New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

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Corporation Tax
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1985 Legislation Affecting

Safe Harbor Lease Arrangements

Chapter 43 of the Laws of 1985 amended references to safe harbor leases in Articles 9-A, 32 and 33 of the New York State Tax Law.

These amendments indefinitely extend the uncoupling from the federal system of the tax attributes of safe harbor leases. Accordingly, the required additions and subtractions in computing New York State entire net income will remain as follows:

Additions:

1) any amount the taxpayer claimed- as a deduction in computing federal taxable income solely as a result of an election made under Section 168(F)(8) of the Internal Revenue Code; and

2) any amount the taxpayer would have been required to include in the computation of its federal taxable income had it not made the election permitted under Section 168(F)(8) of the Internal Revenue Code.

Subtractions:

1) any amount included in the taxpayer's federal taxable income solely as a result of an election made under Section 168(F)(8) of the Internal Revenue Code; and

2) any amount the taxpayer could have excluded from federal taxable income had it not made the election provided for in Section 168(F)(8) of the Internal Revenue Code.

Exempt from these amendments are safe harbor leases for qualified mass commuting vehicles (as defined in Section 103(b)(9) of the Internal Revenue Code) which are financed in whole or in part by obligations, the interest on which is excludible from income under Section 103(a) of the Internal Revenue Code.

These amendments apply to Sections 208.9(a)(9), 208.9(a)(10) and 208.9(b)(8) and (9) of Article 9-A, 1453(b)(7) and (8), 1453(e)(5) and 1453(e)(6) of Article 32 and 1503(b) (l) (F) and (G) and 1503 (b) (2) (K) and (L) of Article 33 of the Tax Law.

The uncoupling applies to taxable years beginning after December 31, 1981.