the fiscal year, while towns, cities other than New York City, villages and school districts can establish charitable funds to be applied towards charitable purposes. If a taxpayer donates to the charitable fund at the opt-in of the local government, a credit of up 95% would be applied to their real property taxes owed to that jurisdiction.

Decoupling From the Federal Tax Code

The 2018-2019 budget also included a provision decoupling New York's tax code from the federal SALT cap, as well as maintaining the state standard deduction for single filers. Along similar lines, there is state legislation pending that authorizes a taxpayer to itemize their state taxes even if the taxpayer takes the standard deduction at the federal level (S 6974 / A 9061) that has been passed by the Senate and, as of press time, is in Assembly Ways and Means.

Conclusion

The passage of the Tax Cuts and Jobs Act and the reduction of SALT severely impinged upon the core principles of federalism. These proposals seek to minimize, if not eliminate, the detrimental impacts of this federal assault on New York. This issue is ever evolving, and it remains to be seen whether the IRS will allow these solutions to provide the relief sought.

PART LL

24 Section 1. The state finance law is amended by adding a new section
25 92-gg to read as follows:

26 § 92-gg. Charitable gifts trust fund. 1. There is hereby established
27 in the joint custody of the commissioner of taxation and finance and the
28 state comptroller a special fund pursuant to section eleven of this
29 chapter to be known as the "charitable gifts trust fund".

30 2. Moneys in the charitable gifts trust fund shall be kept separate
31 from and shall not be commingled with any other moneys in the custody of
32 the comptroller or the commissioner of taxation and finance. Provided,
33 however that any moneys of the fund not required for immediate use may,
34 at the discretion of the comptroller, in consultation with the director
35 of the budget, be invested by the comptroller in obligations of the
36 United States or the state. The proceeds of any such investment shall be
37 retained by the fund as assets to be used for purposes of the fund.

38 3. Except as set forth in subdivisions two and four of this section,
39 no moneys from the charitable gifts trust fund shall be transferred to
40 any other fund, nor shall moneys from the fund be used to make payments
41 for any purpose other than the purposes set forth in subdivisions two
42 and four of this section.

43 4. The charitable gifts trust fund shall have two separate and
44 distinct accounts, as set forth in paragraphs a and b of this subdivi-
45 sion. Moneys in each of the accounts shall be kept separate from and
46 shall not be commingled with any other moneys of any other account with-
47 in the fund.

48 a. The "health charitable account" shall consist of monetary grants,
49 gifts or bequests received by the state, and all other moneys credited
50 or transferred thereto from any other fund or source. Moneys of such
51 account shall only be expended for the support of services relating to
52 primary, preventive, and inpatient health care, dental and vision care,
53 hunger prevention and nutritional assistance, and other services for New
54 York state residents with the overall goal of ensuring that New York

1 state residents have access to quality health care and other related
2 services.

3 b. The "elementary and secondary education charitable account" shall
4 consist of monetary grants, gifts or bequests received by the state for
5 the support of elementary and secondary education of children enrolled
6 in public school districts in the state and all other moneys credited or
7 transferred thereto from any other fund or source. Moneys of such
8 account shall only be expended for the provision of elementary and
9 secondary education of children in the state.

10 § 2. Credits for certain charitable contributions to Health Research,
11 Inc. 1. Charitable monetary contributions to Health Research, Inc.
12 (hereinafter "the corporation") that conform to the provisions of this
13 subdivision shall be considered qualified contributions for purposes of
14 the tax credit available pursuant to subsection (iii) of section 606 of
15 the tax law.

16 (a) Applications for contribution authorization certificates.
17 Contributors seeking to make a qualified contribution to the corporation
18 shall apply to the corporation for a contribution authorization certifi-
19 cate for such contribution. Such application shall be in the form and
20 manner prescribed by the corporation. The corporation may allow contrib-
21 utors to make multiple applications on the same form, provided that each
22 contribution listed on such application shall be treated as a separate
23 application and that the corporation shall issue separate contribution
24 authorization certificates for each such application.

25 (b) Contribution authorization and receipt certificates. (i) Issuance
26 of certificates. The president of the corporation shall issue contrib-
27 ution authorization certificates in two phases. In phase one, which
28 begins on the first day of January and ends on the thirtieth day of
29 September, the president of the corporation shall accept applications
30 for contribution authorization certificates, but shall not issue any
31 such certificates. Commencing after the first day of October, the pres-
32 ident of the corporation shall issue contribution authorization certifi-
33 cates for applications received during phase one, provided that if the
34 aggregate total of the contributions for which applications have been
35 received during phase one exceeds the amount of the contribution cap in
36 paragraph (e) of this subdivision, the authorized contribution amount
37 listed on each contribution authorization certificate shall equal the
38 pro-rata share of the contribution cap. If the contribution cap is not
39 exceeded, phase two commences on October first and ends on November
40 fifteenth, during which period the president of the corporation shall
41 issue contribution authorization certificates on a first-come first-
42 served basis based upon the date the corporation received the contribu-
43 tor's application for such certificate; provided, however, that if on
44 any day the corporation receives applications requesting contribution
45 authorization certificates for contributions that in the aggregate
46 exceed the amount of the remaining available contribution cap on such
47 day, the authorized contribution amount listed in each contribution
48 authorization certificate shall be the contributor's pro-rata share of
49 the remaining available contribution cap. For purposes of determining a
50 contributor's pro-rata share of remaining available contribution cap,
51 the head of the corporation shall multiply the amount of remaining
52 available contribution cap by a fraction, the numerator of which equals
53 the total contribution amount listed on the contributor's application
54 and the denominator of which equals the aggregate amount of contrib-
55 utions listed on the applications for contribution authorization certifi-
56 cates received on such day. Contribution authorization certificates

1 for applications received during phase one shall be mailed no later than
2 the fifteenth day of October. Contribution authorization certificates
3 for applications received during phase two shall be mailed within twenty
4 days of receipt of such applications. Provided, however, that no
5 contribution authorization certificates for applications received during
6 phase two shall be issued until all of the contribution authorization
7 certificates for applications received during phase one have been
8 issued.

9 (ii) Contribution authorization certificate contents. Each contrib-
10 ution authorization certificate shall state: (A) the date such certifi-
11 cate was issued; (B) the date by which the authorized contributions
12 listed in the certificate must be made, which shall be no later than
13 November thirtieth of the year for which the contribution authorization
14 certificate was issued; (C) the contributor's name and address; (D) the
15 amount of authorized contributions; (E) the contribution authorization
16 certificate's certificate number; and (F) any other information that the
17 president of the corporation or the commissioner of taxation and finance
18 deems necessary.

19 (c) Certificate of receipt. If a contributor makes an authorized
20 contribution to the corporation no later than the date by which such
21 authorized contribution is required to be made, the corporation shall,
22 within 30 days of receipt of the authorized contribution, issue to the
23 contributor a written certificate of receipt. Each certificate of
24 receipt shall state: (i) the name and address of the corporation; (ii)
25 the contributor's name and address; (iii) the date for each contrib-
26 ution; (iv) the amount of each contribution and the corresponding
27 contribution authorization certificate number; (v) the total amount of
28 contributions; and (vi) any other information that the commissioner of
29 taxation and finance deems necessary.

30 (d) Notification to the department of the issuance of a certificate of
31 receipt. Upon the issuance of a certificate of receipt, the corporation
32 shall, within thirty days of issuing the certificate of receipt, provide
33 the department of taxation and finance with notification of the issuance
34 of such certificate in the form and manner prescribed by the department
35 of taxation and finance.

36 (e) Contribution cap. The maximum permitted contributions under this
37 section available annually for calendar year two thousand eighteen and
38 all following years shall be ten million dollars.

39 2. Use of authorized contributions. The corporation shall develop
40 policies and procedures to ensure that all contributions for which
41 certificates of receipt have been issued are expended only for one or
42 more of the following charitable health purposes: to support and supple-
43 ment laboratory facilities and programs, including, but not limited to,
44 laboratory testing and scientific research; to support and supplement
45 bioinformatics programs, including, but not limited to, developing
46 public health data analytical strategies; and to support and supplement
47 other public health activities.

48 § 3. Credits for certain charitable contributions to University Foun-
49 dations. 1. Charitable monetary contributions to the State University
50 of New York Impact Foundation (hereinafter "the SUNY foundation") or the
51 Research Foundation of the City University of New York (hereinafter "the
52 CUNY foundation") that conform to the provisions of this subdivision
53 shall be considered qualified contributions for purposes of the tax
54 credit available pursuant to subsection (iii) of section 606 of the tax
55 law.

1 (a) Applications for contribution authorization certificates.
2 Contributors seeking to make a qualified contribution to the SUNY foun-
3 dation or the CUNY foundation shall apply to such foundation for a
4 contribution authorization certificate for such contribution. Such
5 application shall be in the form and manner prescribed by the corpo-
6 ration. Each foundation may allow contributors to make multiple applica-
7 tions on the same form, provided that each contribution listed on such
8 application shall be treated as a separate application and that the
9 foundation shall issue separate contribution authorization certificates
10 for each such application.

11 (b) Contribution authorization and receipt certificates. (i) Issuance
12 of certificates. The head of each foundation shall issue contribution
13 authorization certificates in two phases. In phase one, which begins on
14 the first day of January and ends on the thirtieth day of September, the
15 head of each foundation shall accept applications for contribution
16 authorization certificates, but shall not issue any such certificates.
17 Commencing after the first day of October, the head of each foundation
18 shall issue contribution authorization certificates for applications
19 received during phase one, provided that if the aggregate total of the
20 contributions for which applications have been received during phase one
21 exceeds the amount of the contribution cap in paragraph (e) of this
22 subdivision, the authorized contribution amount listed on each contrib-
23 ution authorization certificate shall equal the pro-rata share of the
24 contribution cap. If the contribution cap is not exceeded, phase two
25 commences on October first and ends on November fifteenth, during which
26 period the head of each foundation shall issue contribution authori-
27 zation certificates on a first-come first-served basis based upon the
28 date the foundation received the contributor's application for such
29 certificate; provided, however, that if on any day the SUNY foundation
30 or the CUNY foundation receives applications requesting contribution
31 authorization certificates for contributions that in the aggregate
32 exceed the amount of the remaining available contribution cap on such
33 day, the authorized contribution amount listed in each contribution
34 authorization certificate shall be the contributor's pro-rata share of
35 the remaining available contribution cap. For purposes of determining a
36 contributor's pro-rata share of remaining available contribution cap,
37 the head of each foundation shall multiply the amount of remaining
38 available contribution cap by a fraction, the numerator of which equals
39 the total contribution amount listed on the contributor's application
40 and the denominator of which equals the aggregate amount of contrib-
41 utions listed on the applications for contribution authorization certif-
42 icates received on such day. Contribution authorization certificates for
43 applications received during phase one shall be mailed no later than the
44 fifteenth day of October. Contribution authorization certificates for
45 applications received during phase two shall be mailed within twenty
46 days of receipt of such applications. Provided, however, that no
47 contribution authorization certificates for applications received during
48 phase two shall be issued until all of the contribution authorization
49 certificates for applications received during phase one have been
50 issued.

51 (ii) Contribution authorization certificate contents. Each contrib-
52 ution authorization certificate shall state: (A) the date such certif-
53 icate was issued; (B) the date by which the authorized contributions
54 listed in the certificate must be made, which shall be no later than
55 November thirtieth of the year for which the contribution authorization
56 certificate was issued; (C) the contributor's name and address; (D) the

1 amount of authorized contributions; (E) the contribution authorization
2 certificate's certificate number; and (F) any other information that the
3 head of the respective foundation or the commissioner of taxation and
4 finance deems necessary.

5 (c) Certificate of receipt. If a contributor makes an authorized
6 contribution to the SUNY foundation or the CUNY foundation no later than
7 the date by which such authorized contribution is required to be made,
8 such foundation shall, within thirty days of receipt of the authorized
9 contribution, issue to the contributor a written certificate of receipt.
10 Each certificate of receipt shall state: (i) the name and address of the
11 foundation; (ii) the contributor's name and address; (iii) the date for
12 each contribution; (iv) the amount of each contribution and the corre-
13 sponding contribution authorization certificate number; (v) the total
14 amount of contributions; and (vi) any other information that the commis-
15 sioner of taxation and finance deems necessary.

16 (d) Notification to the department of the issuance of a certificate of
17 receipt. Upon the issuance of a certificate of receipt, the respective
18 foundation shall, within thirty days of issuing the certificate of
19 receipt, provide the department of taxation and finance with notifica-
20 tion of the issuance of such certificate in the form and manner
21 prescribed by the department of taxation and finance.

22 (e) Contribution cap. The maximum permitted contributions under this
23 section available annually for calendar year two thousand eighteen and
24 all following years shall be ten million dollars for the SUNY foundation
25 and ten million dollars for the CUNY foundation.

26 2. Use of authorized contributions. The SUNY foundation and the CUNY
27 foundation shall develop policies and procedures to ensure that all
28 contributions for which certificates of receipt have been issued are
29 expended only to support programs benefiting students enrolled at the
30 state university of New York and the city university of New York,
31 respectively. Provided however, contributions may not be used for schol-
32 arships or tuition assistance.

33 § 4. Section 606 of the tax law is amended by adding a new subsection
34 (iii) to read as follows:

35 (iii) Credit for contributions to certain funds. For taxable years
36 beginning on or after January first, two thousand nineteen, an individ-
37 ual taxpayer shall be allowed a credit against the tax imposed under
38 this article for an amount equal to eighty-five percent of the sum of:
39 (1) the amount contributed by the taxpayer during the immediately
40 preceding taxable year to any or all of the following accounts within
41 the charitable gifts trust fund set forth in section ninety-two-gg of
42 the state finance law: the health charitable account established by
43 paragraph a of subdivision four of section ninety-two-gg of the state
44 finance law, or the elementary and secondary education charitable
45 account established by paragraph b of subdivision four of section nine-
46 ty-two-gg of the state finance law; (2) the amount of qualified contrib-
47 utions made by the taxpayer to Health Research, Inc. in accordance with
48 section two of the chapter of the laws of two thousand eighteen that
49 added this subsection; and (3) the amount of qualified contributions
50 made by the taxpayer to the State University of New York Impact Founda-
51 tion and/or the Research Foundation of the City University of New York
52 in accordance with section three of the chapter of the laws of two thou-
53 sand eighteen that added this subsection.

54 § 5. Section 1604 of the education law is amended by adding a new
55 subdivision 44 to read as follows:

1 44. To establish a charitable fund, by resolution of the trustees, to
2 receive unrestricted charitable monetary donations made to such fund for
3 use by the district for public educational purposes. The monies of such
4 charitable fund shall be deposited and secured in the manner provided by
5 section ten of the general municipal law. The monies of such charitable
6 fund may be invested in the manner provided by section eleven of the
7 general municipal law. Any interest earned or capital gain realized on
8 the money so invested shall accrue to and become part of such fund. At
9 such time and in such amounts as determined by the trustees, the monies
10 of such charitable fund shall be transferred to the school district's
11 general fund for expenditure consistent with the charitable purposes of
12 the fund, provided that the amount of taxes to be levied by the school
13 district for any school year shall be determined without regard to any
14 such transfer. The school district shall maintain an accounting of all
15 such deposits, interest or capital gain, transfers, and expenditures.

16 § 6. Section 1709 of the education law is amended by adding a new
17 subdivision 12-b to read as follows:

18 12-b. To establish a charitable fund, by resolution of the board, to
19 receive unrestricted charitable monetary donations made to such fund for
20 use by the district for public educational purposes. The monies of such
21 charitable fund shall be deposited and secured in the manner provided by
22 section ten of the general municipal law. The monies of such charitable
23 fund may be invested in the manner provided by section eleven of the
24 general municipal law. Any interest earned or capital gain realized on
25 the money so invested shall accrue to and become part of such fund. At
26 such time and in such amounts as determined by the board, the monies of
27 such charitable fund shall be transferred to the school district's
28 general fund for expenditure consistent with the charitable purposes of
29 the fund, provided that the amount of taxes to be levied by the school
30 district for any school year shall be determined without regard to any
31 such transfer. The school district shall maintain an accounting of all
32 such deposits, interest or capital gain, transfers, and expenditures.

33 § 7. Section 2590-h of the education law is amended by adding a new
34 subdivision 54 to read as follows:

35 54. To establish a charitable fund to receive unrestricted charitable
36 monetary donations made to such fund for use by the city school district
37 for public educational purposes. The monies of such charitable fund
38 shall be deposited and secured in the manner provided by section ten of
39 the general municipal law. The monies of such charitable fund may be
40 invested in the manner provided by section eleven of the general munici-
41 pal law. Any interest earned or capital gain realized on the money so
42 invested shall accrue to and become part of such fund. At such time and
43 in such amounts as determined by the chancellor, the monies of such
44 charitable fund shall be transferred to the city school district's
45 general fund for expenditure consistent with the charitable purposes of
46 the fund, provided that the amount of taxes to be levied by the city for
47 any school year shall be determined without regard to any such transfer.
48 The city school district shall maintain an accounting of all such depos-
49 its, interest or capital gain, transfers, and expenditures.

50 § 8. The general municipal law is amended by adding two new sections
51 6-t and 6-u to read as follows:

52 § 6-t. Charitable gifts reserve fund. 1. The governing board of any
53 county or New York city may establish a reserve fund to be known as a
54 charitable gifts reserve fund.

55 2. Such fund may receive unrestricted charitable monetary contrib-
56 utions and the moneys in such fund shall be deposited and secured in the

1 manner provided by section ten of this article. The governing board, or
2 the chief fiscal officer of such county, or New York city, if the
3 governing board shall delegate such duty to him or her, may invest the
4 moneys in such fund in the manner provided by section eleven of this
5 article. Any interest earned or capital gain realized on the money so
6 deposited or invested shall accrue to and become part of such fund. The
7 separate identity of such fund shall be maintained whether its assets
8 consist of cash or investments or both.

9 3. At the end of the fiscal year, the governing board of the county or
10 New York city, within sixty days of the close of the fiscal year, shall
11 transfer the funds to the general fund or other fund of the municipal
12 corporation, so that the funds may be used for charitable purposes.

13 4. The governing board shall establish a procedure for contributions
14 to the charitable gifts reserve fund, which shall include the provision
15 of a written acknowledgment of the gift to the contributor.

16 § 6-u. Charitable gifts reserve fund. 1. The governing board of any
17 city with a population less than one million, town or village may estab-
18 lish a reserve fund to be known as a charitable gifts reserve fund.

19 2. Such fund may receive unrestricted charitable monetary contrib-
20 utions and the moneys in such fund shall be deposited and secured in the
21 manner provided by section ten of this article. The governing board, or
22 the chief fiscal officer of such town, village or city, if the governing
23 board shall delegate such duty to him or her, may invest the moneys in
24 such fund in the manner provided by section eleven of this article. Any
25 interest earned or capital gain realized on the money so deposited or
26 invested shall accrue to and become part of such fund. The separate
27 identity of such fund shall be maintained whether its assets consist of
28 cash or investments or both.

29 3. At the end of the fiscal year, the governing board of the town,
30 village or city, within sixty days of the close of the fiscal year, may
31 transfer the funds to the general fund or other fund of the municipal
32 corporation, so that the funds may be used for charitable purposes.

33 4. The governing board shall establish a procedure for contributions
34 to the charitable gifts reserve fund, which shall include the provision
35 of a written acknowledgment of the gift to the contributor.

36 § 9. The real property tax law is amended by adding a new section
37 980-a to read as follows:

38 § 980-a. Tax credits for contributions to certain funds. 1. (a) A
39 municipal corporation that has established a fund pursuant to subdivi-
40 sion forty-four of section sixteen hundred four of the education law,
41 subdivision twelve-b of section seventeen hundred nine of the education
42 law, subdivision fifty-four of section twenty-five hundred ninety-h of
43 the education law, or section six-t or six-u of the general municipal
44 law, may adopt a local law, or in the case of a school district, a
45 resolution, authorizing a tax credit to be provided pursuant to this
46 section for contributions to such fund. For purposes of this section, a
47 municipal corporation that has established such a fund and authorized
48 such a credit shall be referred to as a "participating" municipal corpo-
49 ration.

50 (b) On and after a date specified in the local law or resolution
51 adopted by a participating municipal corporation pursuant to paragraph
52 (a) of this subdivision, the owner or owners of real property shall be
53 allowed a credit against the real property taxes of a participating
54 municipal corporation that have been imposed upon such property. The
55 amount of such credit shall equal ninety-five percent, or such lesser
56 allowable percentage credit as may have been established pursuant to

1 paragraph (c) of this subdivision, of the amount contributed by one or
2 more of the owners of such property during the "associated credit year"
3 as defined in this section, to any or all of the funds established by
4 such municipal corporation, subject to the limit established pursuant to
5 paragraph (c) of this subdivision, if any.

6 (c) The participating municipal corporation may establish a limit upon
7 the amount or percentage of such credit to be allowed in any given
8 fiscal year, in which case the amount of such credit shall not exceed
9 any limit so established. Any such limit shall be adopted by local law,
10 or in the case of a school district, by resolution, which local law or
11 resolution may either be the same as or separate from the local law or
12 resolution that initially authorized the credit. Once such a limit has
13 been adopted, it may be amended or repealed thereafter by local law, or
14 in the case of a school district, by resolution, provided that any such
15 amendment or repeal shall only apply to taxes of the participating
16 municipal corporation for fiscal years commencing after the adoption of
17 such local law or resolution. A copy of any local law or resolution
18 establishing, amending or repealing such a limit shall be provided to
19 the collecting officer who collects the taxes of the participating
20 municipal corporation.

21 2. For purposes of this section, the "associated credit year" shall be
22 the twelve-month period during which the owner of the property has made
23 a contribution described in subdivision one of this section that ends on
24 the last day prescribed by law on which the taxes of the participating
25 municipal corporation may be paid without interest or penalties, subject
26 to the following:

27 (a) Where such taxes are payable in installments, such twelve-month
28 period shall end on the last day prescribed by law on which the first
29 installment of such taxes may be paid without interest or penalties.

30 (b) Where a participating municipal corporation is a city school
31 district that is subject to article fifty-two of the education law, such
32 twelve-month period shall end on the last day prescribed by law on which
33 city taxes may be paid without interest or penalties, or if applicable,
34 on the last day prescribed by law on which the first installment of such
35 taxes may be paid without interest or penalties.

36 (c) Each such twelve-month period shall be determined without regard
37 to the possibility that the period prescribed by law for paying such
38 taxes without interest or penalties may be extended due to a delay in
39 the first publication of the collecting officer's notice as provided by
40 sections thirteen hundred twenty-two or thirteen hundred twenty-four of
41 this chapter or a comparable law, or due to an executive order issued in
42 connection with a state disaster emergency as provided by subdivision
43 two of section nine hundred twenty-five-a of this chapter.

44 3. The credit authorized by this section shall be administered as
45 follows:

46 (a) The administrator of the fund or its designated agent shall, upon
47 receiving a contribution to the fund specified in subdivision one of
48 this section during a credit year, furnish the property owner with an
49 acknowledgement in duplicate. Such acknowledgement shall be provided on
50 a form prescribed by the commissioner and shall specify the amount of
51 the contribution, the name and address of the donor, the date the
52 contribution was received, the authorized signature of the administrator
53 or agent, and such other information as the commissioner shall require.

54 (b) After receiving such an acknowledgement, the property owner may
55 present it to the appropriate collecting officer on or before the last
56 day prescribed by law on which taxes may be paid without interest or

1 penalty, together with a credit claim on a form prescribed by the
2 commissioner. Such credit claim form shall contain the name of the
3 property owner or owners, the date and amount of the contributions made
4 to the account during the associated credit year, the address of the
5 property to which the credit claim relates, and such other information
6 as the commissioner shall require. Notwithstanding any provision of law
7 to the contrary, the collecting officer shall thereupon be authorized
8 and directed to grant the property owner a tax credit equal to ninety-
9 five percent, or such lesser allowable percentage credit as may have
10 been established pursuant to paragraph (c) of subdivision one of this
11 section, of the amount of the contributions made during the associated
12 credit year as specified on the acknowledgement, and to reduce the tax
13 liability on the parcel accordingly, provided that such credit may not
14 exceed any percentage credit or other limit established by the partic-
15 ipating municipal corporation pursuant to paragraph (c) of subdivision
16 one of this section, if such a limit has been established, and may not
17 exceed the property taxes due or paid that are attributable to the
18 participating municipal corporation. Where taxes are payable in install-
19 ments, if the credit exceeds the amount of the first installment, the
20 excess shall be applied to future installments until exhausted. The
21 participating municipal corporation may adopt a local law, or in the
22 case of a school district, a resolution, providing that where a property
23 owner submits a credit claim form to the collecting officer prior to the
24 collecting officer's receipt of the tax warrant, or such other date as
25 may be specified in such local law or resolution, the associated proper-
26 ty tax bill shall reflect a reduction in the tax liability equal to the
27 credit authorized by this section; provided however that if the collect-
28 ing officer is not employed by the participating municipal corporation,
29 such local law or resolution shall not take effect unless and until the
30 governing body of the municipal corporation that employs the collecting
31 officer has adopted a resolution agreeing thereto. The department of
32 financial services, in consultation with the department, shall promul-
33 gate regulations related to the adjustment of mortgage escrow accounts
34 to reflect the credits provided pursuant to this section.

35 (c) If the property owner fails to present the acknowledgment and
36 credit claim form to the collecting officer on or before the last day
37 prescribed by law on which taxes may be paid without interest or penal-
38 ty, he or she may present the same to the chief fiscal officer or chief
39 financial officer of the participating municipal corporation, or to a
40 member of his or her staff. Such officer shall thereupon be authorized
41 and directed to grant the property owner a refund of property taxes in
42 the amount of the credit, which amount shall be equal to ninety-five
43 percent, or such lesser allowable percentage credit as may have been
44 established pursuant to paragraph (c) of subdivision one of this
45 section, of the total contributions made during the associated credit
46 year, provided that such refund shall not exceed the property taxes that
47 have been paid on the property or any percentage credit or other limit
48 established pursuant to paragraph (c) of subdivision one of this
49 section, if any, and may not exceed the property taxes due or paid that
50 are attributable to the participating municipal corporation. Provided
51 further, that no interest shall be payable on such refund if paid within
52 forty-five days of the receipt of the acknowledgment and credit claim
53 form. The owner of the property may file such refund claim with the
54 authorized officer at any time during the three year period beginning
55 immediately after the last day such taxes were payable without interest
56 or penalty.

1 4. The amount of the itemized deduction that may be claimed by a
2 taxpayer under section six hundred fifteen of the tax law with respect
3 to the taxes paid on such property may not exceed the amount of the
4 taxes of a participating municipal corporation that have been imposed
5 upon such property minus the amount of the credit provided pursuant to
6 this section.

7 § 10. This act shall take effect immediately; provided, however, that
8 the amendments to section 2590-h of the education law made by section
9 seven of this act shall not affect the expiration and reversion of such
10 section and shall expire and be deemed repealed therewith; and provided
11 further that if section 2590-h of the education law expires or is
12 repealed and is reverted prior to the effective date of this act,
13 section seven of this act shall not take effect.

PART MM

15 Section 1. The tax law is amended by adding a new article 24 to read
16 as follows:

17 ARTICLE 24

18 EMPLOYER COMPENSATION EXPENSE PROGRAM

19 Section 850. Definitions.

20 851. Employer election.

21 852. Imposition and rate of tax.

22 853. Pass through of tax.

23 854. Payment of tax.

24 855. Employee credit.

25 856. Deposit and disposition of revenue.

26 857. Procedural provisions.

27 § 850. Definitions. For purposes of this article:

28 (a) Employer. Employer means an employer that is required by section
29 six hundred seventy-one of this chapter to deduct and withhold tax from
30 wages.

31 (b) Electing employer. Electing employer is an employer that has made
32 the election provided for in section eight hundred fifty-one of this
33 article.

34 (c) Payroll expense. Payroll expense means wages and compensation as
35 defined in sections 3121 and 3231 of the internal revenue code (without
36 regard to section 3121(a)(1) and section 3231(e)(2)(A)(i)), paid to all
37 covered employees.

38 (d) Covered employee. Covered employee means an employee of an elect-
39 ing employer who is required to have amounts withheld under section six
40 hundred seventy-one of this chapter and receives annual wages and
41 compensation from his or her employer of more than forty thousand
42 dollars annually.

43 § 851. Employer election. (a) Any employer who employs covered employ-
44 ees in the state shall be allowed to make an annual election to be taxed
45 under this article.

46 (b) In order to be effective, the annual election must be made by (1)
47 if the employer is not a corporation, by any member, owner, or other
48 individual with authority to bind the entity or sign returns required
49 pursuant to section six hundred fifty-three of this chapter; or (2) if
50 the employer is a for-profit or not-for-profit corporation, by any offi-
51 cer or manager of the employer who is authorized under the law of the
52 state where the corporation is incorporated or under the employer's
53 organizational documents to make the election and who represents to
54 having such authorization under penalty of perjury; or (3) if the

1 employer is a trust, by the unanimous consent of all trustees; or (4) if
2 the employer is a governmental entity, by the chief executive officer of
3 such governmental entity.

4 (c) The annual election must be made by December first of each calen-
5 dar year and will take effect for the immediately succeeding calendar
6 year. If an election is made after December first of a calendar year, it
7 will first take effect in the second succeeding calendar year.

8 § 852. Imposition and rate of tax. A tax is hereby imposed on the
9 payroll expense paid by electing employers to covered employees. For two
10 thousand nineteen, the tax shall be equal to one and one-half percent of
11 the payroll expense paid by electing employers to covered employees
12 during the calendar quarter. For two thousand twenty, the tax shall be
13 equal to three percent of the payroll expense paid by electing employers
14 to covered employees during the calendar quarter. For two thousand twen-
15 ty-one and thereafter, the tax shall be equal to five percent of the
16 payroll expense paid by electing employers to covered employees during
17 the calendar quarter. An electing employer shall only be subject to the
18 tax imposed under this article on the payroll expense paid to any
19 covered employee during the calendar year in excess of forty thousand
20 dollars.

21 § 853. Pass through of tax. An employer cannot deduct from the wages
22 or compensation of an employee any amount that represents all or any
23 portion of the tax imposed on the employer under this article.

24 § 854. Payment of tax. Employers with payroll expense. The tax imposed
25 on the payroll expense of electing employers under section eight hundred
26 fifty-two of this article must be paid at the same time the electing
27 employer is required to remit payments under section six hundred seven-
28 ty-four of this chapter; provided however, that electing employers
29 subject to the provisions in section nine of this chapter must pay the
30 tax on the payroll expense at the same time as the withholding tax
31 remitted under the electronic payment reporting system and the electron-
32 ic funds transfer system authorized by section nine of this chapter.

33 § 855. Employee credit. A covered employee shall be allowed a credit
34 against the tax imposed under article twenty-two of this chapter,
35 computed pursuant to the provisions of subsection (ccc) of section six
36 hundred six of this chapter.

37 § 856. Deposit and disposition of revenue. All taxes, interest, penal-
38 ties, and fees collected or received by the commissioner under this
39 article shall be deposited and disposed of pursuant to the provisions of
40 section one hundred seventy-one-a of this chapter.

41 § 857. Procedural provisions. (a) General. All provisions of article
42 twenty-two of this chapter will apply to the provisions of this article
43 in the same manner and with the same force and effect as if the language
44 of article twenty-two of this chapter had been incorporated in full into
45 this article and had been specifically adjusted for and expressly
46 referred to the tax imposed by this article, except to the extent that
47 any provision is either inconsistent with a provision of this article or
48 is not relevant to this article. Notwithstanding the preceding
49 sentence, no credit against tax in article twenty-two of this chapter
50 can be used to offset the tax due under this article.

51 (b) Notwithstanding the provisions of section six hundred ninety-seven
52 of this chapter, if the commissioner determines that a person is liable
53 for any tax, penalty or interest under this article pursuant to
54 subsection (b) of section eight hundred fifty-four of this article, upon
55 request in writing of such person, the commissioner shall disclose in
56 writing to such person (1) the name of any other person the commissioner

1 has determined to be liable for such tax, penalty or interest under this
2 article for the electing employer, and (2) whether the commissioner has
3 attempted to collect such tax, penalty or interest from such other
4 person or electing employer, the general nature of such collection
5 activities, and the amount collected.

6 (c) Notwithstanding any other law to the contrary, the commissioner
7 may require that all filings of forms or returns under this article must
8 be filed electronically and all payments of tax must be paid electron-
9 ically. The commissioner may prescribe the methods for quarterly
10 filings by electing employers, including but not limited to, the inclu-
11 sion of specific employee-level detail.

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

14 (ccc) Article twenty-four employee credit. A covered employee of an
15 electing employer shall be entitled to a credit against the tax imposed
16 by this article as provided in this subsection. For purposes of this
17 subsection the terms "covered employee" and "electing employer" shall
18 have the same meanings as under section eight hundred fifty of this
19 chapter. (1) For two thousand nineteen, the credit shall be equal to
20 the product of (i) the covered employee's wages and compensation in
21 excess of forty thousand dollars received during the tax year from the
22 electing employer that are subject to tax under this article and (ii)
23 one and one-half percent and (iii) the result of one minus a fraction,
24 the numerator of which shall be the tax imposed on the covered employee
25 as determined pursuant to section six hundred one of this article before
26 the application of any credits for the applicable tax year and the
27 denominator of which shall be the covered employee's taxable income as
28 determined pursuant to this article for the applicable tax year. (2) For
29 two thousand twenty, the credit shall be equal to the product of (i) the
30 covered employee's wages and compensation in excess of forty thousand
31 dollars received during the tax year from the electing employer that are
32 subject to tax under this article and (ii) three percent and (iii) the
33 result of one minus a fraction, the numerator of which shall be the tax
34 imposed on the covered employee as determined pursuant to section six
35 hundred one of this article before the application of any credits for
36 the applicable tax year and the denominator of which shall be the
37 covered employee's taxable income as determined pursuant to this article
38 for the applicable tax year. (3) For two thousand twenty-one and there-
39 after, the credit shall be equal to the product of (i) the covered
40 employee's wages and compensation in excess of forty thousand dollars
41 received during the tax year from the electing employer that are subject
42 to tax under this article and (ii) five percent and (iii) the result of
43 one minus a fraction, the numerator of which shall be the tax imposed on
44 the covered employee as determined pursuant to section six hundred one
45 of this article before the application of any credits for the applicable
46 tax year and the denominator of which shall be the covered employee's
47 taxable income as determined pursuant to this article for the applicable
48 tax year. If the amount of the credit allowable under this subsection
49 for any taxable year shall exceed the taxpayer's tax for such year, the
50 excess allowed for a taxable year may be carried over to the following
51 year or years and may be deducted from the taxpayer's tax for such year
52 or years.

53 § 3. Subdivision 1 of section 171-a of the tax law, as amended by
54 section 15 of part AAA of chapter 59 of the laws of 2017, is amended to
55 read as follows:

1 1. All taxes, interest, penalties and fees collected or received by
2 the commissioner or the commissioner's duly authorized agent under arti-
3 cles nine (except section one hundred eighty-two-a thereof and except as
4 otherwise provided in section two hundred five thereof), nine-A,
5 twelve-A (except as otherwise provided in section two hundred eighty-
6 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
7 section three hundred twelve thereof), eighteen, nineteen, twenty
8 (except as otherwise provided in section four hundred eighty-two there-
9 of), twenty-B, twenty-one, twenty-two, ~~twenty-four~~, twenty-six, twenty-
10 eight (except as otherwise provided in section eleven hundred two or
11 eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one
12 (except as otherwise provided in section fourteen hundred twenty-one
13 thereof), thirty-three and thirty-three-A of this chapter shall be
14 deposited daily in one account with such responsible banks, banking
15 houses or trust companies as may be designated by the comptroller, to
16 the credit of the comptroller. Such an account may be established in one
17 or more of such depositories. Such deposits shall be kept separate and
18 apart from all other money in the possession of the comptroller. The
19 comptroller shall require adequate security from all such depositories.
20 Of the total revenue collected or received under such articles of this
21 chapter, the comptroller shall retain in the comptroller's hands such
22 amount as the commissioner may determine to be necessary for refunds or
23 reimbursements under such articles of this chapter out of which amount
24 the comptroller shall pay any refunds or reimbursements to which taxpay-
25 ers shall be entitled under the provisions of such articles of this
26 chapter. The commissioner and the comptroller shall maintain a system of
27 accounts showing the amount of revenue collected or received from each
28 of the taxes imposed by such articles. The comptroller, after reserving
29 the amount to pay such refunds or reimbursements, shall, on or before
30 the tenth day of each month, pay into the state treasury to the credit
31 of the general fund all revenue deposited under this section during the
32 preceding calendar month and remaining to the comptroller's credit on
33 the last day of such preceding month, (i) except that the comptroller
34 shall pay to the state department of social services that amount of
35 overpayments of tax imposed by article twenty-two of this chapter and
36 the interest on such amount which is certified to the comptroller by the
37 commissioner as the amount to be credited against past-due support
38 pursuant to subdivision six of section one hundred seventy-one-c of this
39 article, (ii) and except that the comptroller shall pay to the New York
40 state higher education services corporation and the state university of
41 New York or the city university of New York respectively that amount of
42 overpayments of tax imposed by article twenty-two of this chapter and
43 the interest on such amount which is certified to the comptroller by the
44 commissioner as the amount to be credited against the amount of defaults
45 in repayment of guaranteed student loans and state university loans or
46 city university loans pursuant to subdivision five of section one
47 hundred seventy-one-d and subdivision six of section one hundred seven-
48 ty-one-e of this article, (iii) and except further that, notwithstanding
49 any law, the comptroller shall credit to the revenue arrearage account,
50 pursuant to section ninety-one-a of the state finance law, that amount
51 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-
52 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest
53 thereon, which is certified to the comptroller by the commissioner as
54 the amount to be credited against a past-due legally enforceable debt
55 owed to a state agency pursuant to paragraph (a) of subdivision six of
56 section one hundred seventy-one-f of this article, provided, however, he

S. 7509--C

60

A. 9509--C

1 shall credit to the special offset fiduciary account, pursuant to
2 section ninety-one-c of the state finance law, any such amount credita-
3 ble as a liability as set forth in paragraph (b) of subdivision six of
4 section one hundred seventy-one-f of this article, (iv) and except
5 further that the comptroller shall pay to the city of New York that
6 amount of overpayment of tax imposed by article nine, nine-A, twenty-
7 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any
8 interest thereon that is certified to the comptroller by the commission-
9 er as the amount to be credited against city of New York tax warrant
10 judgment debt pursuant to section one hundred seventy-one-l of this
11 article, (v) and except further that the comptroller shall pay to a
12 non-obligated spouse that amount of overpayment of tax imposed by arti-
13 cle twenty-two of this chapter and the interest on such amount which has
14 been credited pursuant to section one hundred seventy-one-c, one hundred
15 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or
16 one hundred seventy-one-l of this article and which is certified to the
17 comptroller by the commissioner as the amount due such non-obligated
18 spouse pursuant to paragraph six of subsection (b) of section six
19 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct
20 a like amount which the comptroller shall pay into the treasury to the
21 credit of the general fund from amounts subsequently payable to the
22 department of social services, the state university of New York, the
23 city university of New York, or the higher education services corpora-
24 tion, or the revenue arrearage account or special offset fiduciary
25 account pursuant to section ninety-one-a or ninety-one-c of the state
26 finance law, as the case may be, whichever had been credited the amount
27 originally withheld from such overpayment, and (vii) with respect to
28 amounts originally withheld from such overpayment pursuant to section
29 one hundred seventy-one-l of this article and paid to the city of New
30 York, the comptroller shall collect a like amount from the city of New
31 York.

32 § 4. Subdivision 1 of section 171-a of the tax law, as amended by
33 section 16 of part AAA of chapter 59 of the laws of 2017, is amended to
34 read as follows:

35 1. All taxes, interest, penalties and fees collected or received by
36 the commissioner or the commissioner's duly authorized agent under arti-
37 cles nine (except section one hundred eighty-two-a thereof and except as
38 otherwise provided in section two hundred five thereof), nine-A,
39 twelve-A (except as otherwise provided in section two hundred eighty-
40 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
41 section three hundred twelve thereof), eighteen, nineteen, twenty
42 (except as otherwise provided in section four hundred eighty-two there-
43 of), twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight
44 (except as otherwise provided in section eleven hundred two or eleven
45 hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one
46 (except as otherwise provided in section fourteen hundred twenty-one
47 thereof), thirty-three and thirty-three-A of this chapter shall be
48 deposited daily in one account with such responsible banks, banking
49 houses or trust companies as may be designated by the comptroller, to
50 the credit of the comptroller. Such an account may be established in one
51 or more of such depositories. Such deposits shall be kept separate and
52 apart from all other money in the possession of the comptroller. The
53 comptroller shall require adequate security from all such depositories.
54 Of the total revenue collected or received under such articles of this
55 chapter, the comptroller shall retain in the comptroller's hands such
56 amount as the commissioner may determine to be necessary for refunds or

1 reimbursements under such articles of this chapter out of which amount
2 the comptroller shall pay any refunds or reimbursements to which taxpay-
3 ers shall be entitled under the provisions of such articles of this
4 chapter. The commissioner and the comptroller shall maintain a system of
5 accounts showing the amount of revenue collected or received from each
6 of the taxes imposed by such articles. The comptroller, after reserving
7 the amount to pay such refunds or reimbursements, shall, on or before
8 the tenth day of each month, pay into the state treasury to the credit
9 of the general fund all revenue deposited under this section during the
10 preceding calendar month and remaining to the comptroller's credit on
11 the last day of such preceding month, (i) except that the comptroller
12 shall pay to the state department of social services that amount of
13 overpayments of tax imposed by article twenty-two of this chapter and
14 the interest on such amount which is certified to the comptroller by the
15 commissioner as the amount to be credited against past-due support
16 pursuant to subdivision six of section one hundred seventy-one-c of this
17 article, (ii) and except that the comptroller shall pay to the New York
18 state higher education services corporation and the state university of
19 New York or the city university of New York respectively that amount of
20 overpayments of tax imposed by article twenty-two of this chapter and
21 the interest on such amount which is certified to the comptroller by the
22 commissioner as the amount to be credited against the amount of defaults
23 in repayment of guaranteed student loans and state university loans or
24 city university loans pursuant to subdivision five of section one
25 hundred seventy-one-d and subdivision six of section one hundred seven-
26 ty-one-e of this article, (iii) and except further that, notwithstanding
27 any law, the comptroller shall credit to the revenue arrearage account,
28 pursuant to section ninety-one-a of the state finance law, that amount
29 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-
30 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest
31 thereon, which is certified to the comptroller by the commissioner as
32 the amount to be credited against a past-due legally enforceable debt
33 owed to a state agency pursuant to paragraph (a) of subdivision six of
34 section one hundred seventy-one-f of this article, provided, however, he
35 shall credit to the special offset fiduciary account, pursuant to
36 section ninety-one-c of the state finance law, any such amount credita-
37 ble as a liability as set forth in paragraph (b) of subdivision six of
38 section one hundred seventy-one-f of this article, (iv) and except
39 further that the comptroller shall pay to the city of New York that
40 amount of overpayment of tax imposed by article nine, nine-A, twenty-
41 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any
42 interest thereon that is certified to the comptroller by the commission-
43 er as the amount to be credited against city of New York tax warrant
44 judgment debt pursuant to section one hundred seventy-one-l of this
45 article, (v) and except further that the comptroller shall pay to a
46 non-obligated spouse that amount of overpayment of tax imposed by arti-
47 cle twenty-two of this chapter and the interest on such amount which has
48 been credited pursuant to section one hundred seventy-one-c, one hundred
49 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or
50 one hundred seventy-one-l of this article and which is certified to the
51 comptroller by the commissioner as the amount due such non-obligated
52 spouse pursuant to paragraph six of subsection (b) of section six
53 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct
54 a like amount which the comptroller shall pay into the treasury to the
55 credit of the general fund from amounts subsequently payable to the
56 department of social services, the state university of New York, the

1 city university of New York, or the higher education services corpo-
2 ration, or the revenue arrearage account or special offset fiduciary
3 account pursuant to section ninety-one-a or ninety-one-c of the state
4 finance law, as the case may be, whichever had been credited the amount
5 originally withheld from such overpayment, and (vii) with respect to
6 amounts originally withheld from such overpayment pursuant to section
7 one hundred seventy-one-l of this article and paid to the city of New
8 York, the comptroller shall collect a like amount from the city of New
9 York.

10 § 5. Subdivisions 2, 3 and paragraph (a) of subdivision 5 of section
11 92-z of the state finance law, subdivision 2 as amended by section 30 of
12 part T of chapter 57 of the laws of 2007, and subdivision 3 and para-
13 graph (a) of subdivision 5 as added by section 1 of part I of chapter
14 383 of the laws of 2001, are amended to read as follows:

15 2. Such fund shall consist of ~~[twenty-five]~~ (a) fifty percent of
16 receipts from the imposition of personal income taxes pursuant to arti-
17 cle twenty-two of the tax law, less such amounts as the commissioner of
18 taxation and finance may determine to be necessary for refunds, and (b).
19 fifty percent of receipts from the imposition of employer compensation
20 expense taxes pursuant to article twenty-four of the tax law, less such
21 amounts as the commissioner of taxation and finance may determine to be
22 necessary for refunds.

23 3. ~~(a).~~ Beginning on the first day of each month, the comptroller shall
24 deposit all of the receipts collected pursuant to section six hundred
25 seventy-one of the tax law in the revenue bond tax fund until the amount
26 of monthly receipts anticipated to be deposited pursuant to the certif-
27 icate required in paragraph (b) of subdivision five of this section are
28 met. On or before the twelfth day of each month, the commissioner of
29 taxation and finance shall certify to the state comptroller the amounts
30 specified in paragraph (a) of subdivision two of this section relating
31 to the preceding month and, in addition, no later than March thirty-
32 first of each fiscal year the commissioner of taxation and finance shall
33 certify such amounts relating to the last month of such fiscal year. The
34 amounts so certified shall be deposited by the state comptroller in the
35 revenue bond tax fund.

36 (b) Beginning on the first day of each month, the comptroller shall
37 deposit all of the receipts collected pursuant to section eight hundred
38 fifty-four of the tax law in the revenue bond tax fund until the amount
39 of monthly receipts anticipated to be deposited pursuant to the certif-
40 icate required in paragraph (b) of subdivision five of this section are
41 met. On or before the twelfth day of each month, the commissioner of
42 taxation and finance shall certify to the state comptroller the amounts
43 specified in paragraph (b) of subdivision two of this section relating
44 to the preceding month and, in addition, no later than March thirty-
45 first of each fiscal year the commissioner of taxation and finance shall
46 certify such amounts relating to the last month of such fiscal year. The
47 amounts so certified shall be deposited by the state comptroller in the
48 revenue bond tax fund.

49 (a) The state comptroller shall from time to time, but in no event
50 later than the fifteenth day of each month (other than the last month of
51 the fiscal year) and no later than the thirty-first day of the last
52 month of each fiscal year, pay over and distribute to the credit of the
53 general fund of the state treasury all moneys in the revenue bond tax
54 fund, if any, in excess of the aggregate amount required to be set aside
55 for the payment of cash requirements pursuant to paragraph (b) of this
56 subdivision, provided that an appropriation has been made to pay all

S. 7509--C

63

A. 9509--C

1 amounts specified in any certificate or certificates delivered by the
2 director of the budget pursuant to paragraph (b) of this subdivision as
3 being required by each authorized issuer as such term is defined in
4 section sixty-eight-a of this chapter for the payment of cash require-
5 ments of such issuers for such fiscal year. Subject to the rights of
6 holders of debt of the state, in no event shall the state comptroller
7 pay over and distribute any moneys on deposit in the revenue bond tax
8 fund to any person other than an authorized issuer pursuant to such
9 certificate or certificates (i) unless and until the aggregate of all
10 cash requirements certified to the state comptroller as required by such
11 authorized issuers to be set aside pursuant to paragraph (b) of this
12 subdivision for such fiscal year shall have been appropriated to such
13 authorized issuers in accordance with the schedule specified in the
14 certificate or certificates filed by the director of the budget or (ii)
15 if, after having been so certified and appropriated, any payment
16 required to be made pursuant to paragraph (b) of this subdivision has
17 not been made to the authorized issuers which was required to have been
18 made pursuant to such certificate or certificates; provided, however,
19 that no person, including such authorized issuers or the holders of
20 revenue bonds, shall have any lien on moneys on deposit in the revenue
21 bond tax fund. Any agreement entered into pursuant to section sixty-
22 eight-c of this chapter related to any payment authorized by this
23 section shall be executory only to the extent of such revenues available
24 to the state in such fund. Notwithstanding subdivisions two and three of
25 this section, in the event the aggregate of all cash requirements certi-
26 fied to the state comptroller as required by such authorized issuers to
27 be set aside pursuant to paragraph (b) of this subdivision for the
28 fiscal year beginning on April first shall not have been appropriated to
29 such authorized issuers in accordance with the schedule specified in the
30 certificate or certificates filed by the director of the budget or, (ii)
31 if, having been so certified and appropriated, any payment required to
32 be made pursuant to paragraph (b) of this subdivision has not been made
33 pursuant to such certificate or certificates, all receipts collected
34 pursuant to section six hundred seventy-one of the tax law and section
35 eight hundred fifty-four of the tax law shall be deposited in the reven-
36 ue bond tax fund until the greater of [~~twenty-five~~] forty percent of the
37 aggregate of the receipts from the imposition of (A) the personal income
38 tax imposed by article twenty-two of the tax law and (B) the employer
39 compensation expense tax imposed by article twenty-four of the tax law
40 for the fiscal year beginning on April first and as specified in the
41 certificate or certificates filed by the director of the budget pursuant
42 to this paragraph or [~~six~~] a total of twelve billion dollars has been
43 deposited in the revenue bond tax fund. Notwithstanding any other
44 provision of law, if the state has appropriated and paid to the author-
45 ized issuers the amounts necessary for the authorized issuers to meet
46 their requirements for the current fiscal year pursuant to the certif-
47 icate or certificates submitted by the director of the budget pursuant
48 to paragraph (b) of this section, the state comptroller shall, on the
49 last day of each fiscal year, pay to the general fund of the state all
50 sums remaining in the revenue bond tax fund on such date except such
51 amounts as the director of the budget may certify are needed to meet the
52 cash requirements of authorized issuers during the subsequent fiscal
53 year.

54 § 6. Subdivision 5 of section 68-c of the state finance law, as added
55 by section 2 of part I of chapter 383 of the laws of 2001, is amended to
56 read as follows:

1 5. Nothing contained in this article shall be deemed to restrict the
2 right of the state to amend, repeal, modify or otherwise alter statutes
3 imposing or relating to the taxes imposed pursuant to article twenty-two
4 and article twenty-four of the tax law. The authorized issuers shall not
5 include within any resolution, contract or agreement with holders of the
6 revenue bonds issued under this article any provision which provides
7 that a default occurs as a result of the state exercising its right to
8 amend, repeal, modify or otherwise alter the taxes imposed pursuant to
9 article twenty-two and article twenty-four of the tax law.

10 § 7. This act shall take effect immediately; provided, however, that
11 the amendments to subdivision 1 of section 171-a of the tax law made by
12 section three of this act shall not affect the expiration of such subdivi-
13 vision and shall expire therewith, when upon such date the provisions of
14 section four of this act shall take effect.