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# Appendix A: Chapter 85 of the Laws of 2002 - 2002-03 Tax Amnesty Program

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Section 1. (a) Notwithstanding the provisions of any other law to the contrary, there is hereby established an amnesty program as described herein, to be administered by the commissioner of taxation and finance, to be effective for the period as prescribed by such commissioner, for all eligible taxpayers as described herein, owing any tax or surcharge imposed or formerly imposed by section 182, 182-a, 182-b (as repealed by chapter 400 of the laws of 1983), 183, 183-a, 184, 184-a, 186 (as repealed by chapter 63 of the laws of 2000), 186-b (as repealed by chapter 63 of the laws of 2000), 186-e, 189 (as repealed by chapter 63 of the laws of 2000), 189-a (as repealed by chapter 63 of the laws of 2000) or 189-b of article 9, or article 9-A, 12-A, 13, 13-A, 16 (as repealed by chapter 267 of the laws of 1987), 16-A (as repealed by chapter 267 of the laws of 1987), 18-A (as repealed by chapter 389 of the laws of 1997), 21, 22, 23 (as repealed by chapter 69 of the laws of 1978), 24 (as repealed by chapter 170 of the laws of 1994), 26, 26-A (as repealed by chapter 389 of the laws of 1997), 26-B, 28, 28-A, 31-B (as repealed by chapter 309 of the laws of 1996) or 33-A of the tax law, or authorized by article 12-A, 29, 30, 30-A or 30-B of the tax law or article 2-E of the general city law (as repealed pursuant to chapter 5 of the laws of 1999) and administered by such commissioner.

(b) Such amnesty program shall apply to tax liabilities for the taxes set forth in subdivision (a) of this section ("designated taxes") for taxable periods ending or transactions or uses occurring on or before December 31, 2000, except that with respect to tax liabilities arising under any section or article of the tax law set forth in subdivision (a) of this section, which requires the filing of a return quarterly for the quarterly periods ending on the last day of February, May, August and November of each year, such amnesty program shall apply to such tax liabilities for taxable periods ending or transactions or uses occurring on or before February 28, 2001. Furthermore, with respect to tax liabilities arising under any article of the tax law, set forth in subdivision (a) of this section, which provides for the filing of an annual return on the last day of February each year, such amnesty program shall apply to such tax liabilities for transactions or uses occurring on or before February 28, 2001. Provided further, such

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amnesty program shall apply with respect to tax liabilities arising under article 26 of the tax law to estates of decedents dying on or before February 1, 2000.

(c) For purposes of the amnesty program established under this act, an eligible taxpayer is an individual, partnership, estate, trust, corporation, limited liability company, joint stock company, or any other company, trustee, receiver, assignee, referee, society, association, business or any other person as described in the tax law, who or which has a tax liability with regard to one or more of the designated taxes for the period of time described in subdivision (b) of this section.

(d) The amnesty program established herein shall provide, that upon application, including applicable returns, which application and returns shall be in such form and submitted in such manner as prescribed by the commissioner of taxation and finance, by an eligible taxpayer, and upon payment in such form and in such manner as prescribed by such commissioner, which payment shall either accompany such application or be made within the time stated on a bill issued by such commissioner to such taxpayer, of the amount of a tax liability under one or more of the designated taxes with respect to which amnesty is sought, plus related interest, such commissioner shall waive any applicable penalties (including the additional rate of interest prescribed under section 1145 of the tax law, referred to herein as "interest penalty") and shall reduce by two percent the applicable rate of interest associated with such liability, for the following: (i) for failure to pay any such tax liability; (ii) for failure to file a return or report with respect to any such tax liability; and (iii) for failure to pay estimated tax with respect to tax imposed under article 22 of the tax law, a designated tax imposed under article 9 of the tax law, a tax imposed under article 9-A of the tax law or a tax imposed pursuant to the authority of article 30, 30-A or 30-B of the tax law or article 2-E of the general city law. In addition, no civil, administrative or criminal action or proceeding shall be brought against such an eligible taxpayer relating to the tax liability covered by such waiver. Failure to pay all such taxes, plus related interest by the later of March 15, 2003, or the date prescribed therefor on a bill issued by such commissioner, shall invalidate any amnesty granted pursuant to the amnesty program established under this act.

(e) Amnesty shall not be granted to a taxpayer, where such taxpayer received any benefit under the amnesty program established either under chapter 170 of the laws of 1994 or chapter 309 of the laws of 1996, with regard to the tax with respect to which such benefit was received under any such prior amnesty program.

(f) Amnesty shall not be granted to a taxpayer who is a party to any criminal investigation being conducted by an agency of the state or any

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political subdivision thereof, is a party to any administrative proceeding or civil or criminal litigation which is pending on the date of the taxpayer's application in the bureau of conciliation and mediation services, the division of tax appeals or any court of this state or the United States, relating to any action or failure to act which is the basis for the penalty or interest with respect to which amnesty is sought. Amnesty shall also not be granted to any taxpayer who has been convicted of a crime relating to a tax that is the basis of the penalty or interest with respect to which amnesty is sought for any period or assessment for that tax. An administrative proceeding or civil litigation shall be deemed not to be pending on the date of the application if the taxpayer withdraws from such proceeding or litigation prior to the granting of amnesty.

(g) Amnesty tax return forms shall be in a form, contain such information and be submitted as prescribed by the commissioner of taxation and finance and shall provide for specifications by the applicant of the tax liability with respect to which amnesty is sought. The applicant must also provide such additional information as is required by such commissioner. Amnesty shall be granted only with respect to the tax liabilities specified by the taxpayer on such forms. Any return or report filed under the amnesty program established herein is subject to verification and assessment as provided by statute. If the applicant files a false or fraudulent tax return or report, or attempts in any manner to defeat or evade a tax under the amnesty program, amnesty shall be denied or rescinded.

(h) No refund shall be granted or credit allowed with respect to any penalty or interest paid prior to the time the taxpayer applies for amnesty pursuant to subdivision (d) of this section.

(i) Unless the commissioner of taxation and finance on his or her own motion redetermines the amount of tax due, including applicable interest, no refund shall be granted or credit allowed with respect to any taxes, including applicable interest, paid under this program.

(j) With respect to any existing installment payment agreement of an eligible taxpayer, where such agreement applies to a tax liability with respect to which amnesty is sought by such taxpayer, notwithstanding any terms of such agreement to the contrary, such taxpayer, as a condition of receiving amnesty, must pay any such liability in full by the later of the last day of the prescribed amnesty period, or the date prescribed therefor on a bill issued by the commissioner of taxation and finance.

(k) The commissioner of taxation and finance may promulgate regulations, issue forms and instructions and take any and all other actions necessary to implement the provisions of the amnesty program established under this act. Such commissioner shall publicize the amnesty program provided for herein so as to maximize public

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awareness of and participation in such program.

(l) For purposes of this section the term "taxpayer" shall include any person subject to any tax set forth in subdivision (a) of this section or any person required to collect any such tax. With respect to any designated tax imposed under article 9 of the tax law, and with respect to any tax imposed under article 9-A, 13-A, 16-A, 18-A, 22, 23 or 28 of the tax law or authorized by article 29, 30, 30-A or 30-B of the tax law or article 2-E of the general city law, the amnesty program provided for herein shall not apply to a taxpayer which has more than five hundred employees or whose combined filing group has more than five hundred employees in the United States on the date of the taxpayer's application. The term "penalty" shall not include the penalty imposed under subsection (g) of section 685 of the tax law, the penalty imposed under subdivision 2 of section 289-b of the tax law and the penalty imposed under subdivision (a) of section 315 of the tax law by reason of its incorporation by reference of such penalty imposed under subdivision 2 of section 289-b of the tax law.

(m) For purposes of this section, the amnesty tax return forms and other documents filed by taxpayers pursuant to the amnesty program established pursuant to this act shall be deemed to be reports and returns: (i) subject to the secrecy provisions in the same manner and to the same extent as if such reports or returns were referred to in subsection (e) of section 697 of the tax law, and (ii) for purposes of the criminal provisions of article 37 of the tax law.

(n) Section 266 of chapter 309 of the laws of 1996 providing for an augmentation in the amount of penalty due is repealed and shall no longer apply, except in the circumstances in which a penalty has been augmented pursuant to such section 266 as of the effective date of this act.

§ 2. For purposes of accounting for the moneys and revenues received under the amnesty program established pursuant to this act, the commissioner of taxation and finance shall report the gross revenue collected under each tax pursuant to the tax amnesty program. Such report shall be on a monthly basis, commencing the first month after the amnesty program is established and ending with the last month ending immediately prior to the issuance of the final report required pursuant to this act. Such reports shall include information concerning the gross revenue collected under each tax.

§ 3. On or before February 29, 2004, the commissioner of taxation and finance shall submit a report to the chairman of the assembly ways and means committee, the ranking minority member of the assembly ways and means committee, the chairman of the senate finance committee, the ranking minority member of the senate finance committee and the

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director of the division of the budget regarding the amnesty program established pursuant to this act. The report shall contain the following information as of the report cutoff date: (i) the number of cases by tax area in which requests for penalty and interest penalty waivers were made; (ii) the number of cases by tax area in which requests for penalty and interest penalty waivers were approved; (iii) the amount of tax and interest due in all approved and unapproved cases by tax area and the amount of penalty for unapproved cases by tax area, but not including interest on penalty; (iv) the amount of penalty and interest penalty waived in all approved cases by tax area but not including interest on penalty; (v) the gross revenue collected under each tax and the year or other applicable period for or during which the liability was incurred; (vi) the amount of money spent on advertising, notification, and outreach activities, by each activity, and a description of the form and content of such activities, by each activity; (vii) the amount paid by the department of taxation and finance for services and expenses related to the establishment of the amnesty program; (viii) an estimate of the amount of revenue foregone as a result of diverting staff of the department of taxation and finance from regular work responsibilities to work on the amnesty program; (ix) an estimate of the amount of revenue received during the period of the amnesty program provided for herein which would have otherwise been received during another period; and (x) an estimate of the net revenue generated from the amnesty program.

§ 4. The tax law is amended by adding a new section 171-k to read as follows:

**§ 171-k. Electronic signature. If any return or report relating to a tax, fee or other imposition administered by the commissioner is authorized by the commissioner to be filed electronically, then such return or report shall be signed electronically consistent with the provisions of article one of the state technology law; provided, however, that if the commissioner determines that electronic signatures that are used by the federal internal revenue service in tax administration are not consistent with the provisions of article one of the state technology law, then the commissioner, after conferring with the office for technology, may prescribe the manner and form of electronic signature on any such return or report. Such electronic signature shall conform, to the extent practicable, with electronic signatures that are used by the federal internal revenue service. The use of such an electronic signature shall have the same validity and effect as the use of a signature affixed by hand.**

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§ 5. Subparagraph (G) of paragraph 7 of subsection (a) of section 606 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

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

§ 6. Subsections (a) and (j) of section 684 of the tax law, as amended by section 117 and subsection (j) as relettered by section 147 of chapter 61 of the laws of 1989, are amended to read as follows:

(a) General.--If any amount of income tax is not paid on or before the last date prescribed in this article for payment, interest on such amount at the **underpayment** rate set by the commissioner [**of taxation and finance**] pursuant to section six hundred ninety-seven, or if no rate is set, at the rate of six per cent per annum shall be paid for the period from such last date to the date paid, whether or not any extension of time for payment was granted. Interest under this subsection shall not be paid if the amount thereof is less than one dollar. If the time for filing of a return of tax withheld by an employer is extended, the employer shall pay interest for the period for which the extension is granted and may not charge such interest to the employee.

(j) Interest on erroneous refund.--Any portion of tax or other amount which has been erroneously refunded, and which is recoverable by the commissioner [**of taxation and finance**], shall bear interest at the **underpayment** rate set by the commissioner pursuant to section six hundred ninety-seven, or if no rate is set, at the rate of six per cent per annum from the date of the payment of the refund, but only if it appears that any part of the refund was induced by fraud or a misrepresentation of a material fact.

§ 7. Paragraph 1 of subsection (c) of section 685 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(1) Addition to the tax.--Except as otherwise provided in this subsection and subsection (d), in the case of any underpayment of estimated tax by an individual, there shall be added to the tax under this article for the taxable year an amount determined by applying the [**applicable**] **underpayment** rate established under **subsection (i) of** section six hundred ninety-seven, or if no rate is set, at the rate of six percent per annum, to the amount of the underpayment for the period of the underpayment. Such period shall run from the due date for the

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required installment to the earlier of the fifteenth day of the fourth month following the close of the taxable year or, with respect to any portion of the underpayment, the date on which such portion is paid. For purposes of determining such date, a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid. There shall be four required installments for each taxable year, due on April fifteenth, June fifteenth and September fifteenth of such taxable year and on January fifteenth of the following taxable year.

§ 8. The opening paragraph of subsection (a) of section 688 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

Notwithstanding the provisions of section sixteen of the state finance law, interest shall be allowed and paid as follows at the **overpayment** rate set by the commissioner [**of taxation and finance**] pursuant to section six hundred ninety-seven, or if no rate is set, at the rate of six per cent per annum upon any overpayment in respect of the tax imposed by this article:

§ 9. Paragraph 1 of subsection (j) of section 697 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(1) The commissioner [**of taxation and finance**] shall set the **overpayment and underpayment** rates of interest to be paid pursuant to sections six hundred eighty-four, six hundred eighty-five and six hundred eighty-eight, but if no such rates of interest are set, such rates shall be deemed to be set at six percent per annum. Such rates shall be the rates prescribed in paragraphs two and four of this subsection, but shall not be less than six percent per annum. Any such rates set by the commissioner shall apply to taxes, or any portion thereof, which remain or become due or overpaid on or after the date on which such rates become effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period during which such rates are in effect.

§ 10. Paragraph 2 of subsection (j) of section 697 of the tax law, as amended by chapter 190 of the laws of 1990, is amended to read as follows:

(2) [**Rate**] **Rates** of interest. **(A) Overpayment rate.** The **overpayment** rate of interest set under this subsection shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subsection, plus (ii) two percentage points. **(B) Underpayment rate. The underpayment rate of interest set under this subsection shall be the sum of (i) the federal short-term rate as provided**

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**under paragraph three of this subsection, plus (ii) four percentage points.**

§ 11. Subparagraph (B) of paragraph 2 of subsection (e) of section 1096 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(B) Underpayment rate. The underpayment rate set under this subsection shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subsection, plus (ii) **[three] five** percentage points.

§ 12. Subparagraph (ii) of paragraph 1 and paragraph 2 of subdivision (a) of section 1145 of the tax law, as amended by chapter 61 of the laws of 1989, are amended to read as follows:

(ii) If any amount of tax is not paid on or before the last date prescribed in this article for payment, interest on such amount at the rate of **[twelve per cent] fourteen percent** per annum or at the underpayment rate set by the commissioner **[of taxation and finance]** pursuant to section eleven hundred forty-two, whichever is greater, shall be paid for the period from such last date to the date paid, whether or not any extension of time for payment was granted. Interest under this subparagraph shall not be paid if the amount thereof is less than one dollar.

(2) If the failure to pay or pay over any tax to the commissioner **[of taxation and finance]** within the time required by this article is due to fraud, in lieu of the penalties and interest provided for in subparagraphs (i) and (ii) of paragraph one of this subdivision, there shall be added to the tax (i) a penalty of fifty percent of the amount of the tax due, plus (ii) interest on such unpaid tax at the rate of **[twelve] fourteen** percent per annum or the underpayment rate of interest set by the commissioner pursuant to section eleven hundred forty-two, whichever is greater, for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to any extension of time for paying) and ending on the day on which such tax is paid, plus (iii) for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to any extension of time for paying) and ending on the day the amount of tax due is finally determined or, if earlier, on the day on which such tax is paid, an amount equal to fifty percent of the interest payable under subparagraph (ii) of this paragraph, on that portion of the unpaid tax which is attributable to fraud.

§ 13. Paragraph (a) of subdivision 1 of section 1405 of the abandoned property law, as amended by chapter 190 of the laws of 1990, is amended to read as follows:



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(a) Notwithstanding any other provision of law, no owner of abandoned property shall be entitled to receive interest on account of such abandoned property from and after the date a payment of such abandoned property is hereafter made to the state comptroller pursuant to this chapter or any law relating to abandoned property, whether or not he was entitled to interest on such property prior to such date, except that interest at the **overpayment** rate set by the commissioner of taxation and finance pursuant to subsection (j) of section six hundred ninety-seven of the tax law, less one percentage point, shall accrue to abandoned property hereafter paid to the state comptroller under the following provisions of this chapter, for the first five years such property is held by him:

- (i) paragraph (a) of subdivision one of section three hundred of this chapter; or
- (ii) subdivision one of section four hundred of this chapter; or
- (iii) paragraph (a) of subdivision one of section six hundred of this chapter; or
- (iv) subdivision one of section ten hundred of this chapter.

§ 14. Subdivision 6 of section 72-0201 of the environmental conservation law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

6. In addition to any penalty that may be assessed pursuant to subdivision five of this section, there shall be collected interest upon the unpaid amount at the underpayment rate set by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, **minus two percentage points**. Such interest shall accrue thirty days from the date prescribed for fee payment until payment is actually made to the department.

§ 15. Subparagraph (iii) of paragraph 2 of subsection (a) of section 1112 of the insurance law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(iii) If any insurer fails to pay all or any part of the initial payment or estimated payment due pursuant to subparagraph (i) or (ii) of this paragraph, it shall be deemed to have made an underpayment. There shall be added to the amount due pursuant to paragraph one of this subsection, an amount at the rate set for underpayments by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, **minus two percentage points**, or if no rate is set, at the rate of six percent per annum upon the amount of the underpayment for the period of the underpayment. In computing the amount of any interest required to be paid, such interest shall not be compounded. The amount of the underpayment shall be, with respect

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to the initial payment or any estimated payment, the excess of the amount required to be paid over the amount, if any, paid on or before the last day prescribed for such payment. If the superintendent demands payment of the initial payment or any estimated payment, and if such amount is paid within ten days after the date of such demand, interest on the amount so paid shall not be imposed for the period after the date of such demand. No portion of the interest imposed pursuant to this subparagraph may be waived.

§ 16. Paragraph (a) of subsection 4 of section 9110 of the insurance law, as added by section 421 of chapter 55 of the laws of 1992, is amended to read as follows:

(a) Interest. If any amount of tax is not paid on or before the date prescribed for payment thereof in subsection two of this section, interest on such amount of tax at the underpayment rate set by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, plus **[five] three** percentage points, shall be paid to the superintendent for the period from the date prescribed for payment until the date paid.

§ 17. Paragraph (a) of subsection 4 of section 9111 of the insurance law, as added by chapter 1 of the laws of 1993, is amended to read as follows:

(a) Interest. If any amount of tax is not paid on or before the date prescribed for payment thereof in subsection two of this section, interest on such amount of tax at the underpayment rate set by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, plus **[five] three** percentage points, shall be paid to the superintendent for the period from the date prescribed for payment until the date paid.

§ 18. Paragraph 1 of subsection (d) of section 9111-a of the insurance law, as added by chapter 309 of the laws of 1996, is amended to read as follows:

(1) Interest. If any amount of tax is not paid on or before the date prescribed for payment thereof in paragraph two of this subsection, interest on such amount of tax at the underpayment rate set by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, plus **[five] three** percentage points, shall be paid to the superintendent for the period from the date prescribed for payment until the date paid.

§ 19. Paragraph 1 of subsection (d) of section 9111-b of the insurance law, as added by chapter 161 of the laws of 1997, is amended to read as follows:

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(1) Interest. If any amount of tax is not paid on or before the date prescribed for payment thereof in paragraph two of this subsection, interest on such amount of tax at the underpayment rate set by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, plus **[five] three** percentage points, shall be paid to the superintendent for the period from the date prescribed for payment until the date paid.

§ 20. Paragraph 1 of subsection (d) of section 9111-c of the insurance law, as added by section 12 of part JJ of chapter 407 of the laws of 1999, is amended to read as follows:

(1) Interest. If any amount of tax is not paid on or before the date prescribed for payment thereof in paragraph two of this subsection, interest on such amount of tax at the underpayment rate set by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, plus **[five] three** percentage points, shall be paid to the superintendent for the period from the date prescribed for payment until the date paid.

§ 21. Subparagraph (i) of paragraph (a) of subdivision 3 of section 77 of the lien law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(i) Relief to compel an interim or final accounting by the trustee; to identify and recover trust assets in the hands of any person together with interest accrued thereon from the time of the diversion. Interest shall be computed at the rate equal to the underpayment rate set by the commissioner of taxation and finance pursuant to subsection (e) of section one thousand ninety-six of the tax law, **minus two percentage points**; to set aside as a diversion any unauthorized payment, assignment or other transfer, whether voluntary or involuntary; to enjoin a diversion; to recover damages for breach of trust or participation therein;

§ 22. Paragraph (a) of subdivision 8 of section 43.04 of the mental hygiene law, as amended by chapter 41 of the laws of 1992, is amended to read as follows:

(a) If an estimated payment made for a month to which an assessment applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner of the office of mental retardation and developmental disabilities on the difference between the amount paid and the amount due from the day of the month the estimated payment was due until the date of payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one

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thousand ninety-six of the tax law **minus two percentage points**. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest, if not paid by the due date of the following month's estimated payment, may be collected by the commissioner of the office of mental retardation and developmental disabilities pursuant to paragraph (c) of subdivision six of this section in the same manner as an assessment pursuant to subdivision two of this section.

§ 23. Paragraph (a) of subdivision 8 of section 43.06 of the mental hygiene law, as amended by chapter 41 of the laws of 1992, is amended to read as follows:

(a) If an estimated payment made for a month to which an assessment applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner on the difference between the amount paid and the amount due from the day of the month the estimated payment was due until the date of payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law **minus two percentage points**. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest, if not paid by the due date of the following month's estimated payment, may be collected by the commissioner pursuant to paragraph (c) of subdivision six of this section in the same manner as an assessment pursuant to subdivision two of this section.

§ 24. Subparagraph (i) of paragraph (c) of subdivision 20 of section 2807-c of the public health law, as amended by chapter 731 of the laws of 1993, is amended to read as follows:

(i) Interest shall be due and payable to the commissioner by a general hospital or by a payor paying directly to a pool on the difference between the amount paid to a pool and the amount due to such pool by the hospital or payor from the day of the month the payment was due until the date of payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law **minus two percentage points**. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest may be collected by the commissioner in the same manner as an arrearage pursuant to this subdivision.

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§ 25. Paragraph (a) of subdivision 8 of section 2807-d of the public health law, as amended by chapter 41 of the laws of 1992, is amended to read as follows:

(a) If an estimated payment made for a month to which an assessment applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner on the difference between the amount paid and the amount due from the day of the month the estimated payment was due until the date of payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law **minus two percentage points**. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest, if not paid by the due date of the following month's estimated payment, may be collected by the commissioner pursuant to paragraph (c) of subdivision six of this section in the same manner as an assessment pursuant to subdivision two of this section.

§ 26. Subparagraph (i) of paragraph (c) of subdivision 4 of section 2807-f of the public health law, as added by chapter 639 of the laws of 1996, is amended to read as follows:

(i) If a payment made for a month to which a payment factor applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner by a health maintenance organization on the difference between the amount paid and the amount due from the day of the month the payment was due until the date of payment. The rate of interest shall be twelve percent per annum or, if greater, at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law **minus two percentage points**. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar.

§ 27. Paragraph (a) of subdivision 8 of section 2807-j of the public health law, as amended by chapter 419 of the laws of 2000, is amended to read as follows:

(a) If a payment made pursuant to this section or to section twenty-eight hundred seven-s or twenty-eight hundred seven-t of this article for a month to which an allowance applies is less than ninety percent of the amount due or which the commissioner estimates, based on available financial and statistical data, is due for such month, interest shall be due and payable to the commissioner by a designated provider of services, or by a third-party payor, other than a state governmental agency, that has elected to pay an allowance directly, on the difference

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between the amount paid and the amount due or [~~estimate~~] **estimated** to be due from the day of the month the payment was due until the date of payment. The rate of interest shall be twelve percent per annum or, if greater, at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law **minus two percentage points**. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest due from a designated provider of services, if not paid by the due date of the following month's payment, may be collected by the commissioner pursuant to paragraph (c) of subdivision six of this section in the same manner as an allowance pursuant to subdivision two of this section.

§ 28. Paragraph (a) of subdivision 8 of section 3614-a of the public health law, as amended by chapter 41 of the laws of 1992, is amended to read as follows:

(a) If an estimated payment made for a month to which an assessment applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner on the difference between the amount paid and the amount due from the day of the month the estimated payment was due until the date of payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law **minus two percentage points**. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest, if not paid by the due date of the following month's estimated payment, may be collected by the commissioner pursuant to paragraph (c) of subdivision six of this section in the same manner as an assessment pursuant to subdivision two of this section.

§ 29. Paragraph (a) of subdivision 8 of section 3614-b of the public health law, as added by chapter 41 of the laws of 1992, is amended to read as follows:

(a) If an estimated payment made for a month to which assessment applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner on the difference between the amount paid and the amount due from the day of the month the estimated payment was due until the date of the payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayment of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law **minus two percentage points**.

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Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest, if not paid by the due date of the following month's estimated payment, may be collected by the commissioner pursuant to paragraph (c) of subdivision six of this section in the same manner as an assessment pursuant to subdivision two of this section.

§ 30. Subdivision 2 of section 726 of the real property tax law, as amended by chapter 395 of the laws of 1993, is amended to read as follows:

2. Interest shall be paid on the amount of any refund made pursuant to this section, computed from the date of payment of the tax or other levy or portion thereof refunded; provided, however, that interest on the amount of any such refund for the period after any final order determining the assessment reviewed to be excessive, unequal or unlawful, or determining that real property was misclassified, notwithstanding that an appeal in the proceeding or from such order may be pending, shall be paid only from the date that application for audit and payment of such refund shall have been duly made to the appropriate fiscal officer or body. Such rate of interest shall be the **overpayment** rate set by the commissioner of taxation and finance pursuant to subsection (j) of section six hundred ninety-seven of the tax law and such interest rate shall not be greater than nine percent per annum. Provided, the interest rate of the first calendar quarter set forth in the first month of the calendar year shall be the annual interest rate, and shall be the rate of interest prescribed by this subdivision. If, as a result of an appeal, there shall be an increase in the amount to be refunded, for the purposes of computing the interest thereon the determination upon such appeal shall be deemed a determination only with respect to such increase.

§ 31. Subdivision 2 of section 924-a of the real property tax law, as separately amended by chapters 190 and 529 of the laws of 1990, is amended to read as follows:

2. The rate of interest applicable to the third calendar quarter of each year, as set by the commissioner of taxation and finance pursuant to subsection (j) of section six hundred ninety-seven of the tax law shall be the rate of interest [**prescribed by this subdivision**] **set by the commissioner of taxation and finance pursuant to subparagraph (A) of paragraph two of such subsection (j)**. Such commissioner shall set such rate on or before the fifteenth day of July in each year. Such rate shall be effective for all warrants issued for a collection period commencing on or after the first day of September next

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succeeding the date the rate of interest is set. Provided, however, the rate of interest prescribed by this subdivision shall in no event be less than twelve per centum per annum. Provided, further, for warrants issued for a collection period commencing on or after September first, nineteen hundred ninety and prior to September first, nineteen hundred ninety-one, the overpayment rate of interest set by the commissioner of taxation and finance pursuant to subsection (e) of section one thousand ninety-six of the tax law for the month of September, nineteen hundred ninety shall be deemed to be the rate of interest applicable to the third calendar quarter of nineteen hundred ninety. The state board shall inform each affected municipality of any change in the rate established pursuant to this subdivision.

§ 32. Paragraph (a) of subdivision 7 of section 367-i of the social services law, as amended by chapter 41 of the laws of 1992, is amended to read as follows:

(a) If an estimated payment made for a month to which an assessment applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner of health on the difference between the amount paid and the amount due from the day of the month the estimated payment was due until the date of payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law **minus two percentage points**. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest, if not paid by the due date of the following month's estimated payment, may be collected by the commissioner of health pursuant to paragraph (c) of subdivision five of this section in the same manner as an assessment pursuant to subdivision two of this section.

§ 33. Subdivision 4 of section 18 of the state finance law, as added by chapter 55 of the laws of 1992, is amended to read as follows:

4. Unless provided otherwise by contract, statute or regulation, a debtor that fails to make payment of a debt within the period set forth in subdivision three of this section shall pay, in addition to the amount of debt, the greater of: (a) interest on the outstanding balance of the debt, accruing on the date on which the receipt of the first billing invoice or first notice occurs, computed at the underpayment rate which is in effect on the date which the receipt of the first billing invoice or first billing notice occurs; or (b) a late payment charge of ten dollars. For the purposes of this section, the underpayment rate shall be that rate set by the commissioner of taxation and finance and published in the state register pursuant to subsection (e) of section one thousand ninety-six of



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the tax law **minus two percentage points**. With respect to specific classes of debt collected by a state agency, the director of the budget or official of a state agency so designated by the director of the budget may approve the assessment of interest or late payment charges at a date later than the thirtieth day following such debtor's receipt of any billing invoice or notice sent by the state agency.

§ 34. Subdivisions (a) and (j) of section 11-1784 of the administrative code of the city of New York, as amended by section 141 and subdivision (j) as relettered by section 149 of chapter 61 of the laws of 1989, are amended to read as follows:

(a) General. If any amount of income tax is not paid on or before the last date prescribed in this chapter for payment, interest on such amount at the **underpayment** rate set by the commissioner of taxation and finance pursuant to section 11-1797, or if no rate is set, at the rate of six percent per annum shall be paid for the period from such last date to the date paid, whether or not any extension of time for payment was granted. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar. If the time for filing of a return of tax withheld by an employer is extended, the employer shall pay interest for the period for which the extension is granted and may not charge such interest to the employee.

(j) Interest on erroneous refund. Any portion of tax or other amount which has been erroneously refunded, and which is recoverable by the commissioner of taxation and finance, shall bear interest at the **underpayment** rate set by such commissioner pursuant to section 11-1797, or if no rate is set, at the rate of six percent per annum from the date of the payment of the refund, but only if it appears that any part of the refund was induced by fraud or a misrepresentation of a material fact.

§ 35. Paragraph 1 of subdivision (c) of section 11-1785 of the administrative code of the city of New York, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(1) Addition to the tax. Except as otherwise provided in this subdivision and subdivision (d), in the case of any underpayment of estimated tax by an individual, there shall be added to the tax under this chapter for the taxable year an amount determined by applying the **[applicable] underpayment** rate established under section 11-1797, or if no rate is set, at the rate of six percent per annum, to the amount of the underpayment for the period of the underpayment. Such period shall run from the due date for the required installment to the earlier of the fifteenth day of the fourth month following the close of the taxable year or, with respect to any portion of the underpayment, the date on

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which such portion is paid. For purposes of determining such date, a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid. There shall be four required installments for each taxable year, due on April fifteenth, June fifteenth and September fifteenth of such taxable year and on January fifteenth of the following taxable year.

§ 36. The opening paragraph of subdivision (a) of section 11-1788 of the administrative code of the city of New York, as amended by chapter 61 of the laws of 1989, is amended to read as follows: Notwithstanding the provisions of section sixteen of the state finance law, interest shall be allowed and paid as follows at the **overpayment** rate set by the commissioner of taxation and finance pursuant to section 11-1797, or if no rate is set, at the rate of six percent per annum upon any overpayment in respect of the tax imposed by this chapter.

§ 37. Paragraphs 1 and 2 of subdivision (j) of section 11-1797 of the administrative code of the city of New York, paragraph 1 as amended by chapter 61 of the laws of 1989 and paragraph 2 as amended by chapter 190 of the laws of 1990, are amended to read as follows:

(1) Authority to set interest rates. The commissioner of taxation and finance shall set the **overpayment and underpayment** rates of interest to be paid pursuant to sections 11-1784, 11-1785 and 11-1788, but if no such rates of interest are set, such rates shall be deemed to be set at six percent per annum. Such rates shall be the rates prescribed by paragraphs two and four of this subdivision, but shall not be less than six percent per annum. Any such rates set by such commissioner shall apply to taxes, or any portion thereof, which remain or become due or overpaid on or after the date on which such rates become effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period during which such rates are in effect.

(2) **[Rate] Rates of interest. (A) Overpayment rate.** The **overpayment** rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) two percentage points. **(B) Underpayment rate. The underpayment rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) four percentage points.**

§ 38. This act shall take effect immediately, provided however, that:

(a) Sections five through thirty-seven of this act shall take effect April 1, 2003, and shall apply to the interest chargeable or due on taxes or on any other amounts, or any portion thereof, which remain or become due

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or overpaid on or after April 1, 2003; provided however that: (1) the interest rates set pursuant to subsection (j) of section 697 and subsection (e) of section 1096 of the tax law, as such subsections existed prior to amendment by sections nine, ten and eleven of this act, and pursuant to subdivision (j) of section 11-1797 of the administrative code of the city of New York, as such subdivision existed prior to amendment by section thirty-seven of this act, and the interest rates to be paid under subparagraph (ii) of paragraph 1 and paragraph 2 of subdivision (a) of section 1145 of the tax law, as such provisions existed prior to amendment by section twelve of this act, shall apply up to, and including March 31, 2003, to the interest chargeable or due on taxes or on other amounts for which interest rates are set under this act; and (2) any rules or regulations necessary to implement the provisions of sections five through thirty-seven of this act may be promulgated and any procedures, forms or instructions necessary for such implementation may be issued on or after the date this act shall have become a law;

(b) The commissioner of taxation and finance is authorized to promulgate regulations on an emergency basis pursuant to subdivision 6 of section 202 of the state administrative procedure act, in order to implement the provisions of sections one through four of this act; and

(c) The amendments to paragraph (a) of subdivision 8 of section 2807-j of the public health law made by section twenty-seven of this act shall not affect the expiration of such section and shall be deemed to expire therewith.