STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
STATE TAX COMMISSION
ALBANY, NEW YORK

Pursuant to the authority contained in sections 171, 697, 722 and Articles 9-A and 23 of the Tax Law, the State Tax Commission hereby promulgates a Regulation in relation to the credit under the franchise tax imposed by Article 9-A and the unincorporated business income tax imposed by Article 23 of the Tax Law relating to stock transfer tax, to be published as Appendix 4-A of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York, amends its Ruling with respect to the Franchise Tax on Business Corporations imposed by Article 9-A of the Tax Law as published in Subchapter A of Chapter I of such Title, by adding thereto a new section 10.1 to be contained in a new Part 10, to make the provisions of such Appendix 4-A applicable to the provisions of such Ruling and amends its Unincorporated Business Income Tax Regulation as published in Subchapter B of Chapter II of such Title, by adding thereto a new section 223.1 to be contained in a new Part 223, to make the provisions of such Appendix 4-A applicable to the provisions of such Regulation; such Appendix 4-A, section 10.1 and section 223.1 to read as follows:

APPENDIX 4-A

REGULATION IN RELATION TO THE CREDIT UNDER THE FRANCHISE TAX IMPOSED BY ARTICLE 9-A AND THE UNINCORPORATED BUSINESS INCOME TAX IMPOSED BY ARTICLE 23 OF THE TAX LAW RELATING TO STOCK TRANSFER TAX.

(a) In General (1) Chapter 842 of the Laws of 1976, which extend the stock transfer tax surcharge imposed by section 270-d of the Tax Law (see Part 441 of this Title) amended the franchise tax imposed by Article 23 of the Tax Law to allow a credit under such Articles 9-A and 23 relating to the stock transfer tax. Chapter 842 also amended the New York City franchise tax imposed by Title R and the unincorporated business income tax imposed by Title S of the Administrative Code of the City of New York
to allow a similar credit. Inquiries in relation to the New York City taxes, should be referred to the Finance Administrator of the City of New York.

(2) The credit against the franchise tax imposed by Article 9-A and the unincorporated business income tax imposed by Article 23 of the Tax Law in relation to the stock transfer tax are allowed by subdivision 14 of section 210 and subsection (e) of section 701 of the Tax Law, respectively.

(3) (i) The credit is an amount equal to 50 percent of the stock transfer tax incurred in market-making transactions on such transactions subject to such tax occurring after July 31, 1976 and paid by the taxpayer other than any stock transfer tax paid pursuant to section 279-a of Article 12 of the Tax Law.

(ii) The credit is allowed to corporations subject to tax under Article 9-A and unincorporated businesses subject to tax under Article 23 of the Tax Law. However in order to be eligible to claim the credit, such taxpayers must also be registered with the Securities and Exchange Commission in accordance with subsection (b) of section 15 of the Securities Exchange Act of 1934, as amended (15 U.S.C.A. 78 o), and which are acting as a dealer, but the credit is limited to those transactions which constitute market-making transactions.

(iii) The credit allowable is deemed to be an overpayment to be credited or refunded in accordance with the provisions of sections 1086 (in the case of corporations) and 686 (in the case of unincorporated businesses) of the Tax Law. However, the amount of tax due under such articles and declarations and payments of estimated taxes must be paid at the time and in the manner otherwise provided without any deduction of or allowance for the credit relating to stock transfer tax. The amount of the credit or refund will not be refunded until on or after the first day of the eighth month following the close of the taxpayer's taxable year (August 1 in the case of taxpayers on a calendar year basis).
(4) Taxpayers claiming the credit are required to make certain modifications to Federal taxable income in the case of corporations and Federal gross income in the case of unincorporated businesses. Taxpayers must deduct the amount allowed as exclusion or deduction for stock transfer taxes in determining their Federal gross income (in the case of unincorporated businesses) or Federal taxable income (in the case of corporations) which the taxpayer is required to report to the United States Treasury Department; provided, however, that such modification is limited to the amount of the credit allowed.

(5) Taxpayers are also required to modify their Federal taxable income (in the case of corporations) or Federal gross income (in the case of unincorporated businesses), respectively, to include in such income the amount by which the credit allowed exceeds the amount of tax due under Article 9-A or 23 for such year computed without regard to such credit. If the excess amount described in the preceding sentence is included in gross income for Federal income tax purposes, the modification described therein is not required.

(b) Definitions: For the purposes of the credit allowed under subdivision 14 of section 210 and subsection (e) of section 701 of the Tax Law, as used in this Appendix, the following words or phrases shall have the meaning hereinafter prescribed:

(1) "Taxpayer" means:

(1) a corporation subject to tax under Article 9-A of the Tax Law or an unincorporated business subject to tax under Article 23 of the Tax Law,

(ii) which is registered with the Securities and Exchange Commission under section 15(b) of the Securities Exchange Act of 1934, as amended (15 U.S.C.A. 78a et seq.) and

(iii) which is acting as a "dealer" in a "market-making transaction" as such terms are defined in this subdivision, except as otherwise provided in paragraph (3)(ii)(b) thereof.

(2) "Dealer" means a taxpayer which is a merchant of securities with an established place of business, regularly
engaged in the purchase of securities and their resale to customers, that is, one who as a merchant, buys securities and sells them to customers with a view to the gains and profits that may be derived therefrom.

Taxpayers who buy and sell or hold securities for investment or speculation, irrespective of whether such buying or selling constitutes the carrying on of a trade or business, and officers of corporations and members of partnerships who in their individual capacities buy and sell securities are not dealers in securities within the meaning of this section (see 26 C.F.R. 1.471-5.)

(3) "Market-Making Transaction" means:

(i) any transaction:

(a) by a dealer, except as otherwise provided in sub-paragraph (ii)(b) of this paragraph

(b) involving a sale (including a short sale) made within the State, of shares or certificates subject to the stock transfer tax imposed under Article 12 of the Tax Law, and

(ii) (a) provided such security is not identified in such dealer's records as a security held for investment within the meaning of and as provided in section 1236 of the Internal Revenue Code of 1954, and such security is sold

(1) as stock in trade or inventory or as property held for sale in the ordinary course of such dealer's trade or business (including transfers which are part of an underwriting) which, except with respect to short sales, would qualify to be carried as inventory under section 471 of the Internal Revenue Code of 1954, as amended, or

(2) in a bona fide arbitrage transaction, or
(a) in bona fide hedge transaction involving a long or short position in any equity security and a long or short term position in a security entitling the holder to acquire or sell such equity security, or

(b)  to offset a transaction made in error.

The transactions set forth in (2), (3), and (4), are as those terms are used in section 11(a)(1)(D) and (F) of the Securities Exchange Act of 1934, as amended (15 U.S.C.A. 78k(a)(1)(D) and (F)).

or (b)  in a risk arbitrage transaction in connection with a merger, acquisition, or similar transaction, whether or not by a dealer (see 17 C.F.R. 240.15c3-1 (c)(2)(VI)(I)).

(c) Specific provisions. (1) Transactions which do not qualify.

(1) Transactions executed or effected by a broker acting as agent for a customer who is the principal in purchasing or selling securities are not eligible for inclusion in the amount of the credit.

(ii) Specialists and other dealers who invest or purchase specific securities for investment or speculation, including those in which they act as a specialist, are not eligible to claim the credit on any such transaction.

(iii) A broker registered with the Securities and Exchange Commission as a broker-dealer is allowed the credit only in those transactions where the broker-dealer is acting as a dealer. No credit is allowed in transactions where the broker-dealer is acting as an agent, nor in any case, where the securities are purchased for investment, whether acting as a dealer or as a broker (agent).

(iv) The credit is allowed only with respect to transactions occurring on or after August 1, 1976, i.e., where the trade date occurs on or after August 1, 1976. Where the trade date occurred prior to August 1, 1976, no stock transfer tax may be included in
computing a claim for the credit even though the settlement date
occurs on or after August 1, 1976.

(v) A floor trader, that is, one engaged in the trade or business
of buying and selling securities for speculation or investment and
not as inventory for sale to others, is not eligible for
the credit, except with respect to a risk arbitrage transaction
described in subdivision (b)(3)(ii)(b) of this Appendix.

(vi) No credit is allowed for a sale made outside the State
of New York even though a stock transfer tax may be
incurred by a dealer in a market-making transaction
because of some other taxable event within the State,
e.g. by a delivery in this State on a transfer subject
to the stock transfer tax. In order to be eligible to
claim the credit, the sales must be made within the State.

(vii) No credit is allowable to a dealer who is not subject to
the franchise tax imposed by Article 9-A of the Tax Law
or the unincorporated business income tax imposed by
Article 23 thereof.

(2) Transactions which do qualify. Example: A specialist registered as
such with an exchange located in New York and with the Securities
and Exchange Commission under section 15 (b) of the Securities
Exchange Act of 1934, as amended, agrees to sell a certificate of
stock on the trading floor of such an exchange. Such certificate
was acquired by the specialist as stock in trade, or inventory or as
property held for sale in the ordinary course of his trade or business
and has never been identified in such specialist's records as a
security held for investment within the meaning of section 1236 of
the Internal Revenue Code of 1954, as amended. The certificate is
sold by him in New York. Delivery of the certificate is affected
in New York, whether through a system for the central handling
of securities, or otherwise. The specialist is allowed
to include the stock transfer tax he paid in the amount
eligible for the credit relating to the stock transfer tax in his
franchise tax claim for credit or in his unincorporated business
income tax claim for credit. For recordkeeping requirements in
relation to the credit, see subdivision (d) of this Appendix.
(d) Cross References. For applicability of this Appendix to the provisions of the Ruling with respect to Franchise Tax on Business Corporations see section 10.1 in Subchapter A of Chapter I of this Title.

For applicability of this Appendix to the provisions of the Unincorporated Business Income Tax Regulation see section 223.1 in Subchapter B of Chapter II of this Title.

For forms required to be kept in connection with the stock transfer tax, see sections 442.2(1), 442.3(1) in Subchapter G of Chapter II of this Title and Appendix 4 of this Title.

PART 10

CREDIT RELATING TO STOCK TRANSFER TAX

(Statutory Authority: Tax Law, § 171)

Sec.

10.1 Applicability of the provisions of Appendix 4-A

Section 10.1 Applicability of the provisions of Appendix 4-A.

(Tax Law, §§ 208 subd. 9(a)(5) and (b)(4-a), 210.14, 213 subd. 1 and 3, 213-a(b), 213-b(k)) The provisions of this section shall be read as if the provisions of Appendix 4-A of the regulations of the State Tax Commission (other than the provisions thereof relating exclusively to the tax imposed under article 23 of the Tax Law) were set forth in full in this section. The provisions of such Appendix 4-A shall apply to the provisions of this Subchapter, wherever applicable, including, but not limited to, provisions relating to credits, adjustments to Federal taxable income, reports and payments of tax, and the provisions of this Subchapter shall be read as modified by the provisions of such Appendix 4-A.
PART 223

CREDIT RELATING TO STOCK TRANSFER TAX

(Statutory Authority: Tax Law, §§ 171, 697, 722)

Sec.

223.1 Applicability of the provisions of Appendix 4-A

Section 223.1 Applicability of the provisions of Appendix 4-A.

(Tax Law, §§ 701(b) and (e), 705(b)(4) and (5), 705(c)(6), 715(b), 716(f), 722(b)) The provisions of this section shall be read as if the provision of Appendix 4-A of the regulations of the State Tax Commission (other than the provisions thereof relating exclusively to the tax imposed under article 9-A of the Tax Law) were set forth in full in this section. The provisions of such Appendix 4-A shall apply to the provisions of this Subchapter, wherever applicable, including, but not limited to, provisions relating to credits, modifications of Federal gross income, returns, declarations and payments of tax, and the provisions of this Subchapter shall be read as modified by the provisions of such Appendix 4-A.

August 18, 1976

Albany, New York

STATE TAX COMMISSION

/s/ James H. Tully, Jr.
President

/s/ Milton Koerner
Commissioner

/s/ Thomas H. Lynch
Commissioner
Pursuant to the authority contained in section 171 of the Tax Law, the State Tax Commission hereby amends its Stock Transfer Tax Regulations, as published in Subchapter G of Chapter III of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York and, with respect to the account book to be kept by brokers, as published in Appendix 4 of such title, by amending subdivision (1) of section 442.2, by adding subdivision (1) to section 442.3 thereof and by amending Appendix 4 of such Title 20 thereof, to read, respectively, as follows:

Section 442.2 Payment of tax by brokers through clearing corporation. (Tax Law, § 281-a)

(i) Forms: (a) Form MT-675

(i) Forms:

Form MT-675

REPORT TO CLEARING CORPORATION

We hereby certify that the amount specified below is the amount of stock transfer taxes payable by us on all sales, deliveries or transfers made by us and due for settlement by us this day, and we hereby authorize and direct the Clearing Corporation to remit to the New York State Tax Commission or its duly designated depository, and to charge to our account, such amount.

Amount of tax due $_____________________

Date ____________ Broker’s signature ________________

<table>
<thead>
<tr>
<th>Items of Above Amount</th>
<th>Not Eligible For Credit Relating To Stock Transfer Tax</th>
<th>Eligible For Credit Relating To Stock Transfer Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York Stock Exchange Transactions</td>
<td>$__________________________</td>
<td>$__________________________</td>
</tr>
<tr>
<td>American Stock Exchange Transactions</td>
<td>$__________________________</td>
<td>$__________________________</td>
</tr>
<tr>
<td>All other Transactions</td>
<td>$__________________________</td>
<td>$__________________________</td>
</tr>
</tbody>
</table>
TO: Depositary, New York State Tax Commission

We remit herewith the amount stated below representing the total amount of New York State Stock Transfer taxes which we have been authorized to pay on all sales, deliveries or transfers due for clearance or settlement this day on behalf of the clearing brokers listed in the accompanying schedule bearing even date herewith.

AMOUNT OF REMITTANCE

Must agree with amount shown on accompanying schedule

Date

Clearing Corporation

By

Authorized Signature

To STATE TAX COMMISSION
MISCELLANEOUS TAX BUREAU
STATE CAMPUS
ALBANY, NEW YORK 12226

We have this day credited to the account of the New York State Tax Commission, subject to final payment, a check for stated by them to represent the total amount of taxes they have been authorized to pay on all sales, deliveries or transfers due for clearance or settlement this day on behalf of the clearing brokers listed in a schedule accompanying said check and bearing even date herewith which schedule has been retained in our files.

DO NOT WRITE IN SPACE BELOW

AMOUNT

This stub when stamped with facsimile signature of stamp teller, date, transaction number, with an amount entered in ink over the facsimile signature of stamp teller constitutes a receipt for your remittance accompanied by Forms MT-680 and MT-680.1.

By

Stamp Teller
Form MT-680.1

SCHEDULE OF TAXES DEPOSITED BY CLEARING CORPORATION

(to accompany Form MT-680)

<table>
<thead>
<tr>
<th>Amount of Tax</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Not Eligible</td>
<td>Eligible</td>
</tr>
<tr>
<td>For Credit Relating To Stock Transfer Tax</td>
<td>For Credit Relating To Stock Transfer Tax</td>
</tr>
<tr>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Name of Clearing Broker

________________________________________________________

Date

________________________________________________________

Clearing Corporation
STATE OF NEW YORK - DEPARTMENT OF TAXATION AND FINANCE  
MISCELLANEOUS TAX BUREAU  
ALBANY, N.Y. 12227  

Weekly Return of Stock Transfer Taxes - Article 12 of the Tax Law

We remit herewith the amount stated below, representing the total amount of stock transfer taxes payable by us on all sales and transfers due for settlement during the week beginning ______ and ending ______.

<table>
<thead>
<tr>
<th>Settlement Date</th>
<th>Amount of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not Eligible</td>
</tr>
<tr>
<td></td>
<td>For Credit</td>
</tr>
<tr>
<td></td>
<td>Relating To</td>
</tr>
<tr>
<td></td>
<td>Stock Transfer Tax</td>
</tr>
<tr>
<td></td>
<td>$</td>
</tr>
<tr>
<td></td>
<td>Eligible</td>
</tr>
<tr>
<td></td>
<td>For Credit</td>
</tr>
<tr>
<td></td>
<td>Relating To</td>
</tr>
<tr>
<td></td>
<td>Stock Transfer Tax</td>
</tr>
<tr>
<td></td>
<td>$</td>
</tr>
</tbody>
</table>

Total $ ______

Date: ____________  
Dealer's Signature (or agent if authorized): ____________

File this report in duplicate not later than the second business day of the week following the week for which the report is due. Attach remittance PAYABLE TO STATE TAX COMMISSION. Mail to Miscellaneous Tax Bureau, Stock Transfer Tax Section, Albany, N.Y. 12227.

Securities who are not members of a securities exchange.

(Tax Law, § 201-2)
Dealers eligible for the credit under Articles 9-A and 23 of the Tax Law relating to the stock transfer tax shall also separately identify sales made within this State: (1) as stock in trade or inventory or as property held for sale in the ordinary course of such dealer's trade or business (including transfers which are part of an underwriting), or in (2) a bona fide arbitrage transaction, or in (3) a bona fide hedge transaction involving a long or short position in any equity security and a long or short position in a security entitling the holder to acquire or sell such equity security, or (4) to offset a transaction made in error, provided none of such sales has been identified in such dealer's records as a security held for investment within the meaning of section 1236 of the Internal Revenue Code of 1954; or (5) such sales in a risk arbitrage transaction in connection with a merger, acquisition, tender offer, recapitalization, reorganization, or similar transaction.
Albany, New York
August 1976

STATE TAX COMMISSION

President

Commissioner

Commissioner
Pursuant to the authority contained in section 171 of the Tax Law, the State Tax Commission hereby amends its Stock Transfer Tax Regulations, as published in Subchapter G of Chapter III of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York, by amending paragraphs (1), (2), and (4) of Subdivision (a) of section 441.1 and by amending subparagraphs (1) of paragraph (1) of subdivision (a) and paragraph (3) of subdivision (f) of section 441.2 thereof to read, respectively, as follows:

Section 441.1 Rate of tax: evidence of payment at proper rate. (a) Rate of tax. (1) Subdivision 2 of section 270 and section 270-d of the Tax Law provide that where shares or certificates of stock are sold, the rate of tax is dependent upon the selling price, as follows:

(i) Rate for the period August 1, 1975 through July 31, 1978:

<table>
<thead>
<tr>
<th>Selling price per share</th>
<th>Rate of tax in cents per share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $5</td>
<td>1.56</td>
</tr>
<tr>
<td>$5 or more and less than $10</td>
<td>3.13</td>
</tr>
<tr>
<td>$10 or more and less than $20</td>
<td>4.69</td>
</tr>
<tr>
<td>$20 or more</td>
<td>6.25</td>
</tr>
</tbody>
</table>

(ii) Rate for periods prior to August 1, 1975 and after July 31, 1978:

<table>
<thead>
<tr>
<th>Selling price per share</th>
<th>Rate of tax in cents per share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $5</td>
<td>1.25</td>
</tr>
<tr>
<td>$5 or more and less than $10</td>
<td>2.50</td>
</tr>
</tbody>
</table>
$10 or more and less than $20  
$20 or more  

(iii) Examples:

Example 1: A, a resident of New York State sells 100 shares of X stock, or agrees to sell such stock, by an order executed in New York State on June 28, 1975. Such stock is transferred on the books of X corporation in New York after July 31, 1975. The rate of tax is the sale rate imposed prior to August 1, 1975, (subparagraph [ii] of this paragraph).

Example 2: A sells 100 shares of X stock, or agrees to sell such stock, by an order executed outside the State of New York on June 28, 1975. Such stock is transferred on the books of X corporation in New York to the purchaser after July 31, 1975. The rate of tax imposed on such transfer is the sale rate for the period August 1, 1975 through July 31, 1978, (subparagraph [1] of this paragraph).

Example 3: A sells 100 shares of X stock, or agrees to sell such stock, by an order executed on June 28, 1978 within the State of New York. The stock is transferred to the purchaser on the books of X corporation in New York after July 31, 1978. The rate of tax
is the sale rate imposed during the period August 1, 1975 through July 31, 1978, (subparagraph [1] of this paragraph).

Example 4: A sells 100 shares of X stock, or agrees to sell such stock, by an order executed on June 28, 1978 outside the State of New York. The stock is delivered to the purchaser in New York after July 31, 1978. The rate of tax is the sale rate for the period on and after July 1, 1978 (subparagraph [11] of this paragraph).

(2) Where a delivery or transfer subject to tax occurs without the shares or certificates being sold, as in the case of a gift or other voluntary transfer, the rate of tax is:

(1) during the period August 1, 1975 through July 31, 1978: three and thirteen one hundredths cents per share and

(11) during periods prior to August 1, 1975 and after July 31, 1978: two and one-half cents per share.

(4) Where it does not clearly appear that the sale, agreement to sell, memorandum of sale, delivery or transfer of shares or certificates subject to the tax occurred in New York prior to August 1, 1975 or after July 31, 1978, the transfer agent may rely on a certification in the following form:

"This is to certify that the sale, agreement to sell, memorandum of sale, delivery or transfer of shares or certificates attached hereto did not occur in New York during the period between August 1, 1975 and July 31, 1978."
Such shares and certificates presented for transfer on the books of the issuing corporation on or after August 1, 1975 and prior to August 1, 1978, will otherwise be regarded as representing sales or transfers thereof effected after such date and subject to the surcharge imposed by section 270-d of the Tax Law.

441.2 Tax on sales by nonresidents. (a) (1) . . .

(1) Rates for periods on and after August 1, 1975:

<table>
<thead>
<tr>
<th>Period</th>
<th>Selling price per share</th>
<th>Rates in cents</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 1, 1975 to July 31, 1978</td>
<td>Less than $5</td>
<td>0.79</td>
</tr>
<tr>
<td></td>
<td>$5 to less than $10</td>
<td>1.56</td>
</tr>
<tr>
<td></td>
<td>$10 to less than $20</td>
<td>2.35</td>
</tr>
<tr>
<td></td>
<td>$20 or more</td>
<td>3.13</td>
</tr>
<tr>
<td>August 1, 1978 and thereafter</td>
<td>Less than $5</td>
<td>.63</td>
</tr>
<tr>
<td></td>
<td>$5 to less than $10</td>
<td>1.25</td>
</tr>
<tr>
<td></td>
<td>$10 to less than $20</td>
<td>1.88</td>
</tr>
<tr>
<td></td>
<td>$20 or more</td>
<td>2.5</td>
</tr>
</tbody>
</table>

(f) Single taxable sale.

(3) . . .

(1) for periods on and after August 1, 1975 are:

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate in cents</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 1, 1975 to July 31, 1978</td>
<td>437.50</td>
</tr>
<tr>
<td>August 1, 1978 and thereafter</td>
<td>350.00</td>
</tr>
</tbody>
</table>

Dated: Albany, New York

July 28, 1976

____________________
President
____________________
Commissioner
____________________
Commissioner
Section 1. Pursuant to the authority contained in section 171 and pursuant to the authority contained in paragraph (1) of subdivision 5 of section 270 of the Tax Law with respect to the amendments of sections 443.2 and 444.1, the State Tax Commission hereby amends its Stock Transfer Tax Regulations, as published in Subchapter G of Chapter III of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York, by amending subdivisions (a) and (h) of and by adding new subdivision (j) to section 442.2, by amending subdivision (a) of and by adding a new subdivision (h) to section 442.3, by amending paragraph (2) of and by adding new paragraph (3) to subdivision (b) of section 443.2, by amending the section heading, subdivisions (a) and (e) through (h) of section 444.1, by re-lettering subdivision (1) of such section to be subdivision (j) and by adding new subdivision (1) to such section, by adding subdivisions (d) and (e) to section 446.1 and by amending subdivision (a) of and adding a new subdivision (d) to section 446.3, thereof, to read, respectively, as follows:

PART 442

Payment of Tax

(Statutory authority: Tax Law, §§ 171, 281-a; art. 12)

Sec. 442.1 Payment of tax by use of stamps
442.2 Payment of tax by brokers through clearing corporation
442.3 Optional method of payment by dealers who are not members of a securities exchange
442.4 Payment of tax by dealers through authorized corporation
442.2 Payment of tax by brokers through clearing corporation. (Tax Law, § 281-a) (a) The taxes imposed by article 12 of the Tax Law on any sale, delivery or transfer of stock or other corporate certificates, executed or effected within the State of New York by a member of any securities exchange within the State of New York which is registered with the Securities and Exchange Commission of the United States, shall be paid to the affiliated clearing corporation of or for such exchange, for the account of the State Tax Commission, by such member (hereinafter called the broker) without the use of the stamps prescribed by said article 12. In the case of sales, deliveries or transfers made on a securities exchange, or otherwise, by a broker who is a member of more than one such exchange, such broker shall choose the clearing corporation affiliated with one such exchange through which he shall pay the taxes on all his transactions. Such choice when made shall be irrevocable except upon the written consent of the State Tax Commission.

(h) All reports and schedules of brokers (see subdivision (i) of this section) prescribed by the State Tax Commission in this section shall be preserved for a period of four years.

(j) Notwithstanding the provisions of subdivisions (e) and (f) of this section, in the case of a transfer or delivery of certificates on which the tax was paid through a clearing corporation, as provided in this section, if the delivery or transfer is effected pursuant to the instruction on magnetic or punched tape, discs, cards or other media, or by wire or wireless transmission, in lieu of the certification required by subdivision (e) of this section, the broker required to make such a certification may insert in such instruction the arabic numeral "1" or such other unique alphabetic or numeric character as the State Tax Commission may upon a written request, by means of a letter,
approve in writing. Any such letter to request the use of another unique alphabetic or numeric character shall be addressed to the attention of the Miscellaneous Tax Bureau, Stock Transfer Tax Section, Two World Trade Center, New York, New York 10047.

442.3 Optional method of payment by dealers in securities who are not members of a securities exchange. (Tax Law, § 231-a) (a) The taxes imposed by article 12 of the Tax Law on any sale or transfer of any stock or other corporate certificates executed or effected within the State of New York (other than upon a securities exchange) by any person, firm, corporation, company or association required to be registered with the Attorney-General of the State of New York as a dealer in securities shall, if such dealer is not required to pay taxes to an authorized corporation pursuant to section 442.4 of this Part, and if such dealer so elects, be paid to the State Tax Commission by such dealer without the use of stamps prescribed by said article 12. In the event that such dealer uses a clearing agent and also duly appoints such agent to act for him in the payment of the tax without the use of stamps, then only said agent shall remit the tax. The appointment of every such agent shall be subject to the written approval of the State Tax Commission. An election to pay the tax without the use of stamps shall be made by a notice in writing filed by such dealer with the commission. Such notice shall state:

(1) that on and after a specified date the dealer will pay the tax to the commission without the use of stamps;

(2) the date of the dealer's registration with the Attorney-General of the State of New York as a dealer in securities; and

(3) the name and address of the agent of the dealer, if any, who will act as clearing agent and who will remit the tax on behalf of the dealer.
An election once made shall be irrevocable, except with the written consent of the commission, and except that if any dealer becomes an eligible member of an authorized corporation as defined in section 442.4 of this Part and is thereby required to pay taxes to such corporation, his election to pay taxes pursuant to this section shall be thereby terminated. The commission may at any time withdraw from any dealer the privilege of paying the tax without stamps. Written notice of the termination of the authority of any such agent shall be given immediately to the commission. Any stamps lawfully in the possession of a dealer at the time his election becomes effective shall be subject to redemption under the law pertaining thereto and shall not be used as part payment of the tax due from such dealer.

(h) Notwithstanding the provisions of subdivision (a) of this section, in the case of a transfer or delivery of certificates on which the tax was paid otherwise than by the use of stamps by a dealer who does not employ a clearing agent, as provided in this section, if the delivery or transfer is effected pursuant to instruction on magnetic or punched tape, discs, cards or other media, or by wire or wireless transmission, in lieu of the certification required by subdivision (e) of this section, the dealer required to make such a certification may insert in such instruction the arabic numeral "1" or such other unique alphabetic or numeric character as the State Tax Commission may upon a written request, by means of a letter, approve in writing. Notwithstanding the provisions of subdivision (f) of this section, in the case of a transfer or delivery of certificates on which the tax was paid otherwise than by the use of stamps by a dealer who does employ a clearing agent, as provided in this section, if the delivery or transfer is effected pursuant to instruction on
magnetic or punched tape, discs, cards or other media, or by
wire or wireless transmission, in lieu of the certification
required by subdivision (f) of this section, the clearing agent
required to make such a certification may insert in such in-
struction the arabic numeral "1" or such other unique alphabetic
or numeric character as the State Tax Commission may upon written
request, by means of a letter, approve in writing. Any such
letter to request the use of another unique alphabetic or numeric
character shall be addressed to the attention of the Miscellaneous
Tax Bureau, Stock Transfer Tax Section, Two World Trade Center,
New York, New York 10047.

443.2 Transfers through a system for the central
handling of securities.

(b)

(2) Notwithstanding the preceding paragraph (1), all
depositors in a system for the central handling of securities
and systems for the central handling of securities and their
nominees, in reliance on the exemption certificate or certificates
accompanying its depositors' instructions to such system or its
nominee, where any of such systems is established by a national
securities exchange registered with the Securities and Exchange
Commission of the United States and located in New York State or
maintained by a clearing corporation located in this state as
defined in subsection (3) of section 8-102 of the Uniform
Commercial Code in which capital stock is held by (i) such a
national securities exchange registered with such commission of
the United States or (ii) a corporation subject to supervision
or regulation pursuant to the provisions of banking or insurance
laws of this State may use the form of exemption certificate set
forth in subdivision (e) of section 444.1 of this Subchapter,
provided a nominee of such system for the central handling of
securities has been registered under section 445.4 of this Sub-
chapter.
(3) In the case of registrations of transfers exempt from tax under subdivision 5 of section 270 of the Tax Law which are effected through any such system for the central handling of securities described in paragraph (2) of this subdivision (see also section 443.1(d)(1)(x) and (d)(2)(vii) of this Part), a proper exemption certificate must accompany both (i) the instructions of the depositor to such system or its nominee directing the transfer of such depositor's shares and (ii) the system's or its nominee's instructions to the transfer agent, issuing corporation or trustee issuing certificates subject to tax under article 12 of the Tax Law for the transfer of depositors' shares. The exemption certificate referred to in clause (ii) of this paragraph may be either the exemption certificate of the depositor which accompanies the depositor's instructions to the system or its nominee or an exemption certificate made by the system or its nominee in reliance on the exemption certificate or certificates accompanying its depositors' instructions to such system or its nominee. A single exemption certificate by the system or its nominee, in reliance on the exemption certificate or certificates accompanying its depositors' instructions to such system or nominee, may be made with respect to exemption certificates submitted to such system or its nominee by one or more depositors.

PART 444
Exemption Certificates

(Statutory authority: Tax Law, § 171; art. 12)

Sec.

444.1 Exemption certificates by banks, brokers, securities dealers, certain depositors, and systems for the central handling of securities and the nominees of such systems

444.2 Exemption certificates in all other cases

444.3 Records to be maintained by out-of-State brokers, dealers in securities
Section 444.1 Exemption certificates by banks, brokers, securities dealers, certain depositors and systems for the central handling of securities and the nominees of such systems.

(a) Every broker who is a member of a registered securities exchange within the State of New York which is registered with the Securities and Exchange Commission of the United States and who maintains a regular place of business within the State of New York, and any bank, national banking association or trust company maintaining a regular place of business in the State of New York, and any dealer in securities, as hereinafter defined, maintaining a regular place of business in the State of New York, effecting any delivery or transfer of a certificate of stock or other certificate subject to tax under article 12 of the Tax Law within the State, may, provided such delivery or transfer is exempt from tax under subdivision 5 of section 270 of the Tax Law, make a certification in substantially one of the following forms:

(1) In the case of any such delivery or transfer, the certification may state:

    It is hereby certified that the transfer of the attached shares is made under such circumstances as to come within one of the exemptions specified in section 270(5) of the Tax Law of the State of New York and that evidence in proof of the exemption is maintained by the undersigned and is available for inspection by officers and representatives of the New York State Tax Commission.

    ____________________________
    (Signature)

(2) In the case of any such delivery or transfer effected pursuant to instruction on magnetic or punched tape, discs, cards or other media, or an instruction effected by wire or wireless transmission, such instruction may contain the arabic
numeral "2", in lieu of the certificate set forth in paragraph (1) of this subdivision, or such other unique alphabetic or numeric character as the State Tax Commission may upon written request, by means of a letter, approve in writing. Any such letter to request the use of another unique alphabetic or numeric character shall be addressed to the attention of the Miscellaneous Tax Bureau, Stock Transfer Tax Section, Two World Trade Center, New York, New York 10047.

(e) Where a delivery or transfer is exempt from New York stock transfer tax under paragraph (j) or (k) of subdivision 5 of section 270 of the Tax Law, relating to transfers through a system for the central handling of securities, the shares or certificates must be accompanied by an exemption certificate.

(1) Where the exemption certificate is made by a depositor (see subdivision (c) of section 443.2 of this Subchapter, supra) other than a depositor who or which qualifies under subdivision (a), supra, and is entitled to use the form of certificate specified in such subdivision (a) or paragraph (2) of subdivision (d) of section 443.2 of this Subchapter, supra, such exemption certificate may be claimed by a certificate substantially in one of the following forms:

(1) In the case of any such delivery or transfer, the certificate may state:

It is hereby certified that the transfer of the attached shares is made under such circumstances as to come within one of the exemptions specified in section 270(5)(j) or (k) of the Tax Law of the State of New York and that evidence in proof of the exemption is maintained by the undersigned and is available for inspection by officers and representatives of the New York State Tax Commission.

(Signature)
(11) In the case of any such delivery or transfer through a system for the central handling of securities effected pursuant to instruction on magnetic or punched tape, discs, cards or other media, or an instruction effected by wire or wireless transmission, such instruction may contain the Arabic numeral "3", in lieu of the certificate set forth in subparagraph (1) of this paragraph, or such other unique alphabetic or numeric character as the State Tax Commission may upon written request, by means of a letter, approve in writing. Any such letter to request the use of another unique alphabetic or numeric character shall be addressed to the attention of the Miscellaneous Tax Bureau, Stock Transfer Tax Section, Two World Trade Center, New York, New York 10047.

(2) Notwithstanding the preceding paragraph (1), all depositors and systems for the central handling of securities and the nominees of such systems, in reliance on the exemption certificate or certificates accompanying its depositors' instructions to such system or the nominee of such system who or which qualify under paragraph (2) of subdivision (b) of section 443.2, supra, may use the form of exemption certificate set forth in subparagraph (1) or (11) of the preceding paragraph (1).

(f) Certifications pursuant to this Part may be impressed by rubber stamp on the certificate or certificates delivered or transferred or on the memorandum of sale, or such certifications may be attached to the certificate or certificates delivered or transferred or to the memorandum of sale, or if the registration of the transfer with respect to which the certification relates was effected pursuant to instruction on magnetic or punched tape, discs, cards or other media, or by wire or wireless transmission, such certification may be inserted in such instruction in the form prescribed by this Subchapter.
(1) In the case of a transfer through a system for the central handling of securities (see section 443.2 of this Subchapter, supra), certifications pursuant to this Part may be stamped or preprinted on the depositor's instructions to such system or its nominee and on the system's or its nominee's instructions to the transfer agent, issuing corporation or trustee issuing certificates subject to tax under article 12 of the Tax Law.

(2) In the case of an instruction on magnetic or punched tape, discs, cards or other media or by wire or wireless transmission of any broker or dealer in securities, any bank, national banking association, trust company or system for the central handling of securities or the nominees of such system, when authorized by this section, shall contain either the name of or a unique alphabetic or numeric symbol identifying each broker, dealer, bank, national banking association, trust company or system for the central handling of securities to which such instruction relates, respectively, and the use of such instruction shall be supervised by a responsible officer or employee thereof, shall constitute the certification thereof pursuant to this Part as if such certification was set forth in full in the form prescribed by this Subchapter together with any and all rights, duties, obligations and liabilities, including those of all persons who would have been required to affix their signature or a facsimile thereof to such certification and such certification shall be used solely pursuant to the provisions of this Subchapter. The transfer agent or other party whose records contain the unique alphabetic or numeric symbol under this paragraph is responsible for identifying the party to whom such symbol refers.
(3) The field in an instruction on magnetic or punched tape, discs, cards or other media, or an instruction by wire or wireless transmission allowed pursuant to the provisions of this section, subdivision (i) of section 442.2 or subdivision (h) of section 442.3 of this Subchapter, may not be used for any other purpose nor may the unique alphabetic or numeric character so provided for be used within such field for any other purpose other than to claim exemption from stock transfer tax pursuant to the provisions of this Subchapter.

(g) The certification used by any broker or dealer in securities shall bear the facsimile signature of the broker or dealer and the rubber stamp shall be kept in the possession of the broker or dealer for use only by him or his duly designated representative or, if an instruction is inserted on magnetic or punched tape, discs, cards or other media, or an instruction by wire or wireless transmission, as provided for by this Subchapter, the facsimile signature required by this subdivision shall not be required.

(h) The certification used by any bank, national banking association or trust company shall bear as signature the name of such institution and the facsimile signature of an officer thereof, and the rubber stamp shall be kept in the possession of an officer thereof and used only by its duly designated representative or, if an instruction is inserted on magnetic or punched tape, discs, cards or other media, or an instruction by wire or wireless transmission, as provided for by this Subchapter, the facsimile signature required by this subdivision shall not be required.
(1)(1) the certification used by any depositor (see section 443.2(c), supra) in a system for the central handling of securities, other than a depositor described in subdivision (g) or (h) of this section, shall bear as signature the name of such depositor and if a corporation or firm, the facsimile authorized signature of an officer or partner thereof and the name of the firm or corporation. If a rubber stamp is used, it shall be kept in the possession of an officer, partner or other authorized person thereof, and used only by a duly designated representative. If an instruction is inserted on magnetic or punched tape, discs, cards or other media, or an instruction by wire or wireless transmission, as provided for by this Subchapter, the facsimile signature required by this subdivision shall not be required.

(2) the certification used by a system for the central handling of securities for a delivery or transfer, or both, from the name of the nominee of any such system shall bear as signature the facsimile signature of the name of the registered nominee and the rubber stamp or certification shall be used only by the nominee or a duly designated representative of such nominee or, if an instruction is inserted on magnetic or punched tape, discs, cards or other media, or an instruction by wire or wireless transmission, as provided for by this Subchapter, the facsimile signature required by this subdivision shall not be required.

Section 446.1 Records of brokers and dealers in securities.

(d) Notwithstanding subdivision (c) of this section, in the case of a transfer or delivery of certificates effected pursuant to instructions on magnetic or punched tape, discs, cards or other media, or by wire or wireless transmission, a
broker or a dealer in securities shall not be required to keep such tape, discs, cards or other mode or means of transmission of such instructions, provided such broker or dealer retains a copy or record of such instructions on paper and, provided the State Tax Commission consents thereto pursuant to the provisions of subdivision (b) of section 446.3 of this Part, on microfilm or microfiche, or on such other media as may be approved by the State Tax Commission for the remainder of the periods of retention applicable to the original documents under subdivision (c) of such section 446.3.

(e) Any instruction in lieu of an exemption certificate required by or referred to in this Subchapter, in the case of transfers through a system for the central handling of securities effected pursuant to instructions on magnetic or punched tape, discs, cards or other media, or by wire or wireless transmission, must include either the name of or a unique alphabetic or numeric symbol identifying the broker, bank, national banking association or trust company or dealer in securities maintaining a regular place of business in the State of New York who or which is a depositor in any such system. The transfer agent or other party whose records contain the unique alphabetic or numeric symbol under this subdivision is responsible for identifying the party to whom such symbol refers.

**446.3 Preservation of records, certificates and memoranda.** (a) The records mentioned in sections 446.1 and 446.2 must be kept for a period of at least four years from the date of the last entry made therein.

(1) Every broker, dealer in securities, corporation or other entity required to keep any such records must also preserve for at least four years all surrendered or cancelled certificates and memoranda including telegrams, teletypes and other communications relating to the sale or transfer of shares or certificates thereof and declarations concerning nonresidents (see section 541.7(c), supra).
(2) Notwithstanding the preceding paragraph (1) of this subdivision, in the case of a transfer or delivery of certificates effected pursuant to instructions on magnetic or punched tape, discs, cards or other media, or by wire or wireless transmission, a broker, dealer in securities, corporation, transfer agent or other such entity effecting such transfer or delivery shall not be required to retain such tape, discs, cards or other mode or means of transmission of such instructions, provided such broker, dealer, corporation, transfer agent or entity retains a copy or record of such instructions on paper and, provided the State Tax Commission consents thereto pursuant to the provisions of subdivision (b) of this section, on microfilm or microfiche, or on such other media as may be approved by the State Tax Commission for the remainder of the four-year period of retention applicable to the original documents under subdivision (c) of this section.

Severe penalties are attached to a failure to comply with these requirements.

(d) The State Tax Commission may permit cancelled certificates to be retained outside the State within the four-year period specified above when an examination with respect to the transactions to which such certificates relate has been completed and it is agreed that the certificates will be returned to New York for further examination within the remainder of the applicable four-year period by an authorization on form MT-567, or, when prepared by the person required to preserve records pursuant to the provisions of this Part, the State Tax Commission may consent to the destruction of original documents and the preservation of reproduced documents pursuant to the provisions of subdivisions (b) and (c) of this section, when appropriate, on a form in substantially the following format:
The Tax Commission has completed an examination for stock transfer purposes with respect to the transactions to which (i) the surrendered or cancelled shares or certificates of stock, and (ii) all memoranda and any declarations relating to the sale or transfer thereof relate, which are referred to on the attached lists, and is satisfied that the original of such documents no longer need be preserved. The Tax Commission hereby consents to the destruction of all listed, surrendered or cancelled shares or certificates of stock and all memoranda and any declarations relating to the sale or transfer thereof provided a record of such original documents is recorded, copied or reproduced by a process which provides an accurate reproduction and which has been approved by the Tax Commission.

It is understood and agreed that the reproduction of original documents on the attached lists will be retained for the remainder of the required four-year statutory period and will be made available for further inspection by the Tax Commission or its duly authorized representative upon request.

STATE TAX COMMISSION

By ______________________

§ 2. Pursuant to the authority contained in sections 171 and 509 of the Tax Law, the State Tax Commission hereby amends its regulations with respect to the highway use and fuel use permits, being its Truck Mileage and Fuel Use Taxes Regulations, as published in Article 1 of Subchapter H of Chapter III of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York, by adding subdivision (e) to section 470.1, to read as follows:


Section 470.1 Introduction. (Tax Law, § 502)

(e) As used in this Subchapter, a reference to a highway use tax plate shall, during the period that the highway use tax stickers are provided for by the provisions of this Subchapter, mean and include such highway use tax stickers.

STATE TAX COMMISSION

Dated: July 23, 1976
Albany, New York

s/ James H. Tully, Jr.
President

s/ Milton Koerner
Commissioner

s/ Thomas H. Lynch
Commissioner
to amend the tax law, in relation to providing a tax credit under articles nine-a and twenty-three thereof, modifying the method of determining taxable income and estimated tax, and continuing the surcharge imposed under article twelve thereof, to amend chapter seven hundred seventy-two of the laws of nineteen hundred sixty-six, entitled "An Act to enable any city having a population of one million or more to raise tax revenue by authorizing the imposition of taxes on general, financial, insurance and transportation corporations and on unincorporated businesses to provide for the administration and review of such new taxes, to provide for the suspension of any tax on gross income of conduit companies imposed by such city and for the suspension and repeal of any personal and financial tax imposed by any such city, to amend the tax law in relation to authorizing an increase in the rates of tax which such city may impose on utilities and vendors of utility services, and to repeal article two-a of the general city law, authorizing the imposition of a general business and financial tax by such city", in relation to providing a tax credit for the taxes imposed under article twelve of the tax law with respect to the general corporation tax and city
unincorporated business income tax
in the city of New York and mod-
ifying the method of determining
taxable income and estimated tax
under such city taxes and to amend
the administrative code of the city
of New York, in relation to providing
a tax credit under titles R and S
thereof for the taxes imposed under
article twelve of the tax law and
modifying the method of determining
taxable income and estimated tax
under such titles

The People of the State of New York,
represented in Senate and Assembly, do
enact as follows:
Section 1. Subparagraph five of paragraph (a) of subdivision nine of section two hundred eight of the tax law, as added by chapter two hundred three of the laws of nineteen hundred sixty-two, is hereby amended to read as follows:

(5) any refund or credit of a tax imposed under this article, for which tax no exclusion or deduction was allowed in determining the taxpayer's entire net income under this article for any prior year, except that portion of such refund or credit attributable to any excess of the credit allowed under subdivision fourteen of section two hundred ten of this chapter against the tax due under this article for any taxable year over the tax due for such year computed without regard to such credit, and

§2. Paragraph (b) of subdivision nine of section two hundred eight of such law is hereby amended by adding thereto a new subparagraph, to be subparagraph four-a, to read as follows:

(a-a) the amount allowed as an exclusion or deduction

for stock transfer taxes imposed by article

twelve of this chapter in determining the entire
taxable income which the taxpayer is required

to report to the United States treasury
department but only such portion of such exclusion

or deduction which is not in excess of the amount

of the credit allowed pursuant to subdivision

fourteen of section two hundred ten of this

chapter.

§3. Section two hundred ten of such law is hereby

amended by adding thereto a new subdivision, to be subdivision

fourteen, to read as follows:
14. (a) In addition to the other credits permitted under this section, a taxpayer shall be allowed a credit, to be credited or refunded in the manner hereinafter provided in this subdivision, against the tax imposed by this article after the allowance of any other credit under this section. The amount of such credit shall be fifty per cent of the tax incurred in market making transactions under the provisions of article twelve of this chapter on such transactions subject to such tax occurring on and after August first, nineteen hundred seventy-six and paid by such taxpayer (except when such tax shall have been paid pursuant to section two hundred seventy-nine-a of such chapter).
(b) For purposes of this subdivision:

(1) the term "taxpayer" shall mean any corporation subject to tax under this article registered with the United States securities and exchange commission in accordance with subsection (b) of section fifteen of the securities exchange act of nineteen hundred thirty-four, as amended, and acting as a dealer in a transaction described in subparagraph two of this paragraph, and

(2) the term "market making transaction" shall mean any transaction involving a sale (including a short sale) made within the state by a dealer of shares or certificates subject to the tax imposed by article twelve of this chapter, provided such shares or certificates are sold:

(i) as stock in trade or inventory or as property held for sale in the ordinary course of such dealer's trade or business (including transfers which are part of an underwriting);

(ii) in (a) a bona fide arbitrage transaction; (b) a bona fide hedge transaction involving a long or short position in any equity security and a long or short position in a security entitling the holder to acquire or sell such equity security; or (c) a risk arbitrage transaction in connection with a merger, acquisition, tender offer, recapitalization, reorganization, or similar transaction, or

(iii) to offset a transaction made in error.

Provided, however, that, except as to subparagraph (ii)(c) of this paragraph, the term "market making transaction" shall not include any sale of shares or certificates identified in such dealer's records as a security held for investment within the meaning of section twelve hundred thirty-six of the internal revenue code.
(c) The credit allowed under this subdivision for any taxable year shall be deemed to be an overpayment of tax by the taxpayer to be credited or refunded in accordance with the provisions of section ten hundred eighty-six of this chapter, except as otherwise provided in subdivision three of section two hundred thirteen and subdivision (k) of section two hundred thirteen-b of this chapter; provided, however, that the provisions of this chapter notwithstanding, the amount to be refunded pursuant to this subdivision shall not be paid prior to the first day of the eighth month following the close of the taxable year, and the provisions of subsection (c) of section ten hundred eighty-eight of this chapter notwithstanding, interest shall be allowed and paid on the overpayment of the credit under this subdivision from the first day of the eleventh month following the close of the taxable year.

§ 4. Subparagraph (a) of the second unnumbered paragraph of subdivision one of section two hundred thirteen of such law, as amended by a chapter of the laws of nineteen hundred seventy-six entitled "An Act to amend the tax law, in relation to correcting, deleting or repealing certain obsolete provisions of articles nine and nine-a thereof", is hereby amended to read as follows:

(a) an amount so paid shall be deemed properly estimated if it is either (i) not less than ninety per centum of the tax as finally determined (computed without regard to any credit allowable under subdivision fourteen of section two hundred ten of this chapter), or (ii) not less than the tax shown (computed without regard to any credit allowable under subdivision fourteen of section two hundred ten of this chapter), on the taxpayer's report for the preceding taxable year, if such preceding year was a taxable year of twelve months; and

§ 5. Section two hundred thirteen of such law, as amended by such chapter, is hereby amended by adding thereto a new subdivision, to be subdivision three, to read as follows:
3. Subdivisions one and two of this section shall apply to a taxpayer which has a right to a credit pursuant to subdivision fourteen of section two hundred ten of this chapter, except that the tax, or balance thereof, payable to the tax commission in full, pursuant to subdivision one of this section, at the time the report is required to be filed, shall be calculated and paid at such time as if the credit provided for in subdivision fourteen of section two hundred ten were not allowed.

§6. Subdivision (b) of section two hundred thirteen-a of such law, as added by chapter one hundred seventy-three of the laws of nineteen hundred sixty-four, is hereby amended to read as follows:

(b) Definition of estimated tax. -- The term "estimated tax" means the amount which a taxpayer estimates to be the tax imposed by section two hundred nine of this chapter for the current privilege period, less the amount which it estimates to be the sum of any credits allowable against the tax other than the credit allowable under subdivision fourteen of section two hundred ten of this chapter.

§7. Section two hundred thirteen-b of such law, as amended by a chapter of the laws of nineteen hundred seventy-six entitled "An Act to amend the tax law, in relation to correcting, deleting or repealing certain obsolete provisions of articles nine and nine-a thereof" is hereby amended by adding thereto a new subdivision, to be subdivision (k), to read as follows:

(k) The portion of an overpayment attributable to a credit allowable pursuant to paragraph (c) of subdivision fourteen of section two hundred ten of this chapter may not be credited against any payment due under this section.
§ 8. Subdivision one of section two hundred seventy-d of such law, as added by chapter three hundred ninety-five of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

1. In addition to the tax imposed by subdivision one of section two hundred seventy of this article, there is hereby imposed and shall immediately accrue and be collected a like additional tax on all sales, agreements to sell, memoranda of sales and all deliveries or transfers of shares or certificates subject to tax under such subdivision during the period commencing on August first, nineteen hundred seventy-five and ending [July thirty-first, nineteen hundred seventy-six] July thirty-first, nineteen hundred seventy-eight. Such additional tax is at the rate of twenty-five per cent of the rates of tax on sales or transfers under subdivision two of section two hundred seventy and on sales under subdivision one of section two hundred seventy-a and the maximum amount of tax on a single taxable sale under subdivision two of section two hundred seventy-a of this article. Provided, however, that the tax so calculated shall not be carried out in its computation beyond four decimal points, that is, it shall be computed to the nearest one one-hundredth of one cent.

§ 9. Section seven hundred one of such law is hereby amended by adding thereto a new subsection, to be subsection (e), to read as follows:

(a) Credit relating to stock transfer tax. -- (1) In addition to the other credits permitted under this section, a taxpayer shall be allowed a credit, to be credited or refunded in the manner hereinafter provided in this subsection, against the tax imposed by this article after the allowance of any other credit under this section. The amount of such credit shall be fifty per cent of the tax incurred in market making transactions under the provisions of article twelve of this chapter on such transactions subject to such tax occurring on and after August first, nineteen hundred seventy-six and paid by such tax-taxpayer (except when such tax shall have been paid pursuant to section two hundred seventy-nine-a of such chapter).
(2) For purposes of this subsection:

(a) the term "taxpayer" shall mean any unincorporated business subject to tax under this article registered with the United States securities and exchange commission in accordance with subsection (b) of section fifteen of the securities exchange act of nineteen hundred thirty-four, as amended, and acting as a dealer in a transaction described in subparagraph (b) of this paragraph, and

(b) the term "market making transaction" shall mean any transaction involving a sale (including a short sale) made within the state by a dealer of shares or certificates subject to the tax imposed by article twelve of this chapter, provided such shares or certificates are sold:

(i) as stock in trade or inventory or as property held for sale in the ordinary course of such dealer's trade or business (including transfers which are part of an underwriting);

(ii) in (a) a bona fide arbitrage transaction; (b) a bona fide hedge transaction involving a long or short position in any equity security and a long or short position in a security entitling the holder to acquire or sell such equity security; or (c) a risk arbitrage transaction in connection with a merger, acquisition, tender offer, recapitalization, reorganization, or similar transaction, or

(iii) to offset a transaction made in error.

Provided, however, that, except as to clause (ii) (c) of this subparagraph, the term "market making transaction" shall not include any sale of shares or certificates identified in such dealer's records as a security held for investment within the meaning of section twelve hundred thirty-six of the internal revenue code.
(3) The credit allowed under this subsection for any taxable year shall be deemed to be an overpayment of tax by the taxpayer to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this chapter, except as otherwise provided in subsection (f) of section seven hundred sixteen and subsection (b) of section seven hundred twenty-two; provided, however, that the provisions of this chapter notwithstanding, the amount to be refunded pursuant to this subsection shall not be paid prior to the first day of the eighth month following the close of the taxable year and the provisions of subsection (c) of section six hundred eighty-eight of this chapter notwithstanding, interest shall be allowed and paid on the overpayment of the credit under this subsection from the first day of the eleventh month following the close of the taxable year.

$10. Subsection (b) of section seven hundred five of such law is hereby amended by adding thereto two new paragraphs, to be paragraphs four and five, to read, respectively, as follows:

(4) The amount allowed as an exclusion or deduction for stock transfer taxes imposed by article twelve of this chapter in determining federal gross income but only such portion of such exclusion or deduction which is not in excess of the amount of the credit allowed pursuant to subsection (c) of section seven hundred one of this chapter.

(5) The excess of the credit allowed under subsection (e) of section seven hundred one against the tax due under this article for any taxable year over the tax due for such year computed without regard to such credit, to the extent that such excess is not included in gross income for federal income tax purposes.
§11. Paragraph six of subsection (c) of section seven hundred five of such law, as amended by chapter seven hundred seventy-five of the laws of nineteen hundred sixty-six, is hereby amended to read as follows:

(6) The amount of any refund or credit for overpayment of income taxes imposed by this state, or any other taxing jurisdiction, except unincorporated business income taxes imposed by any city of this state, to the extent properly included in gross income for federal income tax purposes, and except the excess of the credit allowed under subsection (c) of section seven hundred one against the tax due under this article for any taxable year over the tax due for such year computed without regard to such credit, to the extent that such excess is included in gross income for federal income tax purposes.

§12. Subsection (b) of section seven hundred fifteen of such law, as added by chapter one hundred seventy-three of the laws of nineteen hundred sixty-four, is hereby amended to read as follows:

(b) Definition of estimated tax. -- The term "estimated tax" means the amount which an unincorporated business estimates to be its tax under this article, less the amount which it estimates to be the sum of any credits allowable against the tax other than the credit allowable under subsection (c) of section seven hundred one of this chapter.

§13. Section seven hundred sixteen of such law, is hereby amended by adding thereto a new subsection, to be subsection (f), to read as follows:

(f) Taxpayers with credit relating to stock transfer tax. -- The portion of an overpayment attributable to a credit allowable pursuant to subsection (e) of section seven hundred one of this chapter may not be credited against any payment due under this section.

§14. Section seven hundred twenty-two of such law, as amended by chapter one hundred seventy-three of the laws of nineteen hundred sixty-four, is hereby amended to read as follows:

§722. Returns, payment of tax, procedural provisions. (a) General. -- On or before the fifteenth day of the four month following the close of a taxable year, an unincorporated business
income tax return shall be made and filed, and the balance of any tax shown on the face of such return, not previously paid as installments of estimated tax, shall be paid, by or for every unincorporated business having unincorporated business gross income of more than ten thousand dollars, or having any amount of unincorporated business taxable income. The provisions of section six hundred fifty-one, except subsections (a) and (b), and the provisions of sections six hundred fifty-two, six hundred fifty-three, six hundred fifty-seven, six hundred fifty-eight, six hundred fifty-nine, six hundred sixty, and sections six hundred eighty-one through six hundred ninety-seven of article twenty-two of the tax law, including the provisions with respect to penalties, interest and additions to tax, shall apply to the provisions of this article in the same manner and with the same force and effect as if the language of those sections had been incorporated in full into this article and had expressly referred to the tax under this article, except to the extent that any such provision is either inconsistent with a provision of this article or is not relevant to this article and except that the term "adjusted gross income" shall be read as "unincorporated business gross income" and the term "taxable income" shall be read as "unincorporated business taxable income".

I (b) Taxpayers with credit relating to stock transfer tax. -- Subsection (a) of this section shall apply to a taxpayer which has a right to a credit pursuant to subsection (e) of section seven hundred one of this chapter, except that the tax, or balance thereof, payable to the tax commission in full, pursuant to subsection (a) of this section, at the time the return is required to be filed, shall be calculated and paid at such time as if the credit provided for in subsection (e) of section seven hundred one were not allowed.
§15. Part two of section one of chapter seven hundred seventy-two of the laws of nineteen hundred sixty-six, entitled "An Act to enable any city having a population of one million or more to raise tax revenue by authorizing the imposition of taxes on general, financial, insurance and transportation corporations and on unincorporated businesses to provide for the administration and review of such new taxes, to provide for the suspension of any tax on gross income of conduit companies imposed by such city and for the suspension and repeal of any general business and financial tax imposed by any such city, to amend the tax law in relation to authorizing an increase in the rates of tax which such city may impose on utilities and vendors of utility services, and to repeal article two-B of the general city law, authorizing the imposition of a general business and financial tax by such city", is hereby amended by adding thereto a new subsection, to be subsection four-a, to read as follows:

§4-a. Credit relating to stock transfer tax. (1) A taxpayer shall be allowed a credit, to be credited or refunded in the manner hereinafter provided in this section, against the tax imposed by this part. The amount of such credit shall be fifty per cent of the tax incurred in making transactions under the provisions of article twelve of the tax law on such transactions subject to such tax occurring on and after August first, nineteen hundred seventy-six and paid by such taxpayer (except when such tax shall have been paid pursuant to section two hundred seventy-nine-a of such tax law).
(2) For purposes of this subsection:

(a) the term "taxpayer" shall mean any corporation subject to tax under this part registered with the United States securities and exchange commission in accordance with subsection (b) of section fifteen of the securities exchange act of nineteen hundred thirty-four, as amended and acting as a dealer in a transaction described in paragraph (b) of this subdivision, and

(b) the term "market making transaction" shall mean any transaction involving a sale (including a short sale) made within the state by a dealer of shares or certificates subject to the tax imposed by article twelve of the tax law, provided such shares or certificates are sold:

(i) as stock in trade or inventory or as property held for sale in the ordinary course of such dealer's trade or business (including transfers which are part of an underwriting);

(ii) in (a) a bona fide arbitrage transaction; (b) a bona fide hedge transaction involving a long or short position in any equity security and a long or short position in a security entitling the holder to acquire or sell such equity security; or (c) a risk arbitrage transaction in connection with a merger, acquisition, tender offer, recapitalization, reorganization, or similar transaction, or

(iii) to offset a transaction made in error.

Provided, however, that, except as to subparagraph (iii) of this paragraph, the term "market making transaction" shall not include any sale of shares or certificates identified in such dealer's records as a security held for investment within the meaning of section twelve hundred thirty-six of the internal revenue code.
(3) The credit allowed under this section for any taxable year shall be deemed to be an overpayment of tax by the taxpayer to be credited or refunded in accordance with the provisions of section seventy-seven of this title, except as otherwise provided in subdivision three of section six and subdivision eleven of section eight of this part; provided, however, that the provisions of this chapter notwithstanding, the amount to be refunded pursuant to this section shall not be paid prior to the first day of the eighth month following the close of the taxable year, and the provisions of subdivision three of section seventy-nine of this title notwithstanding, interest shall be allowed and paid on the overpayment of the credit under this section from the first day of the eleventh month following the close of the taxable year.
§16. Subdivision two of subsection seven contained in section one of such chapter, is hereby amended to read as follows:

2. The term "estimated tax" means the amount which a taxpayer estimates to be the tax imposed by section three of this part for the current privilege period, less the amount which it estimates to be the sum of any credits allowable against the tax other than the credit allowable under section four-a of this part.

§17. Subparagraph five of paragraph (a) of subdivision eight of subsection two contained in such section one of such chapter is hereby amended to read as follows:

(5) any refund or credit of a tax imposed under this part, for which tax no exclusion or deduction was allowed in determining the taxpayer's entire net income under this part for any prior year, except that portion of such refund or credit attributable to any excess of the credit allowed under section four-a of this part against the tax due under this part for any taxable year over the tax due for such year computed without regard to such credit.

§18. Paragraph (b) of subdivision eight of subsection two contained in such section one of such chapter is hereby amended by adding thereto a new subparagraph, to be subparagraph four-a, to read as follows:

(4-a) the amount allowed as an exclusion or deduction for stock transfer taxes imposed by article twelve of the tax law in determining the entire taxable income which the taxpayer is required to report to the United States treasury department but only such portion of such exclusion or deduction which is not in excess of the amount of the credit allowed pursuant to section four-a of this part.

§19. Subparagraph one of paragraph (b) of subdivision one of subsection six contained in such section one of such chapter is hereby amended to read as follows:

(1) an amount so paid shall be deemed properly estimated if it is either (A) not less than ninety per centum of the tax as finally determined (computed without regard to any credit allowable under section four-a of this part), or (B) not less than the tax
shown (computed without regard to any credit allowable under section four-a of this part) on the taxpayer's report for the preceding taxable year, if such preceding year was a taxable year of twelve months; and

§20. Subsection six of part two of section one of such chapter is hereby amended by adding thereto a new subdivision, to be subdivision three, to read as follows:

3. Subdivision one of this section shall apply to a taxpayer which has a right to a credit pursuant to section four-a of this part, except that the tax, or balance thereof, payable to the director of finance in full pursuant to subdivision one of this section, at the time the report is required to be filed, shall be calculated and paid at such time as if the credit provided for in section four-a of this part were not allowed.

§21. Subsection eight of part two of section one of such chapter is hereby amended by adding thereto a new subdivision, to be subdivision eleven, to read as follows:

11. The portion of an overpayment attributable to a credit allowable pursuant to section four-a of this part may not be credited against any payment due under this section.

§22. Subsection one hundred one contained in section two of such chapter is hereby amended by adding thereto a new subdivision, to be subdivision (c), to read as follows:

(c) Credit relating to stock transfer tax.

(1) In addition to any other credit permitted under this section, a taxpayer shall be allowed a credit, to be credited or refunded in the manner hereinafter provided in this subdivision, against the tax imposed by this title after the allowance of any other credit under this section. The amount of such credit shall be fifty percent of the tax incurred in market making transactions under the provisions of article twelve of the tax law on such transactions subject to such tax occurring on and after August first, nineteen hundred seventy-six and paid by such taxpayer (except when such tax shall have been paid pursuant to section two hundred seventy-nine-a of such tax law).
(2) For purposes of this subdivision:

(a) the term "taxpayer" shall mean any unincorporated business subject to tax under this section registered with the United States securities and exchange commission in accordance with subsection (b) of section fifteen of the securities exchange act of nineteen hundred thirty-four, as amended and acting as a dealer in a transaction described in subparagraph (b) of this paragraph, and

(b) the term "market making transaction" shall mean any transaction involving a sale (including a short sale) made within the state by a dealer of shares or certificates subject to the tax imposed by article twelve of the tax law, provided such shares or certificates are sold:

(i) as stock in trade or inventory or as property held for sale in the ordinary course of such dealer's trade or business (including transfers which are part of an underwriting);

(ii) in (a) a bona fide arbitrage transaction; (b) a bona fide hedge transaction involving a long or short position in any equity security and a long or short position in a security entitling the holder to sell or sell such equity security; or (c) a risk arbitrage transaction in connection with a merger, acquisition, tender offer, recapitalization, reorganization, or similar transaction,

(iii) to offset a transaction made in error.

Provided, however, that, except as to clause (ii)(c) of this paragraph, the term "market making transaction" shall not include any sale of shares or certificates identified in such dealer's records as a security held for investment within the meaning of section twelve hundred thirty-six of the Internal revenue code.
(3) The credit allowed under this subdivision for any taxable year shall be deemed to be an overpayment of tax by the taxpayer to be credited or refunded in accordance with the provisions of section one hundred thirty-four, except as otherwise provided in subdivision (g) of section one hundred sixteen, and subdivision (g) of section one hundred twenty-two; provided, however, that the provisions of this title notwithstanding, the amount to be refunded pursuant to this subdivision shall not be paid prior to the first day of the eighth month following the close of the taxable year, and the provisions of subdivision (c) of section one hundred thirty-six notwithstanding, interest shall be allowed and paid on the overpayment of the credit under this subdivision from the first day of the eleventh month following the close of the taxable year.

§23. Subdivision (b) of subsection one hundred fifteen contained in section two of such chapter is hereby amended to read as follows:

(b) Definition of estimated tax. The term "estimated tax" means the amount which an unincorporated business estimates to be its tax under this section for the taxable year, less the amount which it estimates to be the sum of any credits allowable against the tax other than the credit allowable under subdivision (c) of section one hundred one of this chapter.

§24. Subdivision (b) of subsection one hundred five contained in such section two of such chapter is hereby amended by adding thereto two new paragraphs, to be paragraphs four and five, to read, respectively, as follows:

(4) The amount allowed as an exclusion or deduction for stock transfer taxes imposed by article twelve of the tax law in determining federal gross income but only such portion of such
exclusion or deduction which is not in excess of the amount of the credit allowed pursuant to subdivision (c) of section one hundred one of this chapter.

(5) The excess of the credit allowed under subdivision (c) of section one hundred one against the tax due under this title for any taxable year over the tax due for such year computed without regard to such credit, to the extent that such excess is not included in gross income for federal income tax purposes. §25. Paragraph four of subdivision (c) of subsection one hundred five contained in such section two of such chapter is hereby amended to read as follows:

(4) The amount of any refund or credit for overpayment of income taxes imposed by the city, this state or any other taxing jurisdiction, to the extent properly included in gross income for federal tax purposes, except the excess of the credit allowed under subdivision (c) of section one hundred one against the tax due under this title for any taxable year over the tax due for such year computed without regard to such credit, to the extent that such excess is included in gross income for federal income tax purposes. §26. Subsection one hundred sixteen contained in section two of such chapter is hereby amended by adding thereto a new subdivision, to be subdivision (g), to read as follows:

(g) The portion of an overpayment attributable to a credit allowable pursuant to subdivision (c) of section one hundred one of this chapter may not be credited against any payment due under this section. §27. Subsection one hundred twenty-two contained in section two of such chapter is hereby amended by adding thereto a new subdivision, to be subdivision (g), to read as follows:

(g) Taxpayers with credit relating to stock transfer tax. -- Subdivision (a) of this section shall apply to a taxpayer which has a right to a credit pursuant to subdivision (c) of subsection one hundred one, except that the tax, or balance thereof, payable to the director of finance in full pursuant to subdivision (a) of this section, at the time the return is required to be filed, shall be calculated and paid at such time as if the credit provided for in subdivision (c) of section one hundred one, except as

I T A L I C S
§28. Section R46-4.0 of the administrative code of the city of New York is hereby amended by adding thereto a new subdivision, to be subdivision eleven, to read as follows:

11. (a) A taxpayer shall be allowed a credit, to be refunded in the manner hereinafter provided in this subdivision, against the tax imposed by this title. The amount of such credit shall be fifty percent of the tax incurred in market making transactions under the provisions of article twelve of the tax law on such transactions subject to such tax occurring on and after August first, nineteen hundred seventy-six and paid by such taxpayer (except when such tax shall have been paid pursuant to section two hundred seventy-nine-a of such tax law).

(b) For purposes of this subdivision:

(1) the term "taxpayer" shall mean any corporation subject to tax under this title registered with the United States securities and exchange commission in accordance with subsection (b) of section fifteen of the securities exchange act of nineteen hundred thirty-four, as amended, and acting as a dealer in a transaction described in subparagraph two of this paragraph, and

(2) the term "market making transaction" shall mean any transaction involving a sale (including a short sale) made within the State by a dealer of shares or certificates subject to the tax imposed by article twelve of the tax law, provided such shares or certificates are sold:

(i) as stock in trade or inventory or as property held for sale in the ordinary course of such dealer's trade or business (including transfers which are part of an underwriting);

(ii) in (a) a bona fide arbitrage transaction; (b) a bona fide hedge transaction involving a long or short position in any equity security and a long or short position in a security entitling the holder to acquire or sell such equity security; or (c) a risk arbitrage transaction in connection with a merger, acquisition, tender offer, recapitalization, reorganization, or similar transaction, or
(iii) to offset a transaction made in error.

Provided, however, that, except as to clause (ii)(c) of this paragraph, the term "market making transaction" shall not include any sale of shares or certificates identified in such dealer's records as a security held for investment within the meaning of section twelve hundred thirty-six of the internal revenue code.

(c) The credit allowed under this subdivision for any taxable year shall be deemed to be an overpayment of tax by the taxpayer to be credited or refunded in accordance with the provisions of section R46-67.0 of this title, except as otherwise provided in subdivision three of section R46-6.0 and subdivision eleven of section R46-8.0; provided, however, that the provisions of this chapter notwithstanding, the amount to be refunded pursuant to this subdivision shall not be paid prior to the first day of the eighth month following the close of the taxable year, and the provisions of subdivision three of section R46-69.0 of this title notwithstanding interest shall be allowed and paid on the overpayment of the credit under this subdivision from the first day of the eleventh month following the close of the taxable year.

§29. Section R46-6.0 of such code is hereby amended by adding thereto a new subdivision, to be subdivision three, to read as follows:

3. Subdivision one of this section shall apply to a taxpayer which has a right to a credit pursuant to subdivision eleven of section R46-5.0 of this title, except that the tax, or balance thereof, payable to the director of finance in full pursuant to subdivision one of this section, at the time the report is required to be filed, shall be calculated and paid at such time as if the credit provided for in subdivision eleven of section R46-4.0 were not allowed.

§30. Section R46-8.0 of such code, is hereby amended by adding thereto a new subdivision, to be subdivision eleven, to read as follows:
11. The portion of an overpayment attributable to a credit allowable pursuant to subdivision eleven of section R46-4.0 of this title may not be credited against any payment due under this section.

§31. Subdivision two of section R46-7.0 of such code, as amended by local law number nineteen of the laws of nineteen hundred seventy-two, is hereby amended to read as follows:

2. The term "estimated tax" means the amount which a taxpayer estimates to be the tax imposed by section R46-3.0 of this part for the current privilege period, less the amount which it estimates to be the sum of any credits allowable against the tax other than the credit allowable under subdivision eleven of section R46-4.0 of this title.

§32. Subparagraph five of paragraph (a) of subdivision eight of section R46-2.0 of such code, as added by local law number twenty-one of the laws of nineteen hundred sixty-six, is hereby amended to read as follows:

(5) any refund or credit of a tax imposed under this part, for which tax no exclusion or deduction was allowed in determining the taxpayer's entire net income under this part for any prior year, except that portion of such refund or credit attributable to any excess of the credit allowed under subdivision eleven of section R46-4.0 of this title against the tax due under this title for any taxable year over the tax due for such year computed without regard to such credit.

§33. Paragraph (b) of subdivision eight of section R46-2.0 of such code is hereby amended by adding thereto a new subparagraph, to be subparagraph four-a, to read as follows:

(4-a) the amount allowed as an exclusion or deduction for stock transfer taxes imposed by article twelve of the tax law in determining the entire taxable income which the taxpayer is
required to report to the United States treasury department but only such portion of such exclusion or deduction which is not in excess of the amount of the credit allowed pursuant to subdivision eleven of section R46-4.0 of this title.

§34. Subparagraph one of the second unnumbered paragraph of subdivision one of section R46-6.0 of such code, as added by local law number twenty-one of the laws of nineteen hundred sixty-six, is hereby amended to read as follows:

(1) an amount so paid shall be deemed properly estimated if it is either (A) not less than ninety per centum of the tax as finally determined (computed without regard to any credit allowable under subdivision eleven of section R46-4.0 of this title), or (B) not less than the tax shown (computed without regard to any credit allowable under subdivision eleven of section R46-4.0 of this title) on the taxpayer's report for the preceding taxable year, if such preceding year was a taxable year of twelve months; and

§35. Section R46-3.0 of such code is hereby amended by adding thereto a new subdivision, to be subdivision (c), to read as follows:

(c) Credit relating to stock transfer tax. -- (1) In addition to any other credit permitted under this section, a taxpayer shall be allowed a credit, to be credited or refunded in the manner hereinafter provided in this subdivision, against the tax imposed by this title after the allowance of any other credit under this section. The amount of such credit shall be fifty percent of the tax incurred in making transactions under the provisions of article twelve of the tax law on such transactions subject to such tax occurring on and after August first, nineteen hundred seventy-six and paid by such taxpayer (except when such tax shall have been paid pursuant to section two hundred seventy-nine-a of such tax law).

(2) For purposes of this subdivision:

(a) the term "taxpayer" shall mean any unincorporated business subject to tax under this title registered with the United States securities and exchange commission in accordance with subsection (b) of section fifteen of the securities exchange act of
nineteen hundred thirty-four, as amended, and acting as a dealer in a transaction described in subparagraph (b) of this paragraph, and (b) the term "market making transaction" shall mean any transaction involving a sale (including a short sale) made within the state by a dealer of shares or certificates subject to the tax imposed by article twelve of the tax law, provided such shares or certificates are sold:

(i) as stock in trade or inventory or as property held for sale in the ordinary course of such dealer's trade or business (including transfers which are part of an underwriting);

(ii) in (a) a bona fide arbitrage transaction; (b) a bona fide hedge transaction involving a long or short position in any equity security and a long or short position in a security entitling the holder to acquire or sell such equity security; or (c) a risk arbitrage transaction in connection with a merger, acquisition, tender offer, recapitalization, reorganization, or similar transaction, or

(iii) to offset a transaction made in error.

Provided, however, that, except as to clause (ii)(c) of this paragraph, the term "market making transaction" shall not include any sale of shares or certificates identified in such dealer's records as a security held for investment within the meaning of section twelve hundred thirty-six of the internal revenue code.

(3) The credit allowed under this subdivision for any taxable year shall be deemed to be an overpayment of tax by the taxpayer to be credited or refunded in accordance with the provisions of section S46-30.0 of this title, except as otherwise provided in subdivisions (g) of sections S46-16.0 and S46-18.0 of this title; provided, however, that the provisions of this title notwithstanding, the amount to be refunded pursuant to this subdivision shall not be paid prior to the first day of the eighth month following the close of the taxable year, and the provisions of subsection (c) of section S46-32.0 of this title notwithstanding, interest shall be allowed and
paid on the overpayment of the credit under this subdivision from the first day of the eleventh month following the close of the taxable year.

§36. Subdivision (b) of section S46-5.0 of such code is hereby amended by adding thereto two new paragraphs, to be paragraphs four and five, to read, respectively, as follows:

(4) The amount allowed as an exclusion or deduction for stock transfer taxes imposed by article twelve of the tax law in determining federal gross income but only such portion of such exclusion or deduction which is not in excess of the amount of the credit allowed pursuant to subdivision (c) of section S46-3.0 of this title.

(5) The excess of the credit allowed under subdivision (c) of section S46-3.0 of this title against the tax due under this title for any taxable year over the tax due for such year computed without regard to such credit, to the extent that such excess is not included in gross income for federal income tax purposes.

§37. Paragraph four of subdivision (c) of section S46-5.0 of such code, as added by local law number twenty-two of the laws of nineteen hundred sixty-six, is hereby amended to read as follows:

(4) The amount of any refund or credit for overpayment of income taxes imposed by the city, this state or any other taxing jurisdiction, to the extent properly included in gross income for federal tax purposes, except the excess of the credit allowed under subdivision (c) of section S46-3.0 of this title against the tax due under this title for any taxable year over the tax due for such year computed without regard to such credit, to the extent that such excess is included in gross income for federal income tax purposes.
§38. Subdivision (b) of section 546-15.0 of such code, as added by local law number twenty-two of the laws of nineteen hundred sixty-six, is hereby amended to read as follows:

(b) Definition of estimated tax. -- The term "estimated tax" means the amount which an unincorporated business estimates to be its tax under this title for the taxable year, less the amount which it estimates to be the sum of any credits allowable against the tax other than the credit allowable under subdivision (c) of section 546-3.0 of this title.

§39. Section 546-16.0 of such code is hereby amended by adding thereto a new subdivision, to be subdivision (g), to read as follows:

(g) Taxpayers with credit relating to stock transfer tax. -- The portion of an overpayment attributable to a credit allowable pursuant to subdivision (c) of section 546-3.0 of this title may not be credited against any payment due under this section.

§40. Section 546-18.0 of such code is hereby amended by adding thereto a new subdivision, to be subdivision (g), to read as follows:

(g) Taxpayers with credit relating to stock transfer tax. -- Subdivisions one and two of this section shall apply to a taxpayer which has a right to a credit pursuant to subdivision (c) of section 546-3.0 of this title, except that the tax, or balance thereof, payable to the director of finance in full pursuant to subdivision (a) of this section, at the time the report is required to be filed, shall be calculated and paid at such time as if the credit provided for in subdivision (c) of section 546-3.0 were not allowed.

§41. Subsection (b) of section seven hundred one of the tax law, as amended by chapter eight hundred eighty-eight of the laws of nineteen hundred seventy-four, is hereby amended to read as follows:

(b) Credit against tax of less than five hundred fifty dollars. -- If the tax computed under subsection (a), after
allowance of any credit allowed under subsection (c), is one hundred ten dollars or less, a credit shall be allowed for the entire amount of such tax. If the tax computed under subsection (a), after allowance of any credit allowed under subsection (c), exceeds one hundred ten dollars but is less than five hundred fifty dollars, a credit shall be allowed in the amount by which twenty-five per centum of such tax is less than one hundred thirty-seven dollars and fifty cents. If the tax computed under subsection (a), after allowance of any credit allowed under subsection (c), is five hundred fifty dollars or more, no credit shall be allowed. The credit allowed by this subsection shall be computed without regard to any credit allowable under [subsection (d)] subsections (d) and (e).

§42. This act shall take effect immediately.
January 23, 1976

TO MEMBERS

On recommendation of the Finance Committee and pursuant to Article XXVII of the Rules, the Board of Governors, at its meeting on January 22, 1976, approved membership dues and regularly established fees as follows for the fiscal year beginning January 1, 1976.

(a) Membership Dues $1,500 per annum payable quarterly in equal installments.

(b) Transaction Fee Trade plus value charge on transactions effected on the Floor of the Exchange. The applicable rates are as follows:

Fee for Agency Transactions

10¢ per odd lot trade
45¢ per trade for first 1,000 round lot trades
35¢ per trade for next 1,000 round lot trades
25¢ per trade for trades in excess of 2,000 trades

Plus

12¢/$1,000 value for first $7,500,000 of trade value
10¢/$1,000 value for next $17,500,000 of trade value
8¢/$1,000 value for trade value over $25,000,000.
Adjustments are made for:
Principal trades
Floor Brokerage
Specialist Give-ups

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<td>$200 for registration of a new firm or new corporation or change in registration from partnership or vice-versa.</td>
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<td>$25 per annum and $25 for each additional registration during the year prior to October 1, 1976 regardless of the portion thereof for which the registration is in effect.</td>
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(f) Clerks' Floor Passes
$100 per year per clerk, 3 months, $50; Temporary (2 week limit), $25; employers will be so addressed whether the clerk is on full-time or part-time basis. Includes clerks' coats.

(g) Outgoing Telephone Calls
Actual charges are billed through the Exchange's Centrex System.

(h) Regulation "T" Extensions
$1 per extension request form processed.

(i) Field Examination (in excess of one per year)
$85 per day for professional fees, plus actual living expenses up to a maximum of $35 per day, plus actual travel expenses.

(j) Buy-In Extensions
$1 per request form processed to SEC Rule 15c3-3.

(k) Financial Reports (required to be filed under Article XX, Rule 3 [b]).
$18 per report for professional fees.

(l) Supplies & Reports
Trading Forms
Cost rebilled and based on form usage.

Pink Sheets
$10 per annual subscription.

Directory
$5 per copy.

(m) Listing Fees
Original Listings
$5,000 per issue.
Maintenance

4¢/1M shares listed per year; applicable in year following original listing.

Supplemental Listings

$.005 per share for first 100,000 shares, $.0025 per share for balance, $1,500 maximum per application, $250 minimum per application, $5,000 maximum per year.

(n) Fines

Non-Print Charges

$5 for failure to report a transaction which alters the range for the day.

$10 for failure to report a transaction of from 1,000 to 2,400 shares.

$25 for failure to report a transaction of 2,500 shares or more.

Late Filing Fee

$25 per notice of termination filed later than 30 days following actual date of severance.

Other

Applied for rule violations based on nature of violation.

A. M. Anderson, Jr.
Senior Vice President & Treasurer
CHAPTER III MISCELLANEOUS TAXES

§ 440.1

SUBCHAPTER G

Stock Transfer Tax

PART 440 GENERAL PROVISIONS

(Statutory authority: Tax Law, § 171; art. 12)

Sec. 440.1 Taxable transactions in general. (a) By section 270 of the Tax Law, a tax is imposed upon transactions with reference to: (1) shares of stock; (2) certificates of stock; (3) certificates of rights to stock; (4) certificates of interest in property or accumulations; (5) certificates of interest in business conducted by a trustee or trustees; (6) certificates of deposit representing any of the foregoing. The tax applies to such shares or certificates in any domestic or foreign corporation, company, association, or business conducted by a trustee or trustees and to transactions by residents and nonresidents alike.

(b) The tax is imposed on (1) sales, (2) agreements to sell, (3) memoranda of sales, (4) deliveries, and (5) transfers of the shares and certificates described above, including transfers of record ownership on the books of the corporation or other entity issuing the shares or certificates involved.

(c) Shares and certificates described in subdivisions (a) of this section include:

(1) shares of stock, whether or not represented by certificates, including shares subscribed for by an accommodation incorporator;

(2) temporary or interim certificates;

(3) certificates representing the interest of a subscriber for stock, although further payment must be made;

(4) voting trust certificates;

(5) certificates of stock in a dissolved corporation.

(d) No tax is imposed upon transactions in shares or certificates issued under a noncorporate investment trust agreement of the fixed type.

(e) With respect to shares or certificates of an investment trust of the management type, if its shareholders are entitled upon reasonable notice to require it to redeem or repurchase their shares or certificates for their proportionate interest in the property of the investment trust, or the cash equivalent thereof, less a discount of not more than three per cent, no tax is imposed upon transfers involved in the distribution of its shares by the trust to investors, or in the redemption thereof by the trust, between the investment trust and an underwriter, between an underwriter and a dealer in securities, or between an underwriter or dealer and an
inventor). However, other transfers of the shares of such a trust, such as sales by one dealer to another, or by one investor to another, are subject to tax.

(1) An agreement of the type known as a "call" constitutes an agreement to sell, and is subject to tax when given. It is immaterial whether the option thereby given is actually exercised, but, if exercised, no tax is payable on the sale, delivery or transfer made pursuant to the "call", provided that the tax has been paid thereon. In such a case, a certificate in the following form may be submitted to the transfer agent:

We hereby certify that the transfer of ______ shares of the
within stock to ______ has been made pursuant to a
"call" and that the New York State stock transfer tax stamps for the trans-
action are affixed to such "call", which is in our possession.

(Seller's signature)

(g) Sales, agreements to sell and deliveries of shares or certificates are taxable even though no transfer is made on the books of the corporation. Neither is it necessary that the transaction pass the legal title to the shares; the tax is imposed whether the transaction transfers the holder of the shares or certificates with other the beneficial interest in them or legal title to them, or merely with possession or use of them for any purpose. It is not necessary that a transaction involve a sale to be taxable; a delivery or transfer of shares or certificates as a gift is taxable.

(h) The tax imposed by article 12 of the Tax Law does not apply to the original issuance of stock.

(1) The following are examples of taxable transactions:

(1) The transfer of stock by gift.
(2) The transfer of stock from a partnership to a member thereof or from a member to a partnership.
(3) The purchase, redemption or other reacquisition by a corporation of its own shares of stock (except where such shares are cancelled on reacquisition pursuant to the provisions of section 315 of the Business Corporation Law, or such shares are cancelled by an appropriate amendment to the corporation's certificate of incorporation or by action by the board of directors of such corporation within one year of the date of reacquisition) and transfers of its own stock by the corporation.
(4) The distribution of stock in one corporation owned by another to stock-
holders of the latter.
(5) The transfer of stock of a corporation to be merged, to the merging corporation, prior to the actual merger and as a condition precedent to the merger.
(6) The transfer of stock to or by trustees, including the transfer into or out of a voting trust, investment trust or other trust.
(7) The transfer of stock from an individual to himself as trustee.
(8) The transfer of stock by an executor or administrator, whether to trustees, legatees, or other persons.
(9) The transfer of stock from tenants in common to themselves as individuals or to one of them.
(10) The transfer of stock standing in the name of two individuals to themselves as joint tenants with right of survivorship.
(11) The transfer of stock held by joint tenants to either one or the other of the parties while both are alive.
(12) The delivery of a certificate by the transferor, or his agent, to the transferee, or his agent.
(13) The transfer of stock by or to an ambassador or consul representing a foreign country.

(2) The following are examples of transactions not subject to tax:

(1) A transfer on the books of the corporation into a new name, made merely because the stockholder has changed his or its name, where no actual change of ownership occurs.
CHAPTER III MISCELLANEOUS TAXES

§ 449.2

(2) The surrender of a single certificate for reissuance to the same stockholder of several certificates representing, in the aggregate, the same number of shares.

(3) The surrender of a number of certificates of reissue, to the same stockholder, of a single certificate for the same number of shares.

(4) The transfer of a fraction of a share of stock or a certificate representing the right to receive less than one share of stock.

(5) The surrender of preferred stock certificates in exchange for common stock certificates issued to the same stockholder and vice versa, when made necessary by a change in capital structure.

(6) The mere registration in the State of New York, by a registrar, of a transfer already made by the corporation or its transfer agent outside this State.

(7) The mere execution of an assignment within the State (whether by endorsing the certificate in blank or otherwise) where all other acts connected with the transfer are done outside the State.

(8) The transfer of stock from a trustee of a continuing trust to a successor trustee appointed under power reserved in the deed of trust.

(9) The transfer of stock by a trustee to a successor trustee in a case where the first trustee, acting under a deed of trust which empowers him to appoint a cotrustee, appoints such cotrustee and then resigns, leaving the cotrustee as the sole trustee.

(10) The transfer of stock held in a testamentary trust from the original trustees to a substitute trustee appointed by the court and the surviving member of the original testamentary trustors.

(11) The surrender of stock of a merged corporation in exchange for stock of a merging corporation at the time and as part of a statutory merger.

(12) The surrender of stock of a consolidating corporation in exchange for stock in the resulting corporation in the case of the consolidation of two or more corporations.

(13) The transfer of stock in the names of two joint tenants with right of survivorship to the name of the survivor after the death of the other joint tenant.

Historical Note

Decisions

1. Applicability to transfer of certificates of merged corporations: Held that where as a result of merger a Massachusetts corporation became vested with the assets of another Massachusetts corporation, including certain of its securities which although located in Massachusetts and New York State transfer agents, said agents properly refused to issue new stock certificates in the name of the newly created corporation without payment of the New York State stock transfer tax. Transfer of the stock on the books of the respective corporations in New York was necessary to pass legal title to each stock and therefore the tax is payable. (Tax Law, § 279, subd. 1; 20 NYCRR 449.1 [a], [g], 449.2; UCC § 8-301, Matter of Marcello, 109 AD 2d 531 [1972], aff'd, 73 NY 2d 399 [1973].)

449.2 When a taxable event is deemed to occur within the State of New York.

The fact that two or more of the taxable events listed in section 449.1 occur within the State of New York with respect to a single transaction does not mean that more than one tax is imposed; only one tax is payable with respect to any one transaction. Thus, if a sale, delivery of the certificates and record transfer in the name of the purchaser are all made within the State, only one tax is payable. However, if any one of these taxable events occurs within the State with reference to any transaction, it is subject to tax regardless of where the others occurred. Thus, a transfer of record ownership on the books of the corporation within the State is subject to tax, even though the sale and delivery of the certificates were made outside the State. The same is true of a sale or agreement to sell, or a delivery of certificates made within the State, although all other events relating to the same transaction occurred without the State.
§ 440.3 Who must pay the tax. (a) Subdivision 3 of section 270 of the Tax Law imposes liability for the tax upon the person or persons making or effectuating the sale or transfer, including the person or persons to whom the sale or transfer is made. Thus, both transferee and transferor are liable, and if a transfer is made on the books of the corporation, it is also liable.

(b) As between themselves, the parties may agree which of them shall bear this liability and payment of the tax by either discharges the liability of both. However, if the party who has agreed to pay the tax fails to do so, the other party is not exonerated from liability by such agreement and in such case payment may be enforced against either party.

(c) Provided, however, that the tax imposed by article 12 does not apply to any sale or transfer wherein the vendor or transferor is a governmental entity or international organization which is not subject to the stock transfer tax.

Historical Note
Sec. and. filed Feb. 23, 1973. New (c) substituted.

§ 440.4 Requirements as to bills and memoranda of sale. (a) Every bill or memorandum of sale, agreement to sell and sale ticket must show:

1. The date of the transaction which it evidences.
2. The name of the seller.
3. The stock to which it relates and the number of shares thereof.
4. The selling price per share.
5. An identifying number as provided by section 270 of the Tax Law.

(b) A memorandum of sale must bear a date the same as or later than the date of the assignment of the stock certificate which it accompanies. When such memorandum bears a date prior to the date on the surrendered certificate, a certificate must be attached to the memorandum in the following form:

This is to certify that this memorandum of sale was issued in compliance with section 270 of the Tax Law and applies to the certificate hereto attached, delivery of which was made on ______.

Broker

PART 441
AMOUNT OF TAX
(Statutory authority: Tax Law, § 171; art. 12)

Sec. 441.1 Rate of tax; evidence of payment at proper rate.
Sec. 441.2 Tax on sales by nonresidents

Section 441.1 Rate of tax; evidence of payment at proper rate. (a) Rate of tax:

1. Subdivision 2 of section 270 and section 270-d of the Tax Law provide that where shares or certificates of stock are sold, the rate of tax is dependent upon the selling price, as follows:

<table>
<thead>
<tr>
<th>Selling price per share</th>
<th>Rate of tax in costs per share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $5</td>
<td>1.55</td>
</tr>
<tr>
<td>$5 or more and less than $10</td>
<td>2.13</td>
</tr>
<tr>
<td>$10 or more and less than $20</td>
<td>4.09</td>
</tr>
<tr>
<td>$20 or more</td>
<td>0.25</td>
</tr>
</tbody>
</table>

(ii) Rate for periods prior to August 1, 1975 and after July 31, 1978:

684 TP 7-31-70
Selling price per share

<table>
<thead>
<tr>
<th>Selling price per share</th>
<th>Rate of tax in costs per share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $5</td>
<td>1.25</td>
</tr>
<tr>
<td>$5 or more and less than $10</td>
<td>2.50</td>
</tr>
<tr>
<td>$10 or more and less than $20</td>
<td>3.75</td>
</tr>
<tr>
<td>$20 or more</td>
<td>5.00</td>
</tr>
</tbody>
</table>

Example 1: A resident of New York State sells 100 shares of X stock, or agrees to sell such stock, by an order executed in New York State on June 28, 1975. Such stock is transferred on the books of X corporation in New York after July 31, 1975. The rate of tax is the rate imposed prior to August 1, 1975. (Subparagraph (i) of this paragraph).

Example 2: A sells 100 shares of X stock, or agrees to sell such stock, by an order executed outside the State of New York on June 28, 1975. Such stock is transferred on the books of X corporation in New York to the purchaser after July 31, 1975. The rate of tax imposed on such transfer is the sale rate for the period August 1, 1975 through July 31, 1978. (Subparagraph (i) of this paragraph).

Example 3: A sells 100 shares of X stock, or agrees to sell such stock, by an order executed on June 28, 1978 within the State of New York. The stock is transferred to the purchaser on the books of X corporation in New York after July 31, 1978. The rate of tax is the rate imposed during the period August 1, 1975 through July 31, 1978. (Subparagraph (ii) of this paragraph).

Example 4: A sells 100 shares of X stock, or agrees to sell such stock, by an order executed on June 28, 1978 outside the State of New York. The stock is transferred to the purchaser on the books of X corporation in New York after July 31, 1978. The rate of tax is the rate for the period on and after July 1, 1979. (Subparagraph (iii) of this paragraph).

(2) Where a delivery or transfer subject to tax occurs without the shares or certificates being sold, as in the case of a gift or other voluntary transfer, the rate of tax is:

(i) during the period August 1, 1975 through July 31, 1978: three and thirteen one hundredths cents per share and

(ii) during periods prior to August 1, 1975 and after July 31, 1978: two and one-half cents per share.

(3) The tax is to be computed at the statutory rate on the total number of shares involved in each transaction. On some sales and transfers, these rates may produce an amount which includes a fraction of a cent. For the purpose of the computation to the nearest cent, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case the amount (determined without regard to the fractional part of a cent) shall be increased by one cent.

(4) Where it does not clearly appear that the sale, agreement to sell, memorandum of sale, delivery or transfer of shares or certificates subject to the tax occurred in New York prior to August 1, 1975 or after July 31, 1978, the transfer agent may rely on a certification in the following form:

"This is to certify that the sale, agreement to sell, memorandum of sale, delivery or transfer of shares or certificates attached hereto did not occur in New York during the period August 1, 1975 and July 31, 1978."

Such shares and certificates presented for transfer on the books of the issuing corporation or after August 1, 1975 and prior to August 1, 1978, will otherwise be regarded as representing sales or transfers thereof effected after such date and subject to the surcharge imposed by section 270-d of the Tax Law.

(5) [Transfer by sale.] A certificate of stock or other corporate certificate which is presented for transfer shall, if the transfer was by sale and the tax was paid by the use of adhesive stamps, be accompanied either by a bill or memorandum of sale showing the sale price or by a certificate in substantially the following form:

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§ 441.2  

We hereby certify that these shares were sold by us at $_________ per share.

(Seller)

(c) [Transfer not by sale.] A certificate of stock or other corporate certificate which is presented for transfer shall, if the transfer was otherwise than by sale and the tax was paid by the use of adhesive stamps, be accompanied by a certificate in substantially the following form:

We hereby certify that these shares were transferred by us otherwise than by sale.

Historical Note

Sec. 240a, filed: June 4, 1973; July 20, 1973; Oct. 14, 1973; Nov. 15, 1973; July 20, 1974; eff. for 60 days from July 20, 1974. The coupon shall expire unless the State Tax Commission declares them permanent within 60 days by resolution only adopted within that time. Amended (a)(1), (2) and (4).

441.2 Tax on sales by nonresidents. (a) (1) Subdivision 1 of section 270-a and section 270-c of the Tax Law provide that where shares or certificates of stock are sold by a "nonresident" of the State, the rate of tax is dependent upon the selling price and the applicable percentage of the rates provided in section 270-a of the Tax Law. Expressed in cents, the rates of tax per share obtained by applying such percentages are as follows:

(i) Rates for periods on and after August 1, 1973:

<table>
<thead>
<tr>
<th>Period</th>
<th>Selling price per share</th>
<th>Rates in cents</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 1, 1975 to July 31, 1976</td>
<td>Less than $5</td>
<td>0.79</td>
</tr>
<tr>
<td></td>
<td>$5 to less than $10</td>
<td>1.56</td>
</tr>
<tr>
<td></td>
<td>$10 to less than $20</td>
<td>2.35</td>
</tr>
<tr>
<td></td>
<td>$20 or more</td>
<td>3.13</td>
</tr>
<tr>
<td>August 1, 1976 and thereafter</td>
<td>Less than $5</td>
<td>.63</td>
</tr>
<tr>
<td></td>
<td>$5 to less than $10</td>
<td>1.25</td>
</tr>
<tr>
<td></td>
<td>$10 to less than $20</td>
<td>1.88</td>
</tr>
<tr>
<td></td>
<td>$20 or more</td>
<td>2.5</td>
</tr>
</tbody>
</table>

(ii) Rates for prior periods:

<table>
<thead>
<tr>
<th>Period</th>
<th>Selling price per share</th>
<th>Rate in cents</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 1969 to June 30, 1970</td>
<td>Less than $5</td>
<td>1.875</td>
</tr>
<tr>
<td></td>
<td>$5 to less than $10</td>
<td>2.875</td>
</tr>
<tr>
<td></td>
<td>$10 to less than $20</td>
<td>3.525</td>
</tr>
<tr>
<td></td>
<td>$20 or more</td>
<td>4.75</td>
</tr>
<tr>
<td>July 1, 1970 to June 30, 1971</td>
<td>Less than $5</td>
<td>1.125</td>
</tr>
<tr>
<td></td>
<td>$5 to less than $10</td>
<td>2.25</td>
</tr>
<tr>
<td></td>
<td>$10 to less than $20</td>
<td>3.375</td>
</tr>
<tr>
<td></td>
<td>$20 or more</td>
<td>4.5</td>
</tr>
<tr>
<td>July 1, 1971 to June 30, 1972</td>
<td>Less than $5</td>
<td>1.0</td>
</tr>
<tr>
<td></td>
<td>$5 to less than $10</td>
<td>2.0</td>
</tr>
<tr>
<td></td>
<td>$10 to less than $20</td>
<td>3.0</td>
</tr>
<tr>
<td></td>
<td>$20 or more</td>
<td>4.0</td>
</tr>
<tr>
<td>July 1, 1972 to June 30, 1973</td>
<td>Less than $5</td>
<td>.3125</td>
</tr>
<tr>
<td></td>
<td>$5 to less than $10</td>
<td>1.025</td>
</tr>
<tr>
<td></td>
<td>$10 to less than $20</td>
<td>2.375</td>
</tr>
<tr>
<td></td>
<td>$20 or more</td>
<td>3.25</td>
</tr>
<tr>
<td>July 1, 1973 to June 30, 1975</td>
<td>Less than $5</td>
<td>.625</td>
</tr>
<tr>
<td></td>
<td>$5 to less than $10</td>
<td>1.25</td>
</tr>
<tr>
<td></td>
<td>$10 to less than $20</td>
<td>1.875</td>
</tr>
<tr>
<td></td>
<td>$20 or more</td>
<td>2.5</td>
</tr>
</tbody>
</table>
(2) The computation of the tax calculated by applying the above rates is not required to be carried out beyond four decimal points, that is, it is to be computed to the nearest one-hundredth of one cent. However, the tax is to be computed at the statutory rates on the total number of shares involved in each transaction. These rates may produce an amount which includes a fraction of a cent. For the purpose of the computation to the nearest cent, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case the amount (determined without regard to the fractional part of a cent) shall be increased by one cent.

(b) Resident and nonresident defined. (1) Section 270-a (3)(a) of the Tax Law provides for reduced rates of tax on sales within the State by "nonresidents" of the State. However, the reduced rates of tax are not applicable in the case of sales effected outside the State if there is a subsequent bona fide act within the State. A nonresident for this purpose is an individual or a group of individuals, owning securities and selling or trading for his or their own account. In order for a partnership to qualify as a "nonresident" it must be organized and operated solely for the purpose of investing in securities and none of the partners may be a "resident". Likewise, in the case of joint ownership (whether as tenants in common, joint tenants with right of survivorship, or other form of joint ownership) of securities none of the joint owners may be a "resident". For example, a "nonresident" may include an "investment club" or other entity in partnership form which is organized and operated solely for the purpose of investing in securities and none of the members is a "resident". In the case of sales of securities by a custodian of securities under the Uniform Gifts to Minors Act, or similar act, or a guardian of a minor or incompetent, resident or nonresident status shall be determined on the basis of the status of the minor or incompetent.

(2) The term resident means an individual who on the day the tax accrues (i) is domiciled in this State, unless he maintained a permanent place of abode here before such day and during the one year prior to such day in the aggregate not more than 30 days within this State; (ii) has not been domiciled in this State but maintained a permanent place of abode here during the one year prior to such day and during the one year prior to such day in the aggregate not more than 30 days within this State; (iii) is a member of the armed forces of the United States; (iv) regardless of his residence either maintains a permanent place of business or is employed within this State.

(3) The term "resident" also includes all individuals regardless of whom he resides or is domiciled, who on the date on which the tax accrues (i) is a member of a securities exchange within the State which is registered with the Securities and Exchange Commission of the United States; (ii) is a dealer in securities required to be registered with the Attorney-General of the State; (iii) acts as a dealer in securities or as a broker or agent in transactions involving sales and purchases of securities; (iv) is a member of a firm, company, association or organization, or an officer or director of a corporation, or a person employed in a managerial capacity by any of the foregoing organizations which is a member
organization of a securities exchange, a dealer in securities, or a dealer, broker or agent, described in subparagraphs (i), (ii) or (iii) of this paragraph. Thus, an individual who is neither domiciled nor resident in New York but who is a member of a securities exchange located in the State, or is a broker or "registered representative" with, or is employed in a managerial capacity by, a member firm or member corporation of a securities exchange within the State, is deemed a resident for purposes of section 270-a of the Tax Law.

(4) The term agent as used in (iii) of the foregoing paragraph shall mean any broker or other representative of a taxpayer who acts in the sale of securities for an individual. Thus, an agent or representative whose sole function is the delivery of securities, or who is a mere custodian or pledgee of securities or who aids in the effecting of transfers on the books of the issuing corporation is not an "agent".

(5) Managerial capacity as used in paragraphs (4) and (5) of this subdivision means any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of an outside salesman within the purview of section 23(a)(1) of the Fair Labor Standards Act (29 U.S.C.A. 213(a)(1)) and regulations thereunder.

(c) Declaration of nonresidence. (1) In order to evidence his right to the application of the reduced rates of tax prescribed in paragraph (1) of subdivision (a) of this section, a nonresident must file with his broker, dealer, transfer agent or corporation a declaration in substantially the following form:

The undersigned hereby certifies for the purpose of obtaining the reduced rate of tax imposed under section 270-a of the Tax Law, that he (she):

(1) (a) is not domiciled in the State of New York and maintains no permanent place of abode in this State (except as may be due solely to being in the armed forces of the United States); or (b) is domiciled in this State but maintains no permanent place of abode in this State and maintains a permanent place of abode elsewhere, and during the one year period ending on the date hereof spent in the aggregate not more than 30 days of such period in this State;

(II) does not maintain a permanent place of business in this State and is not employed in this State;

(iii) is not a member of a securities exchange located in this State;

(iv) is not a dealer in securities required to be registered with the Attorney-General of this State;

(v) does not act as a dealer or as a broker or agent in transactions involving the sale and purchase of securities;

(vi) is not a member of a firm, or an officer or director of a corporation, or employed in a managerial capacity by either an individual, firm, or corporation, described in (iii), (iv) or (v) above;

(vii) is a custodian under the Uniform Gifts to Minors Act, or similar act, or guardian of a minor or incompetent and that said minor or incompetent is a nonresident of this State;

(viii) is a member of a partnership (other than a partnership having a partner [a] as a member of a securities exchange within this State which is registered with the Securities and Exchange Commission of the United States, [b] as a dealer in securities required to be registered with the Attorney-General of this State, or [c] acting as a dealer in securities or as a broker or agent in transactions concerned with the sale and purchase of securities) or a group of individuals all of whom are nonresidents of this State;
§ 441.2

TAXATION AND FINANCE

(4) will notify any member firm or dealer to whom this declaration is made of any change in the facts set forth above.

(Signature)

(Address)

(City, State & Zip No.)

(Date)

(2) The notice of cancellation to be furnished indicating to such broker, dealer, transfer agent or corporation, with whom he filed a declaration of non-residence of a change in his status as a nonresident shall be in substantially the following form:

The undersigned hereby gives notice, pursuant to section 270-a(1)(c) of the Tax Law, that as of the date hereof, the requirements for nonresidence set forth in a declaration of nonresidence executed by the undersigned on (date) with (broker, dealer, transfer agent or corporation) shall hereafter be deemed cancelled.

(Signature)

(Address)

(City, State & Zip No.)

(Date)

(d) Certification by exchange member or registered dealer. (1) In the case of transactions executed or effected by a member of a securities exchange or by any organization registered as a dealer who is permitted or required pursuant to the provisions of section 281-a to pay transfer taxes without the use of stamps, the tax may be paid at the reduced rates prescribed in paragraph (1) of subdivision (a) of this section and such sale may be certified, as provided in subdivision (c) of this section, by such member of a securities exchange or a registered dealer in the report to clearing corporation (Form MT-675) required to be submitted to such exchange or to any affiliated clearing corporation, authorized agency or in the Weekly Report (Form MT-631) to the State Tax Commission pursuant to section 281-a as being a transaction entitled to such reduced rate of tax, if such nonresident has (i) furnished the member or dealer with a declaration in the form of that prescribed in paragraph (1) of subdivision (c) of this section or (ii) furnished such member or dealer with other written information which would reasonably indicate that the individual is in fact a nonresident and (iii) such member or dealer has not received a notice of cancellation in the form prescribed in paragraph (2) of subdivision (c) of this section from such nonresident or has no knowledge or reasonable cause to believe that the status of such individual as a nonresident has changed. For purposes of (ii) above, an exchange member or registered dealer executing an order for another member, dealer or a bank may rely on recorded instructions by such member, dealer or bank that certain sales made for such member, dealer, or bank are entitled to be treated as made by a nonresident. In the absence of such declaration of non-
residence or other written information or recorded instructions as set forth above, it shall be the duty of the person or persons making or effectuating the sale or transfer, including the person or persons to whom the sale or transfer is made, to pay the tax provided by subdivision 2 of section 270 of the Tax Law; provided, however, that this section shall not apply to any sale or transfer whereon the vendor or transferee is a governmental entity or international organization which is not subject to the tax.

(c) Certification on payment of tax by use of stamps. (1) In order to evidence the right to the application of the reduced rates of tax prescribed in paragraph (1) of subdivision (a) of this section, a dealer, bank or corporation effecting any delivery or transfer must impress by rubber stamp to the stock certificate(s) or memorandum(s) of sale on which stock transfer taxes are required to be paid by the use of stamps a certification in substantially the following form:

It is hereby certified that the transfer of the attached shares is made under such circumstances as to come within the reduced rate of tax specified in section 270-a of the Tax Law of the State of New York and that evidence in proof of the reduced rate is maintained by the undersigned and is available for inspection by officers and representatives of the New York State Tax Commission.

(2) Single taxable sale. (1) Subdivision 2 of section 270-a of the Tax Law limits the tax imposed by section 270 (or, where applicable, section 270-a) on a "single taxable sale" to certain specified amounts. Normally, "single taxable sale" means any sale executed pursuant to a specific order pertaining to a particular issue and class of stock. However, in the case of sales made or effected by any member of a securities exchange or any registered dealer, who is permitted or required to pay the tax without the use of stamps, a "single taxable sale" shall be considered to constitute all sales made pursuant to one or more orders placed with the same member of a securities exchange or the same registered dealer on one day, by the same person, each relating to shares or certificates of the same class and issued by the same issuer, all of which sales are executed on the same day (regardless of whether it be the day of the placing of the orders). A person under this subdivision shall mean a natural person, corporation, company, partnership, trust, association and a group of individuals jointly owning securities (whether as tenants in common, joint tenants with right of survivorship, or other form of joint ownership). An order placed without limitation on the time for its execution shall be deemed placed on each day during which it remains unexecuted.

(2) "Shares or certificates of the same class" shall mean all shares of the same issuer which are identical with respect to the rights and interests each share represents in the control, profits and assets of the corporation issuing such shares.

(3) The maximum amounts of tax on any single taxable sale:

(i) for periods on and after August 1, 1976 are:

<table>
<thead>
<tr>
<th>Period</th>
<th>Tax Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 1, 1975 to July 31, 1978</td>
<td>$437.50</td>
</tr>
<tr>
<td>August 1, 1978 and thereafter</td>
<td>$350.00</td>
</tr>
</tbody>
</table>

(ii) for prior periods were:

<table>
<thead>
<tr>
<th>Period</th>
<th>Tax Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 1969 to June 30, 1970</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>July 1, 1970 to June 30, 1971</td>
<td>$2,500.00</td>
</tr>
</tbody>
</table>
§ 442.1

TITLE 20 TAXATION AND FINANCE

July 1, 1971 to June 30, 1972—750.00
July 1, 1972 to June 30, 1973—500.00
July 1, 1973 to July 31, 1975—350.00

Historical Note

Sec. filed June 4, 1969; added, filed: July 20, 1975; Oct. 11, 1975; Nov. 8, 1976; July 30, 1976 eff. for 60 days from July 30, 1976 and thereafter shall expire unless the State Tax Commission shall declare them permanent within 60 days by resolution duly adopted with that time. Amended (a)(1)(i) and (GG).

PART 442

PAYMENT OF TAX

(Statutory authority: Tax Law, § 171; art. 12)

Sec. 442.1 Payment of tax by use of stamps
Sec. 442.2 Payment of tax by brokers through clearing corporation
Sec. 442.3 Optional method of payment by dealers not members of exchange

Section 442.1 Payment of tax by use of stamps. (a) The tax must be paid by affixing and cancelling New York stock transfer tax stamps in all cases, except with respect to a transaction executed or effectuated within the State of New York by:

(1) brokers who are members of a registered securities exchange within the State of New York; or

(2) dealers in securities who are not members of such an exchange and who have filed with the State Tax Commission written notice of their election to pay the tax to the commission without the use of stamps.

(b) Where stamps are used, they must be affixed as follows:

(1) in the case of a sale effected by delivery of a certificate endorsed in blank, to a bill or memorandum of sale;

(2) in the case of a transaction effected by delivery of a certificate, other than a sale of a certificate endorsed in blank, to the certificate surrendered;

(3) in the case of an agreement to sell, to a bill or memorandum of sale;

(4) in case evidence of the transaction is shown only by the books of the corporation, to such books.

(c) Meter stamps. (1) The Tax Commission will permit the use of metering machines approved by it, but reserves the right to rescind such permission upon 30 days notice, should such action be deemed to be in the best interest of the State of New York. Each user, when his application is approved, shall be assigned a distinctive number which must be clearly incorporated in the design of the meter stamp. The design of the meter stamp is also subject to approval by the Tax Commission.

(2) A prospective user of a meter machine must obtain the permission of the State Tax Commission by filing an Application and Permit to Use Stock Transfer Stamp Tax Meter (form MT-672) with the Miscellaneous Tax Bureau, Stock Transfer Tax Section, State Capitol, Albany, New York 12227.

(3) After approval of an application, the applicant must arrange to meet the meter manufacturer’s representative at the office of the fiscal agent or one of its subagents designated by the State Tax Commission to set the meter. The meter cannot be delivered to the user by the manufacturer’s representative until it has been set and sealed at the office of the fiscal agent or subagent. The user must present at that office (i) his endorsed and completed copy of a form MT-672, (ii) a completed Order for Setting Stock Transfer Stamp Tax Meter (form MT-673), and (iii) a remittance in the amount for which he wishes to have the machine set. The maximum total amount for which a meter can be set is $80,299.99.

(4) Each time thereafter when the user wishes to have the meter reset, he must bring to the office of the fiscal agent or subagent (i) the meter, (ii) a
CHAPTER III MISCELLANEOUS TAXES

§ 442.1

Meter Record Book (form MT-671) provided by the meter manufacturer, (iii) a completed form MT-673, and (iv) a remittance. The meter will be reset and sealed, and the meter record book will be returned to the user.

(5) The user should report immediately to the manufacturer's representative any mechanical failure of a meter. If the meter must be repaired, the user must take the meter and the meter record book to the office of the fiscal agent or subagent which set the meter. The amount of unused stamp value in the meter may be transferred to another meter, or it may be refunded to the user.

(6) When the user discontinues the use of a meter, he must return it to the office of the fiscal agent or subagent which set the meter, in order to have the amount of unused stamp value in the meter transferred to another meter or refunded to the user. If the user desires that this unused amount be refunded, he must submit Application for Refund of Stock Transfer Tax (form MT-672) when he returns the meter. The user may not transfer the meter to another person for use.

(7) The meter user may file an application for refund with respect to any unused or erroneously issued stamps. To be eligible for refund, the amount of such stamps must be determinable to the satisfaction of the State Tax Commission. The application must be supported by submitting the stamps or other information required by the State Tax Commission.

(d) Stamps should be cancelled by having the initials of the name of the person using them, and the date upon which they are attached, written thereon with ink or indelible pencil or stamped thereon. Also, the stamps should be cut or perforated in a substantial manner so that they cannot be used again. Stamping the initials or date, or both, with a perforating stamp mutilates the stamp sufficiently.

(e) Stamps may be purchased from the fiscal agent appointed by the State Tax Commission. Bank of New York, 20 Broad Street, 51 West 52nd Street or 500 Fifth Avenue, New York, N.Y. or from any of the following subagents:

State Bank of Albany
First-City National Bank of Binghamton, New York
Liberty National Bank and Trust Co.
Chemung Canal Trust Co.
Marine Midland Bank-Chautauqua National Association
Marine Midland Bank-Rochester
Merchants National Bank and Trust Co. of Syracuse
Marine Midland Bank-Central
The First National Bank of Boston
Provident National Bank

(f) Stamps are sold in the following denominations: 1 cent, 2 cents, 4 cents,
CHAPTER III MISCELLANEOUS TAXES

§ 442.2

5 cents, 8 cents, 90 cents, 20 cents, 40 cents, 50 cents, 80 cents, $1, $2, $3, $4, $5, $10, $100, and $1,000.

Historical Note
Sec. amends. filed: Dec. 24, 1964; Dec. 29, 1964, code in (c)(2), and substituted new (c).

442.2 Payment of tax by brokers through clearing corporation. (a) The taxes imposed by article 12 of the Tax Law on any sale, delivery or transfer of stock or other corporate certificates, executed or effected within the State of New York by a member of any securities exchange within the State of New York which is registered with the Securities and Exchange Commission of the United States, shall be paid to the affiliated clearing corporation of or for such exchange, for the account of the State Tax Commission, by such member (hereinafter called the broker) without the use of the stamps prescribed by said article 12. In the case of sales, deliveries or transfers made on a securities exchange, or otherwise, by a broker who is a member of more than one such exchange, such broker shall choose the clearing corporation affiliated with one such exchange through which he shall pay the taxes on all his transactions. Such choice when made shall be irrevocable except upon the written consent of the State Tax Commission.

(b) Every broker shall, for each full business day upon which each clearing corporation is clearing or settling, make a report to such clearing corporation on a form prescribed by the State Tax Commission (form MF-675). The report shall show the amount of stock transfer taxes payable on all sales, deliveries or transfers executed or effected by such broker which under the rules of such exchange or otherwise are due for clearance or settlement on that day by such broker and such other information as the State Tax Commission may prescribe. The report shall also authorize and direct such clearing corporation to remit to the State Tax Commission or its duly designated depository the amount of taxes shown upon the report to be payable and to charge such amount to the account of the broker making the report. Such report shall be filed with such clearing corporation not later than the business day following that for which the report is made. The amount of taxes so required to be reported must be shown in a separate account on the general ledger of the broker, and the postings to such account shall clearly refer to the books of original entry showing separately the tax required to be reported on:

(1) New York Stock Exchange transactions,
(2) American Stock Exchange transactions and
(3) all other transactions,

so that they may be readily audited by the State Tax Commission.

(c) Each such clearing corporation shall, on the business day on which it receives any such report, remit to the depository designated by the State Tax Commission the aggregate amount of all taxes received by it. Checks will be accepted by the depository, subject to final payment. The remittance shall be accompanied by a report and schedule on forms prescribed by the State Tax Commission (forms MF-680 and 680.1).

(d) Every broker executing or effecting a sale, delivery or transfer where the taxes are paid through a clearing corporation shall impress by rubber stamp (1) on the certificate of stock or other corporate certificate where such certificate is delivered pursuant to a balance order issued by the clearing corporation, (2) on each page of a copy of the sale contract list and supplemental sale contract list retained by the broker, and (3) on the comparison notice filed with the clearing corporation, covering sales of cleared securities made with their clearing brokers a certificate in
substantially the following form:

New York State stamp taxes paid through
(Insert name of clearing corporation)
(Member securities exchange)

Such certification shall bear the facsimile signature of the broker and the rubber stamp shall be kept in the possession of the broker and used only by him or his duly designated representative.

(e) A certificate of stock or other corporate certificate which is presented for transfer shall, if the tax was paid through a clearing corporation, be accompanied by a memorandum of sale bearing the rubber stamp certification described in subdivision (d) above or there shall be impressed upon it by rubber stamp a certification in substantially the following form:

It is hereby certified that the New York State stamp taxes applicable to the transfer of _______ shares of this certificate have been paid through
(Insert name of clearing corporation)
on our behalf for the account of _______.

(Date) (Member securities exchange)

Such certification shall bear the facsimile signature of the broker and the rubber stamp shall be kept in the possession of the broker and used only by him or his duly designated representative. In all other cases, payment of the tax must be evidenced by adhesive stamps.

(f) Where a broker sells shares of stock of a corporation for a registered owner thereof and purchases the same number of shares of the same stock as buying broker for a customer, the broker may use a certificate setting forth the facts of both transactions for use in obtaining a transfer on the books of the corporation from the name of each registered owner to the name of such buying customer, provided there is impressed upon an accompanying memorandum of sale or upon the certificate of stock or other corporate certificate presented for transfer, a rubber stamp certification in substantially the following form:

It is hereby certified that _______ of the shares represented by this certificate were delivered to us by the registered owner for sale, under such circumstances as to come within one of the exemptions specified in section 22A(4) of the Tax Law of the State of New York, and that evidence in proof of the exemption is maintained by the undersigned and is available for inspection by officers and representatives of the New York State Tax Commission; that we sold the same and paid New York State stock transfer taxes through the stock clearing corporation and that they are now being transferred to our customer for whom and upon whose order we purchased an equal number of shares of the same stock.

(Date) (Member securities exchange)

Such certification shall bear the facsimile signature of the broker and the rubber stamp shall be kept in the possession of the broker and used only by him or his duly designated representative.

(g) Claims for refunds of taxes erroneously paid shall be presented on forms prescribed by the State Tax Commission.

(h) All reports and schedules of brokers (see subdivision [1] of this section) prescribed by the State Tax Commission in this section shall be preserved for a period of four years.

608 TF 7-31-70
# CHAPTER III MISCELLANEOUS TAXES

## Form MT-675

**REPORT TO CLEARING CORPORATION**

We hereby certify that the amount specified below is the amount of stock transfer taxes paid by us on all sales, deliveries, or transfers made by us and due for settlement by us this day, and we hereby authorize and direct the Clearing Corporation to remit to the New York State Tax Commission or its duly designated depository, and to change to our account, such amount.

Amount of tax due $ ........................................

<table>
<thead>
<tr>
<th>Date</th>
<th>Broker's signature</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Items of Above Amount</th>
<th>Not Eligible For Credit</th>
<th>Eligible For Credit</th>
<th>Relating To Stock Transfer Tax</th>
<th>Relating To Stock Transfer Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York Stock Exchange Transactions</td>
<td>$ ......................</td>
<td>$ ......................</td>
<td>$ ......................</td>
<td>$ ......................</td>
</tr>
<tr>
<td>American Stock Exchange Transactions</td>
<td>$ ......................</td>
<td>$ ......................</td>
<td>$ ......................</td>
<td>$ ......................</td>
</tr>
<tr>
<td>All other Transactions</td>
<td>$ ......................</td>
<td>$ ......................</td>
<td>$ ......................</td>
<td>$ ......................</td>
</tr>
</tbody>
</table>

## Form MT-080

**TO: Depository, New York State Tax Commission**

We remit herewith the amount stated below representing the total amount of New York State Stock Transfer taxes which we have been authorized to pay on all sales, deliveries, or transfers due for clearance or settlement this day on behalf of the clearing brokers listed in the accompanying schedule bearing even date herewith.

**AMOUNT OF REMITTANCE**

*Must agree with amount shown on accompanying schedule*

**Date** ........................................

By ........................................

Authorized Signature

659 TF 8-31-76
To STATE TAX COMMISSION
MISCELLANEOUS TAX BUREAU
STATE CAMPUS
ALBANY, NEW YORK 12227

We have this day credited to the account of the New York State Tax Commission, subject to final payment, a check of $................................. Clearing Corporation for the amount of $................................. stated by them to represent the total amount of taxes they have been authorized to pay on all sales, deliveries or transfers due-bills of exchange or settlement this day on behalf of the clearing bankers listed in a schedule accompanying said check and bearing even date herewith which schedule has been returned in our files.

DO NOT WRITE IN SPACE BELOW

This stub when stamped with the signature of a bank teller, date, transaction number, with an amount entered in ink over the autograph signature of said teller or assistant bank teller constitutes a receipt for your remittance accompanied by Forms MT-680 and MT-685.

By...........................................

Stamp Teller

FORM MT-680.1

SCHEDULE OF TAXES DEPOSITED BY CLEARING CORPORATION
(to accompany Form MT-680)

<table>
<thead>
<tr>
<th>Name of Clearing Broker</th>
<th>Amount of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not Eligible</td>
</tr>
<tr>
<td></td>
<td>For Credit</td>
</tr>
<tr>
<td></td>
<td>Relating To</td>
</tr>
<tr>
<td></td>
<td>Stock Transfer Tax $</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
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<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

G209 TF 2-31-76
CHAPTER III MISC. TAXES

§ 442.3

required by subdivision (a) of this section, the broker required to make such a certification may insert in such instruction the indelible numeral "1" or such other unique alphabetic or numeric character as the State Tax Commission may upon a written request, by means of a letter, approve in writing. Any such letter to request the use of another unique alphabetic or numeric character shall be addressed to the attention of the Miscellaneous Tax Bureau, Stock Transfer Tax Section, Two World Trade Center, New York, New York 10047.

Historical Note

Sec. amended: filed: Jan. 3, 1969; Feb. 21, 1973; July 21, 1975; Aug. 16, 1976 eff. 60 days from Aug. 19, 1976 and shall thereupon expire unless declared permanent by the State Tax Commission within 60 days by resolution duly adopted within that time.

442.3 Optional method of payment by dealers in securities who are not members of a securities exchange. [Additional statutory authority: Tax Law § 281-150]

(a) The taxes imposed by article 12 of the Tax Law on any sale or transfer of any stock or other corporate certificates executed or effected within the State of New York (other than upon a securities exchange) by any person, firm, corporation, company or association registered with the Attorney-General of the State of New York as a dealer in securities, shall, if such dealer is not required to pay taxes to an authorized corporation pursuant to section 412.4 of this Part, and if such dealer so elects, be paid to the State Tax Commission by such dealer without the use of stamps prescribed by said article 12. In the event that such dealer uses a clearing agent and also duly appoints such agent to act for him in the payment of the tax without the use of stamps, then only said agent shall remit the tax. The appointment of every such agent shall be subject to the written approval of the State Tax Commission. An election to pay the tax without the use of stamps shall be made by a notice in writing signed by such dealer with the commission. Such notice shall state:

(1) that on and after a specified date the dealer will pay the tax to the commission without the use of stamps;

(2) the date of the dealer's registration with the Attorney-General of the State of New York as a dealer in securities; and

(3) the name and address of the agent of the dealer, if any, who will act as clearing agent and who will remit the tax on behalf of the dealer.

An election once made shall be irrevocable, except with the written consent of the commission, and except that if any dealer becomes an eligible member of an authorized corporation as defined in section 412.4 of this Part and is thereby required to pay taxes to such corporation, his election to pay taxes pursuant to this section shall be thereby terminated. The commission may at any time withdraw from any dealer the privilege of paying the tax without stamps. Written notice of the termination of the authority of any such agent shall be given immediately to the commission. Any stamps lawfully in the possession of a dealer at the time his election becomes effective shall be subject to redemption under the law pertaining thereto and shall not be used as part payment of the tax due from such dealer.

(b) Every dealer shall make a weekly report in duplicate to the commission on a form prescribed by the commission (form MT-661). In the event that the commission has approved the appointment of an agent to remit the tax on a dealer's behalf, such agent shall make the said weekly report for such dealer. Where an agent acts on behalf of more than one dealer a separate report for each dealer must be made. The report shall show the daily amount of stock transfer taxes payable on all sales and transfers due for settlement within the period for which the report is filed, and such other information as the commission may require. Such report shall be mailed or delivered to the Miscellaneous Tax Bureau, Department of Taxation and Finance.
§ 442.3  TITLE 20  TAXATION AND FINANCE

Albany, New York 12227, together with a remittance of the amount of taxes shown on the report to be payable. The report and taxes shall be due not later than the second business day of the week following that for which the report is made. Checks payable to the State Tax Commission may be used in making remittances.

(c) Every dealer executing or effecting a sale or transfer where the tax is paid without the use of stamps and who does not employ a clearing agent shall impress, by rubber stamp, on the memorandum of sale for each transaction a statement in substantially the following form:

N. Y. tax paid direct to Tax Commission

Date

Dealer's signature

Such statement shall bear the facsimile signature of the dealer and the rubber stamp shall be kept in the possession of the dealer and used only by him or his duly designated representative.

(d) Where a dealer employs an agent in clearing his transactions and the tax is paid without the use of stamps such agent shall impress by rubber stamp upon the memorandum of sale for each transaction a statement in substantially the following form:

N. Y. tax paid direct to the Tax Commission for account of

Dealer's signature

Date

Agent's signature

Such statement shall bear the facsimile signatures of the dealer and of the agent and the rubber stamp shall be kept in the possession of the agent and used only by him or his authorized representative.

(e) A certificate of stock or other corporate certificate which is presented for transfer shall, if the tax was paid otherwise than by the use of stamps, by a dealer who does not employ a clearing agent, be accompanied by a memorandum of sale bearing the stamped statement described in subdivision (c) hereof or there shall be impressed upon it, by rubber stamp, a statement in substantially the following form:

N. Y. tax on ______ shares paid direct to the Tax Commission

Date

(Dealer's name printed)

Dealer's signature

(f) A certificate of stock or other corporate certificate which is presented for transfer shall, if the tax was paid through an agent otherwise than by the use of stamps, be accompanied by a memorandum of sale bearing the stamped statement described in subdivision (d) or there shall be impressed upon it, by rubber stamp, a statement in substantially the following form:

N. Y. tax on ______ shares paid direct to Tax Commission

Date

(Dealer's name printed)

Dealer's signature

Agent's signature
CHAPTER III MISCELLANEOUS TAXES §442.4

Such statements shall bear the facsimile signatures of the dealer and the agent and the rubber stamp shall be kept in the possession of the agent and used only by him or his authorized representative.

(g) Claims for refunds for taxes erroneously paid must be presented on forms prescribed by the commission.

(h) Notwithstanding the provisions of subdivision (e) of this section, in the case of a transfer or delivery of certificates on which the tax was paid otherwise than by the use of stamps by a dealer who does not employ a clearing agent, as provided in this section, if the delivery or transfer is effected pursuant to instruction on magnetic or punched tape, disks, cards or other media, or by wire or wireless transmission, in lieu of the certification required by subdivision (e) of this section, the dealer required to make such a certification may insert in such instruction the arabic numeral "1" or such other unique alphabetic or numeric character as the State Tax Commission may upon written request, by means of a letter, approve in writing. Notwithstanding the provisions of subdivision (i) of this section, in the case of a transfer or delivery of certificates on which the tax was paid otherwise than by the use of stamps by a dealer who does employ a clearing agent, as provided in this section, if the delivery or transfer is effected pursuant to instruction on magnetic or punched tape, disks, cards or other media, or by wire or wireless transmission, in lieu of the certification required by subdivision (i) of this section, the clearing agent required to make such a certification may insert in such instruction the arabic numeral "1" or such other unique alphabetic or numeric character as the State Tax Commission may upon written request, by means of a letter, approve in writing. Any such letter to request the use of another unique alphabetic or numeric character shall be addressed to the attention of the Miscellaneous Tax Bureau, Stock Transfer Tax Section, Two World Trade Center, New York, New York 10047.
**State of New York - Department of Taxation and Finance**
**Miscellaneous Tax Bureau**
**Albany, N.Y. 12227**

Weekly Return of Stock Transfer Taxes - Article 12 of the Tax Law

<table>
<thead>
<tr>
<th>Name of Taxpayer (Print or type)</th>
<th>Post Office Address and Zip Code</th>
</tr>
</thead>
</table>
| We report herewith the amount stated below, representing the total amount of stock transfer taxes payable by us on all sales and transfers due for settlement during the week beginning ____________________________ and ending ____________________________.

<table>
<thead>
<tr>
<th>Settlement Date</th>
<th>Amount of Tax</th>
<th>Amount of Tax</th>
<th>Amount of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not Eligible</td>
<td>Eligible</td>
<td></td>
</tr>
<tr>
<td></td>
<td>For Credit</td>
<td>For Credit</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Relating To</td>
<td>Relating To</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Stock Transfer Tax</td>
<td>Stock Transfer Tax</td>
<td></td>
</tr>
</tbody>
</table>

File this report in duplicate not later than the second business day of the week following the week for which the report is due. Attach remittance PAYABLE TO STATE TAX COMMISSION, Mailing to Miscellaneous Tax Bureau, Stock Transfer Tax Section, Albany, N.Y.

Memorial Note: Debenture holders declared permanent, will be issued a permit to settle taxes on a weekly basis.

Date: ____________________

Debtor's Signature (or agent if authorized)

Firm 12

(3)    Form

Title 20
TAXATION AND FINANCE
CHAPTER III MISCELLANEOUS TAXES

§ 442.4 Payment of tax by dealers through authorized corporation. [Additional statutory authority: Tax Law, § 231-a] (a) As used in this section, the following terms shall have the meanings herein set forth:

(1) Authorized corporation shall mean a corporation formed to provide facilities for clearing transactions in over-the-counter securities by dealers and brokers and which has been authorized by the State Tax Commission to receive payment of taxes pursuant to this section;

(2) Eligible member shall mean a clearing member of an authorized corporation who does not make payment of tax through a clearing corporation affiliated with a registered securities exchange pursuant to section 423.2 of this Part; and

(3) Over-the-counter securities shall mean securities which are not bought and sold on a securities exchange within the State of New York which is registered with the Securities and Exchange Commission of the United States.

(b) The taxes imposed by article 12 of the Tax Law on any sale, delivery or transfer of stock or other corporate certificates, executed or effected within the State of New York by an eligible member of an authorized corporation, shall be paid to such corporation for the account of the State Tax Commission by such member without the use of the stubs prescribed by article 12.

(c) Every eligible member shall, for each full business day upon which such authorized corporation is clearing or settling, make a report to such corporation in a form prescribed by the State Tax Commission (form MT-676). The report shall show the amount of stock transfer taxes payable on all sales, deliveries or transfers executed or effected by such member which under the rules of such corporation or otherwise are due for clearance or settlement on that day by such member, and shall also contain such other information as the State Tax Commission may prescribe. The report shall also authorize and direct such corporation to remit to the State Tax Commission or its duly designated depository the amount of taxes which such report shows to be payable, and to charge such amount to the account of the member making the report. Such report shall be filed with such corporation not later than the business day following that for which the report is made. The amount of taxes so required to be reported must be shown in a separate account on the general ledger of the member, and the postings to such account shall clearly refer to the book of original entry showing separately the tax required to be reported on:

(1) transactions cleared through such authorized corporation, and

(2) all other transactions,

in such form and manner that they may be readily audited by the State Tax Commission.

(d) Every eligible member executing or effecting a sale, delivery or transfer where the tax is paid through an authorized corporation shall impress by rubber stamp (1) on the certificate of stock or other corporate certificate where such certificate is delivered pursuant to a balance order issued by the authorized corporation, (2) on each page of a copy of the sale contract list and supplemental sale contract list retained by the member, and (3) on the comparison notice filed with it, the eligible corporation, covering sales of cleared securities made with its clearing members, a certificate in substantially the following form:

New York State stamp taxes paid through

[Insert name of authorized corporation]

[Insert name of eligible member]

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Such certification shall bear the facsimile signature of the member and the rubber stamp shall be kept in the possession of the member and used only by him or his duly designated representative.

(c) The provisions of subdivisions (c), (f), (g) and (h) of section 442.2 of this Part shall be applicable for the purposes of this section, except that the terms "clearing corporation" and "broker" used in said subdivisions shall be read as "authorized corporation" and "eligible member", respectively, for the purposes of this section, and except that an eligible member of an authorized corporation, instead of using form MT-676, shall make his daily report to such corporation on form MT-676, set forth hereunder.

FORM MT-676

REPORT TO: ____________
(Inset name of authorized corporation)

We hereby certify that the amount specified below is the amount of stock transfer taxes paid by us on all sales, deliveries or transfers made by us and due for settlement by us this day, and we hereby authorize and direct the Corporation to remit to the New York State Tax Commission or its duly designated depository, and to charge to our account, such amount.

Amount of tax due $__________

(Member's signature) ____________

ITEMS OF ABOVE AMOUNT

Transactions cleared by ____________ Corporation $__________

All other transactions $__________

(f) The authority granted to any corporation to receive payment of taxes pursuant to this section may be cancelled at any time upon 30 days' written notice to such corporation, and if the Tax Commission believes that the collection of taxes due will be jeopardized by delay, may be cancelled forthwith or upon less than 30 days' notice.

(g) Every authorized corporation shall forthwith, upon being authorized by the State Tax Commission to receive payment of taxes pursuant to this section, report to the commission the names and addresses of all its eligible members as defined in subdivision (a) of this section, and shall furnish to the commission such other information as it may require with respect to such members. It shall also advise the commission forthwith when any person, firm or corporation becomes an eligible member or ceases to be an eligible member, and of the date as of which such membership begins or terminates.

Historical Note
PART 443

EXEMPTIONS

(Statutory authority: Tax Law, § 171; art. 12)

Sec. 443.1 Exemptions generally

Sec. 443.2 Transfers through a system for the central handling of securities

Section 443.1 Exemptions generally. (a) Various types of transfers are expressly exempted from the tax. Under subdivision 6 of section 270 of the Tax Law some of these transactions are exempt only if accompanied by an exemption certificate (see §§ 443.1 and 443.2, infra, for the forms of certificates required in such cases). In other instances, no exemption certificate is required.

(b) Transfers of certain types resulting from death, insanity, bankruptcy and similar contingencies, in which change of ownership is effected by operation of law, are exempted from the tax by section 270-c of the Tax Law. No exemption certificate is required for such transfers. The following are examples of exempt transfers in this category:

(1) a transfer of stock from the name of a decedent to his executor or administrator;

(2) a transfer by an ancillary executor to a domiciliary executor of the same estate;

(3) a transfer by an ancillary guardian to himself as domiciliary guardian of the same ward;

(4) a transfer to survivor, substituted, succeeding or additional trustee of the same trust.

(c) A transfer by an executor or administrator to a legatee, heir or distributee is ordinarily subject to tax. However, section 270-b (1) of the Tax Law provides that such a transfer is exempt if it is shown to the satisfaction of the State Tax Commission that the value of the shares or certificates is no greater than the amount of the tax which would otherwise be imposed.

(d) (1) The transfers which are exempt only if accompanied by a proper exemption certificate are set forth in subdivision 6 of section 270 of the Tax Law. Such transfers are of the following types:

(i) all lot sales on an exchange within the State of New York;

(ii) transfers of collateral security, and the return thereof;

(iii) transfers of security pursuant to some statutory provision, and the return thereof;

(iv) transfers between a fiduciary and his nominee, or between nominees of the same fiduciary;

(v) transfers between the owner and his custodian, or between a custodian and his nominee, or between nominees of the same custodian;

(vi) loans of stock, or the return thereof;

(vii) transfers between broker and customer, for sale or to complete a purchase;

(viii) transfers between a corporation and a nominee thereof registered with the State Tax Commission as provided in section 444.2, or between two registered nominees of the same corporation.

(h) transfers or deliveries between a broker, a banking corporation or trust company incorporated in one of the United States, a national banking association, or a customer and the nominee registered with the State Tax Commission, as provided in former section 444.4 as in effect prior to April 2, 1973, which must be subject to instructions of a clearing corporation affiliated with a securities exchange within the State of New York;

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(x) transfers or deliveries by a depositor (see section 443.2(c) infra) in a system for the central handling of securities, as provided in section 443.2 infra, from the depositor or his customer or their nominee to the nominee registered with the State Tax Commission under section 445.4 and the return thereof;

(xl) transfers or deliveries from one nominee under subparagraph (x), supra, to a nominee of another such system for the same purpose as previously held by the prior nominee;

(2) In certain of the above cases, the statutory exemption is applicable to a transfer of record ownership on the books of the corporation only where such transfer is made "from the name of" a particular person, specified in the statute. These are:

(i) transfers from the name of a fiduciary to a nominee of such fiduciary;
(ii) transfers from the name of the custodian to its nominee or to the owner;
(iii) transfers from the name of the owner to his custodian;
(iv) transfers from the name of a broker to a customer for whom and upon whose order he has purchased the certificates;
(v) transfers from the name of the owner to a broker;
(vi) transfers or deliveries from the name of a broker, a bank or trust company incorporated in the United States or a national banking association or a customer to the registered nominee under former section 445.4 as in effect prior to April 3, 1973, and transfers and deliveries from the name of such registered nominee to such broker, bank, trust company, national banking association or customer and
(vii) transfers and deliveries upon the instructions of a depositor in a system for the central handling of securities from the name of such depositor or his nominee or from the name of his customer or his nominee registered under section 445.4 and transfers and deliveries from such registered nominee to the same depositor, customer or nominee.

Thus, if a fiduciary, having possession of certificates issued in the name of any one other than himself, transfers the same into the name of his nominee, such transfer is not exempt from tax because not made "from the name of" the fiduciary. Likewise, no exemption exists for a transfer by the owner of certificates issued in some name other than his own, to his custodian, or for a transfer by a broker of certificates issued in some name other than his own, to a customer upon whose order he has purchased them.

(3) This rule with reference to such transfers is subject to one exception. If the tax has been paid upon the transaction in which shares or certificates were acquired by the transferor (fiduciary, owner or broker), and proper evidence of such payment is furnished to the transfer agent (Part 412, supra), it is unnecessary to make a double transfer on the books of the corporation, first to the name of such party, and then to the name of his transferee (the fiduciary's nominee, the owner's custodian or the broker's customer). If such a double transfer were made, no tax would be payable, the tax upon the first step having already been paid, and the second step being exempt. Accordingly.

(a) The following are examples of transfers which are not exempt:

(1) the transfer of stock of a customer, held by a broker for sale, to the broker as owner;
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§ 443.2

(2) the transfer of stock by or to a broker made, directly or indirectly, for his own account;

(3) the transfer of stock by a broker at a price different from that at which he accounts to his selling customer;

(4) the transfer by a broker to a customer of stock issued as a dividend on stock purchased for the customer by the broker and held by the broker in his own name;

(5) the transfer of stock from a nominee of a fiduciary to a nominee of a different fiduciary, except in special cases, as, for example, the case of a substituted trustee under the same trust.

(6) Certain transfers not expressly described in subdivision 5 of section 270 of the Tax Law are exempt because they represent a combination of exempt transfers. For example, since a transfer from the name of an owner to his custodian is tax-free and a transfer from the custodian to his nominee is tax-free, a transfer directly from the name of the owner to the nominee of his custodian is tax-free. Likewise, a transfer from a custodian or his nominee to a new custodian for the same owner or a nominee of a new custodian is tax-free. The principle is that where all the transfers in a chain of transfers are exempt from taxation, any of the intermediate links of the chain may be omitted and the transfer still be exempt. Other examples of exempt transfers growing out of the application of this principle are as follows:

(1) the transfer of stock held by a nominee of one bank as collateral for a loan to a nominee of another bank, to be held as collateral for a loan made by the second bank to the same borrower;

(2) the transfer of stock by a custodian for the owner to a broker, for sale for the account of such owner.

Historical Note

Sec. renud. filed: May 17, 1953; Apr. 2, and (3)(2)(vb), July 22, 1976. Amended (6)(1) by

443.2 Transfers through a system for the central handling of securities.

(a) Transfers or deliveries upon the instructions of a depositor in a system for the central handling of securities (including the clearing and settling of securities transactions):

(1) established by a national securities exchange or association registered with the Securities and Exchange Commission of the United States or

(2) maintained by a clearing corporation as defined in subsection (3) of section 8-102 of the Uniform Commercial Code,

from the name of such depositor or his nominee or from the name of his customer or the name of such customer to the registered nominee of any such system are exempt from tax when made for the purpose of holding such shares or certificates, as agent for such depositor. Transfers or deliveries upon the instructions of any such depositor from the name of the registered nominee of such system to the same depositor, customer or nominee are similarly exempt. (See section 443.4 for provisions relating to registrations of nominee.)

(b) Each of the above transfers shall be accompanied by an exemption certificate in order to be entitled to exemption under paragraph (j) of subdivision 5 of section 270 of the Tax Law.

(1) Brokers entitled to use the exemption certificate set forth in paragraph (2) of subdivision (d) of this section, as therein provided, shall use such certificate. Brokers, banks, national banking associations, or trust companies entitled to use the exemption certificate set forth in subdivision (a) of section 444.1 of this Title, as therein provided, shall use such certificate. Every other depositor
shall use the exemption certificate set forth in subdivision (c) of section 444.1 of this Title.

(2) Notwithstanding the preceding paragraph (1), all depositors in a system for the central handling of securities and systems for the central handling of securities and their nominees, in reliance on the exemption certificate or certificates accompanying its depositors' instructions to such system or its nominee, where any of such systems is established by a national securities exchange registered with the Securities and Exchange Commission of the United States and located in New York State or maintained by a clearing corporation located in this State as defined in subsection (3) of section 8-102 of the Uniform Commercial Code in which capital stock is held by (i) such a national securities exchange registered with such commission of the United States or (ii) a corporation subject to supervision or regulation pursuant to the provisions of banking or insurance laws of this State may use the form of exemption certificate set forth in subdivision (c) of section 444.1 of this Title, provided a nominee of such system for the central handling of securities has been registered under section 445.4 of this Title.

(3) In the case of registrations of transfer exempt from tax under subdivision 5 of section 279 of the Tax Law which are effected through any such system for the central handling of securities described in paragraph (2) of this subdivision (see also section 443.1 [A][1][X] and [4][2][VII] of this Part), a proper exemption certificate must accompany both (i) the instructions of the depositor to such system or its nominee directing the transfer of such depositor's shares and (ii) the system's or its nominee's instructions to the transfer agent, issuing corporation or trustee issuing certificates subject to tax under article 15 of the Tax Law for the transfer of depositors' shares. The exemption certificate referred to in clause (ii) of this paragraph may be either the exemption certificate of the depositor which accompanies the depositor's instructions to the system or its nominee or an exemption certificate made by the system or its nominee in reliance on the exemption certificate or certificates accompanying its depositors' instructions to such system or its nominee. A single exemption certificate by the system or its nominee, in reliance on the exemption certificate or certificates accompanying its depositors' instructions to such system or nominee, may be made with respect to exemption certificates submitted to such system or its nominee by one or more depositors.

(c) Such exemption certificate shall be used only by a depositor in a system for the central handling of securities. The term depositor includes:

(1) such securities exchanges or associations, registered under a statute of the United States such as the Securities Exchange Act of 1934 as amended, and their affiliated clearing corporations,

(2) such banks, trust companies, investment companies, insurance companies and other financial organizations as are subject to supervision or regulation pursuant to the provisions of Federal or State banking laws or State insurance laws and

(3) such brokers, dealers and investment companies as are registered under the Securities Exchange Act of 1934 as amended, or the Investment Company Act of 1940 as amended,

if the foregoing individuals or organizations have been accepted by such system for the central handling of securities as participants therein.

(d) (1) Where a broker as described in paragraph (3) of subdivision (c) above certifies to its affiliated clearing corporation under section 442.2, supra, that all of the entries in his account with such clearing corporation as reflected in a daily statement of transactions represent transactions subject to the stock transfer tax
upon which the tax has been paid, and/or transactions which come within one or more of the exemptions specified in subdivision 5 of section 270 of the Tax Law, such certification shall be deemed to apply to all of the transfers reflected on such daily statement which represent transfers exempt under any of the provisions of subdivision 5 of section 270 of the Tax Law.

(2) The certification referred to in paragraph (1) above shall be in substantially the following form and bear the facsimile signature of the broker:

It is hereby certified that all of the entries reflected herein represent transactions subject to the New York stock transfer tax upon which such tax has been paid, as disclosed by the undersigned's records, and/or transactions which come within one or more of the exemptions specified in section 270(3) of the Tax Law of the State of New York, and that evidence in proof of each such exemption is maintained by the undersigned and is available for inspection by representatives of the New York State Tax Commission.

Broker's Signature

Historical Note

Sec. added, 1965; amended (b)(3) and added (b)(5).
CHAPTER III MISCELLANEOUS TAXES

PART 444

EXEMPTION CERTIFICATES

(Statutory authority: Tax Law, § 171; art. 12)

§ 444.1

Exemption certificates by banks, brokers, securities dealers, certain depositors and systems for the central handling of securities and the nominees of such systems

§ 444.2

Exemption certificates in all other cases

§ 444.3

Records to be maintained by out-of-State brokers, dealers in securities

Section 444.1 Exemption certificates by banks, brokers, securities dealers, certain depositors and systems for the central handling of securities and the nominees of such systems. (a) Every broker who is a member of a registered securities exchange within the State of New York which is registered with the Securities and Exchange Commission of the United States and who maintains a regular place of business within the State of New York, and any bank, national banking association or trust company maintaining a regular place of business in the State of New York, and any dealer in securities, as hereinafter defined, maintaining a regular place of business in the State of New York, effecting any delivery or transfer of a certificate of stock or other certificate subject to tax under article 12 of the Tax Law within the State, may, provided such delivery or transfer is exempt from tax under subdivision 5 of section 279 of the Tax Law, make a certification in substantially one of the following forms.

(1) In the case of any such delivery or transfer, the certification may state:

It is hereby certified that the transfer of the attached shares is made under such circumstances as to come within one of the exemptions specified in section 279(5) of the Tax Law of the State of New York and that evidence in proof of the exemption is maintained by the undersigned and is available for inspection by officers and representatives of the New York State Tax Commission.

(Signature)

(2) In the case of any such delivery or transfer effected pursuant to instruction on magnetic or punched tape, discs, cards or other media, or an instruction effected by wire or wireless transmission, such instruction may contain the Arabic numeral "2", in lieu of the certificate set forth in paragraph (1) of this subdivision, or such other unique alphabetic or numeric character as the State Tax Commission may upon written request, by means of a letter, approve in writing. Any such letter to request the use of another unique alphabetic or numeric character shall be addressed to the attention of the Miscellaneous Tax Bureau, Stock Transfer Tax Section, Two World Trade Center, New York, New York 10047.

(b) Brokers and dealers in securities who are members of a registered securities exchange within the State of New York (including member firms and corporations) but who do not maintain a regular place of business in the State of New York may also use the certificate set forth above provided that such brokers New York may also use the certificate set forth above provided that such brokers or dealers in securities maintain adequate records of all transactions which are subject to a New York State stock transfer tax and that such records are maintained in accordance with section 444.3, infra, and are available for inspection by representatives of the New York State Tax Commission.

(c) Brokers and dealers in securities who are not members of a registered securities exchange within the State of New York and who do not maintain a regular place of business in the State of New York shall not use the above exemption certificate but may use an exemption certificate setting forth briefly the specific facts giving rise to the exemption claimed. (Examples of such certificates are set forth in section 444.2 below.) Such short form of exemption certificate may

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be used provided that such brokers or dealers in securities maintain adequate records of all transactions which are subject to a New York State stock transfer tax and provided that such records are maintained in accordance with section 444.3 and are available for inspection by representatives of the New York State Tax Commission.

(d) Where a transfer is exempt from New York stock transfer tax under paragraph (d) or (e) of subdivision 5 of section 270 of the Tax Law, relating to fiduciaries and custodians and their nominees, and where the exemption certificate is made by a bank, national banking association or trust company, not maintaining a regular place of business in the State of New York, such exemption may be claimed by a certificate in the following form:

It is hereby certified that the transfer of the attached shares is made under such circumstances as to come within one of the exceptions specified in section 270(5)(d) or (e) of the Tax Law of the State of New York, and that evidence in proof of the exemption is maintained by the undersigned and is available for inspection by officers and representatives of the New York State Tax Commission.

(Signature)

(e) Where a delivery or transfer is exempt from New York stock transfer tax under paragraphs (j) or (k) of subdivision 5 of section 270 of the Tax Law, relating to transfers through a system for the central handling of securities, the shares or certificates must be accompanied by an exemption certificate.

(1) Where the exemption certificate is made by a depositor (see subdivision (c) of section 443.2 of this Title) other than a depositor who qualifies under subdivision (a) of this section, and is entitled to use the form of certificate specified in such subdivision (a) or paragraph (2) of subdivision (d) of section 443.2 of this Title such exemption certificate may be claimed by a certificate substantially in one of the following forms:

(i) In the case of any such delivery or transfer, the certificate may state:

It is hereby certified that the transfer of the attached shares is made under such circumstances as to come within one of the exceptions specified in section 270(5)(j) or (k) of the Tax Law of the State of New York, and that evidence in proof of the exemption is maintained by the undersigned and is available for inspection by officers and representatives of the New York State Tax Commission.

(Signature)

(ii) In the case of any such delivery or transfer through a system for the central handling of securities effected pursuant to instruction on magnetic or punched tape, discs, cards or other media, or an instruction executed by wire or wireless transmission, such instruction may contain the serial number "2", in lieu of the certificate set forth in subparagraph (i) of this paragraph, or such other unique alphabetic or numeric character as the State Tax Commission may upon written request, by means of a letter, approve in writing. Any such letter to request the use of another unique alphabetic or numeric character shall be addressed to the attention of the Miscellaneous Tax Bureau, Stock Transfer Tax Section, Two World Trade Center, New York, New York 10047.

(2) Notwithstanding paragraph (1) of this subdivision, all depositors and custodians for the central handling of securities and the nominees of such systems, in reliance on the exemption certificate or certificates accompanying its depositors' instructions to such systems or the nominees of such systems who or which qualify under paragraph (2) of subdivision (k) of section 443.2 of this Part, may use the form of exemption certificate set forth in subparagraph (i) or (ii) of paragraph (1) of this subdivision.
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(1) Certifications pursuant to this Part may be impressed by rubber stamp on the certificate or certificates delivered or transferred or on the memorandum of sale, or such certifications may be attached to the certificate or certificates delivered or transferred or to the memorandum of sale or if the registration of the transfer with respect to which the certification relates was effected pursuant to instruction on magnetic or punched tape, discs, cards or other media, or by wire or wireless transmission, such certification may be inserted in such instruction in the form prescribed by this Subchapter.

(1) In the case of a transfer through a system for the central handling of securities (see section 415.2 of this Title, certifications pursuant to this Part may be stamped or printed on the depositor's instruction to such system or its nominee and on the system's or its nominee's instructions to the transfer agent, issuing corporation or trustee issuing certificates subject to tax under article 12 of the Tax Law.

(2) In the case of an instruction on magnetic or punched tape, discs, cards or other media or by wire or wireless transmission of any broker or dealer in securities, any bank, national banking association, trust company or system for the central handling of securities or the nominee of such system, when authorized by this section, shall contain either the name of or a unique alphabetic or numeric symbol identifying such broker, dealer, bank, national banking association, trust company or system for the central handling of securities or to which such instruction relates, respectively, and the use of such instruction shall be supervised by a responsible officer or employee thereof, shall constitute the certification thereof pursuant to this Part as if such certification was set forth in full in the form prescribed by this Subchapter together with any and all rights, duties, obligations and liabilities, including those of all persons who would have been required to affix their signature or a facsimile thereof in such certification and any certification shall be used solely pursuant to the provisions of this Subchapter. The transfer agent or other party whose records contain the unique alphabetic or numeric symbol under this paragraph is responsible for identifying the party to whom such symbol refers.

(3) The field in an instruction on magnetic or punched tape, discs, cards or other media, or an instruction by wire or wireless transmission allowed pursuant to the provisions of this section, subdivision (1) of section 412.2 or subdivision (a) of section 412.3 of this Title, may not be used for any other purpose nor may the unique alphabetic or numeric character so provided be used within such field for any other purpose other than in claim exemption from stock transfer tax pursuant to the provisions of this Subchapter.

(2) The certification used by any broker or dealer in securities shall bear the facsimile signature of such broker or dealer and the rubber stamp shall be kept in the possession of the broker or dealer for use only by him or his duly designated representative or, if an instruction is inserted on magnetic or punched tape, discs, cards or other media, or an instruction by wire or wireless transmission, as provided for by this Subchapter, the facsimile signature required by this Subchapter shall not be required.

(3) The certification used by any bank, national banking association or trust company shall bear the signature of such bank or association and the facsimile signature of an officer thereof, and the rubber stamp shall be kept in the possession of such officer thereof and used only by its duly designated representative or, if an instruction is inserted on magnetic or punched tape, discs, cards or other media, or an instruction by wire or wireless transmission, as provided for by this Subchapter, the facsimile signature required by this Subchapter shall not be required.

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(1) The certification used by any depositor (see section 443.24[c] of this Title) in a system for the central handling of securities, other than a deposit described in subdivision (g) or (h) of this section, shall bear as signature the name of such depositor and if a corporation or firm, the facsimile signature of an officer or partner thereof and the name of the firm or corporation. If a rubber stamp is used, it shall be kept in the possession of an officer, partner or other authorized person thereof, and used only by a duly designated representative. If an instruction is inserted on magnetic or punched tape, discs, cards or other media, or an instruction by wire or wireless transmission, as provided for by this Subchapter, the facsimile signature required by this subdivision shall not be required.

(2) The certification used by a system for the central handling of securities for a delivery or transfer, or both, from the name of the nominee of any such system shall bear as signature the facsimile signature of the name of the registered nominee and the rubber stamp or certification shall be used only by the nominee or a duly designated representative of such nominee or, if an instruction is inserted on magnetic or punched tape, discs, cards or other media, or an instruction by wire or wireless transmission, as provided for by this Subchapter, the facsimile signature required by this subdivision shall not be required.

(3) In the case of a person firm, company, association or corporation, engaged in the making or negotiating of sales, agreements to sell, deliveries or transfers of shares or certificates taxable under article 12 of the Tax Law, or conducting or transacting a securities business.

Historical Note


444.2 Exemption certificates in all other cases. Where an exemption certificate is made by any person other than a banking institution, broker or dealer in securities, or is made by a banking institution not maintaining a regular place of business within the State of New York with reference to an exemption other than those for fiduciary or custodian transfers or is made by a broker or dealer in securities not a member of a registered securities exchange within the State of New York and not maintaining a regular place of business within the State of New York, the forms set forth in section 444.1 may not be used. In such case the exemption certificate must set forth briefly the specific facts giving rise to the exemption claimed. The following are examples of certificates which may be used for this purpose:

(a) Transfers of collateral.

We hereby certify that these shares are being transferred to us as collateral security.

[Signature of person secured]

We hereby certify that these shares are being transferred to our nominee as collateral security.

[Signature of person secured]

We hereby certify that these shares now standing in the name of our nominee as collateral security are being transferred to another nominee of

[Signature of person secured]

We hereby certify that these shares were held by us as collateral security and are being retransferred to the depositor.

[Signature of person secured]
(b) Transfer of security pursuant to statutory provisions.

We hereby certify that these shares are being transferred to a trustee or public officer pursuant to a statutory provision, namely, (cite provision) to secure the performance of obligations.

Transferor's signature

We hereby certify that these shares which were transferred to us by the owner (cite provision) are being retransferred to the owner.

Signature of Trustee or Public Officer (Add identifying description)

(c) Fiduciary-nominee transfers.

We hereby certify that these shares are being transferred to our nominee to be held for the same purpose for which they would be held if retained by us as fiduciary.

Fiduciary's signature

We hereby certify that these shares standing in the name of our nominee are being transferred to another nominee of ours to be held for the same purpose for which they were held by such former nominee and for which they would be held if retained by us as fiduciary.

Fiduciary's signature

We hereby certify that these shares standing in the name of our nominee are being transferred to us by the nominee for the same purpose for which they would have been held if they had been retained by us as fiduciary.

Fiduciary's signature

(d) Custodian transfers.

We hereby certify that the transfer of these shares is a transfer from the name of the owner thereof to us, as custodian, to be held or disposed of subject to the instructions of the owner.

Custodian's signature

We hereby certify that the transfer of these shares is a retransfer from us, as custodian, to the owner thereof.

Custodian's signature

We hereby certify that the transfer of these shares is a transfer from us, as custodian, to our nominee to be held by such nominee for the same purpose for which they would be held if retained by us as custodian.

Custodian's signature

We hereby certify that these shares standing in the name of our nominee are being transferred to another nominee of ours to be held for the same purpose as they would be held if retained by us as custodian.

Custodian's signature

* Exemption is shown by this certificate only if the transfer on the books of the corporation is to be made from the name of the custodian who signs the certificate, or if tax has been paid upon transfer of the shares to his name. See Part 443, supra.

** Exemption is shown by this certificate only if the transfer on the books of the corporation is to be made from the name of the owner for whom the custodian is acting, or if the tax has been paid upon transfer of the shares to the name of such owner. See Part 443, supra.

*** Exemptions are shown by these certificates only if the transfers on the books of the corporation are to be made from the name of the custodian, or if tax has been paid upon transfer of the shares to his name. See Part 443, supra.
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We hereby certify that the transfer of these shares is a re-transfer from our nominee in us as custodian.

Custodian's signature

(e) Loans of stock.

We hereby certify that we have no ownership or interest in the within shares, said shares having been merely loaned to us.

Broker's signature

We hereby certify that the transfer of the within shares in the name indicated is made solely to complete the return of stock borrowed.

Broker's signature

(f) Broker-customer transfers.

* We hereby certify that these shares are being transferred by the owner thereof to us merely for the purpose of sale and that we have no ownership or interest therein.

Broker's signature

** We hereby certify that the transfer of the within shares is the name indicated by the star is made solely to complete the purchase made by us for a customer and that we have no ownership or interest therein.

Broker's signature

We hereby certify that these shares are being transferred by the owner thereof to our registered nominee merely for the purpose of sale and that we have no ownership or interest therein.

Corporate broker

We hereby certify that these shares are being transferred by our registered nominee solely to complete the purchase made by us for a customer and that we have no ownership or interest therein.

Corporate broker

(g) Transfers by and to registered nominees of corporations.

It is hereby certified that the attached shares are being transferred to our registered nominee to be held by it in its name for the same purpose for which they would be held if retained by the undersigned corporation.

Corporation's signature

It is hereby certified that the attached shares, standing in the name of our registered nominee, are being transferred to another registered holder of such for purposes for which they could be held by the undersigned corporation.

Corporation's signature

It is hereby certified that the attached shares, standing in the name of our registered nominee, are being transferred to another registered holder of such for purposes for which they could be held by the undersigned corporation.

Corporation's signature

The last five of the foregoing forms refer to the registered nominee of a corporation. With respect to collateral, fiduciary, and custodial transactions, the exemptions provided by subdivision 5 of section 270 of the Tax Law for transfers to or from

* Exceptions are shown by this certificate only if the transfer on the books of the corporation is to be made from the name of the owner, or if tax has been paid upon transfer to his name. See Part 133, supra.

** Exception is shown by this certificate only if the transfer on the books of the corporation is to be made from the name of the broker who signs the certificate, or if tax has been paid upon transfer of the shares to his name. See Part 435, supra.

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by a nominee are applicable without any registration of such nominees with the State Tax Commission, whether he is acting for a corporation, an individual, a partnership, or any other entity. However, with reference to transactions of any other type, transfers between a corporation and its nominees are exempt from tax only if the nominee is registered with the State Tax Commission as provided in section 445.1.

445.3 Records to be maintained by out-of-State brokers and dealers in securities. (a) As indicated in section 444.1, brokers and dealers in securities who are members of a registered securities exchange within the State of New York but who do not maintain a regular place of business within the State of New York may use the omnibus waiver as set forth in subdivision (a) of section 444.1 and brokers and dealers in securities who are not members of a registered securities exchange within the State of New York and who do not maintain a regular place of business in the State of New York may use the specific short form certificate as set forth in section 444.2, provided that a certain minimum of records reflecting transactions subject to a New York State stock transfer tax are maintained and held available for inspection by representatives of the New York State Tax Commission.

(b) Such records must include entries on the books or other records of original entry containing the itemized record of all transactions in securities by such brokers or dealers in securities, a separate column showing the New York State stock transfer tax paid on those transactions which are subject to a New York State stock transfer tax. The ledgers or other books of account maintained by such brokers must also contain

1. a New York State stock transfer tax account and
2. a special account for securities in transfer with New York transfer agents and the tax paid on each such transfer.

PART 445
REGISTRATION
(Statutory authority: Tax Law, § 171; art. 12)

Sec.
445.1 Registration of corporate nominees
445.2 Registration of brokers, dealers in
445.3 Registration of corporations, trustees
445.4 Registration of nominees of a system

for the central handling of
securities

Section 445.1 Registration of corporate nominees. (a) Any domestic or foreign corporation may appoint a person or partnership to act as its nominee in the holding of shares or certificates on its behalf; provided, however, that no person may act as nominee for more than one corporation, either individually or as a member of any partnership, nor may a partnership act as nominee for more than one corporation. Any such corporation may file in the office of the State Tax Commission, a written statement, setting forth the following:

1. the name of the corporation;
2. the principal place of business of the corporation;
3. the business of the corporation;
4. the function to be performed by the nominee;
5. the name, residence and business address of the proposed nominee, or, in the case of a partnership, of each member thereof.
(b) There shall also be filed a written statement by the nominee containing his name and address, or, in the case of a partnership, of each member thereof.
§ 445.2  TITLE 20  TAXATION AND FINANCE

shall also contain a statement as to whether such person or partnership is the
registered nominee of any other corporation.

(c) The foregoing statements need not be in any specified form.

(d) If such nominee meets with the approval of the State Tax Commission, it
will issue to the corporation, a certificate of registration. Such certificate shall be
kept in the principal place of business of the corporation to whom it is issued and
must be held available for inspection by representatives of the State Tax Commission.

(e) The State Tax Commission shall be notified of any change in the membership
of a partnership nominee, giving the name, residence and business of any new
member.

(f) In order to be entitled to exemption under paragraph (h) of subdivision 5
of section 270 of the Tax Law, each delivery or transfer by a corporation to its
registered nominee, or by such nominee to the corporation or to another registered
nominees of the same corporation, must be accompanied by an exemption certificate
substantially in one of the forms set forth in section 444.2 with reference to such
deliveries and transfers.

445.2 Registration of brokers and dealers in securities. (a) Section 270-a of
the Tax Law requires every person conducting a stock brokerage business or dealing
in securities affected by the tax, within 10 days after engaging in such business, to
file with the State Tax Commission a certificate setting forth the name under which
the business is to be conducted. Such certificate must also show the full names and
post office addresses of the persons conducting the business, or in the case of a
corporation, its principal officer or place of business and the date when and place
where it was incorporated. The certificate must be acknowledged before a notary
public or other authorized officer and must be in substantially the form set forth in
Appendix 2.

(b) In the event of a change of the persons composing the firm for which such
a certificate has been filed, or a change of address of any person, firm or corporation
which has filed such a certificate, or termination of such business, a similar certificate
setting forth the facts with respect thereto must be filed with the State Tax
Commission within 10 days after such change or termination.

445.3 Registration of corporations and trustees maintaining transfer offices in
New York. (a) Every corporation or trustee maintaining within the State of
New York its principal office or place of business, or an office for the transfer of its
stock or other certificates affected by the tax, must file with the State Tax Com-
mission, within 10 days after establishing such office, a certificate setting forth the
name under which its business is to be conducted and its principal office or place of
business, together with the date when and the place where the corporation or trust
was incorporated or organized. Such certificate must be acknowledged before a
notary public or other authorized officer. A certificate filed by a corporation should
be substantially in the form set forth in Appendix 3, which may be modified as
necessary for use by trustees.

(b) In the event of a change of the persons acting as trustee, or a change of
address of any such corporation or trustee, or termination of the business thereof,
a similar certificate setting forth the facts with respect to such change or termination
must be filed with the State Tax Commission within 10 days thereafter.

445.4 Registration of nominees of a system for the central handling of securities.

(a) A system for the central handling of securities, as described in paragraph
(j) of subdivision 5 of section 270 of the Tax Law, wishing to appoint a nominee to
act on its behalf in pursuance of the provisions of such paragraph shall file with the
State Tax Commission a written statement setting forth the following:

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(1) the name of the system for the central handling of securities;

(2) the name of (i) the national securities exchange or association registered with the Securities and Exchange Commission of the United States by which such system was established, or (ii) if such system is maintained by a clearing corporation, the name of the clearing corporation by which such system is maintained and a statement showing that such clearing corporation is a clearing corporation as defined in subsection (5) of section 5-102 of the Uniform Commercial Code;

(3) the principal place of business of such system;

(4) the name, residence and business address of the proposed nominee, or in the case of a partnership, of each member thereof;

(5) a statement that such nominee proposes to act as such for purposes of paragraph (1) of subdivision 5 of section 270 of the Tax Law; and

(6) a description of how the system intends to operate, including the type of depositories presently contemplated.

(b) (1) A person or partnership may act as nominee for the purposes of paragraph (1) of subdivision 5 of section 270 of the Tax Law, notwithstanding the provisions of section 445.1 of this Part and notwithstanding that such person or partnership had previously acted as nominee for the purposes of paragraph (1) thereof.

(2) A nominee registered under this section shall act as nominee solely for the purposes of paragraph (1) of subdivision 5 of section 270 of the Tax Law, and for no other purpose.

(c) There shall also be filed a written statement by the nominee containing his name and address, or, in the case of a partnership, of each member thereof. It shall also contain a statement that the person or partnership shall act as nominee solely for the purposes of paragraph (1) of subdivision 5 of section 270 of the Tax Law.

(d) The foregoing statements need not be in any specified form.

(e) If such nominee meets with the approval of the State Tax Commission, it will issue to the clearing system a certificate of registration. Such certificate shall be kept in the principal place of business of the system to whom it is issued and must be held available for inspection by representatives of the State Tax Commission.

(f) The State Tax Commission shall be notified of any change in the membership of a partnership nominee, giving the name, residence and business address of any new member.

(g) The registration of a nominee by such system shall have the effect of revoking the appointments and registrations of nominees herebefore filed, pursuant to this section as in effect prior to April 2, 1973, with the State Tax Commission by any broker, bank or trust company which shall become a “depositor” in such system, as defined in paragraph (1) of subdivision 5 of section 270 of the Tax Law and subdivision (e) of section 443.2 of this Title, supra.

(h) Within two days after a certificate of registration is issued to such system, a list of the names and addresses of each of the depositors in the system shall be filed with the State Tax Commission; and monthly thereafter, a list of the names and addresses of new depositors and any persons ceasing to be depositors shall also be filed with the State Tax Commission. Each list shall be forwarded to the State Tax Commission, Stock Transfer Tax Section, Two World Trade Center, New York, New York 10047.

Historical Note

Sec. added, filed May 17, 1987; amends. (2) and (b).
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PART 446

RECORDS

(Statutory authority: Tax Law, § 171; art. 12)

Sec. 446.1 Records of brokers, dealers in securities

Sec. 446.2 Records of corporations, trustees, transfer agents

Sec. 446.3 Preservation of records, certificates, memoranda

Section 446.1 Records of brokers and dealers in securities. (a) Section 276 of the Tax Law requires every broker and every person dealing in securities affected by the tax to keep at some accessible place within the State of New York an accurate record of his transactions, in which there must be recorded in separate columns:

1. The date of making every sale, agreement to sell, delivery or transfer of shares or certificates taxable under the Act.

2. The name, class and number of shares thereof, except that if such information may be obtained by reference to other records kept by such broker, it need not be recorded in a separate column in the record herein prescribed.

3. The selling price thereof.

4. The name and address of the seller or transferee and his resident or non-resident status, except that if his name and address are obtainable by reference to other records kept by such broker, it need not be recorded in a separate column in the record herein prescribed.

5. The name of the purchaser or transferee, except that if such information may be obtained by reference to other records kept by such broker, it need not be recorded in a separate column in the record herein prescribed.

6. The value of the stamps affixed in payment of the tax or payment of the tax otherwise than by the use of stamps.

7. The date and the amount of each purchase of stock transfer stamps and from whom purchased.

(b) Such record must be substantially in the form set forth in Appendix 4.

(c) Every broker and every person dealing in securities shall also keep all memoranda including telegrams, teletypes and other communications relating to the sale or transfer of shares or certificates taxable under the Stock Transfer Tax Law.

(d) Notwithstanding subdivision (c) of this section, in the case of a transfer or delivery of certificates effected pursuant to instructions on magnetic or punched tape, discs, cards or other media, or by wire or wireless transmission, a broker or a dealer in securities shall not be required to keep such tape, discs, cards or other mode or means of transmission of such instructions, provided such broker or dealer retains a copy or record of such instructions on paper and, provided the State Tax Commission consents thereto pursuant to the provisions of subdivision (b) of section 446.3 of this Part, on microfilm or microfiche, or on such other media as may be approved by the State Tax Commission for the remainder of the periods of retention applicable to the original documents under subdivision (c) of section 446.3 of this Part.

(e) Any instructions in lieu of an exemption certificate required by or referred to in this Subchapter, in the case of transfers through a system for the central handling of securities effected pursuant to instructions on magnetic or punched tape, discs, cards or other media, or by wire or wireless transmission, must include either the name of or a unique alphabetic or numeric symbol identifying the broker, bank, national banking association or trust company or dealer in securities maintaining a regular place of business in the State of New York who or which is a depositary in any such system. The transfer agent or other party whose records contain the
446.2 Records of corporations, trustees and transfer agents. (a) Section 276 of the Tax Law also requires every corporation or business conducted by a trustee or trustees, or its transfer agent, to keep at some accessible place within the State of New York a stock certificate book and a transfer ledger or register, in which there must be recorded in separate columns:

1. The date of making every transfer.
2. The name and number of shares thereof.
3. The serial number of each surrendered certificate.
4. The name of the party surrendering each certificate.
5. The serial number of the certificate issued in exchange therefor.
6. The number of shares represented by said certificate.
7. The name of the party to whom said certificate was issued.
8. The value of the stock transfer stamps affixed in payment of the tax on the transfer.

(b) Such record must be substantially in the form set forth in Appendix 6.

446.3 Preservation of records, certificates, and memoranda. [Additional statutory authority: Tax Law, § 171] (a) The records mentioned in sections 446.1 and 446.3 of this Part must be kept for a period of at least four years from the date of the last entry made therein.

1. Every broker, dealer in securities, corporation or other entity required to keep any such records must also preserve for at least four years all surrendered or cancelled certificates, and memoranda including telegrams, teletypes and other communications relating to the sale or transfer of shares or certificates thereof and declarations concerning nonresidents (see section 441.2(e) of this Title).

2. Notwithstanding paragraph (1) of this subdivision, in the case of a transfer or delivery of certificates effected pursuant to instructions on magnetic or punched tape, discs, cards or other media, or by wire or wireless transmission, a broker, dealer in securities, corporation, transfer agent or other entity effecting such transfer or delivery shall not be required to retain such tape, discs, cards or other mode or means of transmission of such instructions, provided such broker, dealer, corporation, transfer agent or entity retains a copy or record of such instructions on paper and provided the State Tax Commission consents thereto pursuant to the provisions of subdivision (b) of this section, on microfilm or microfiche, or on such other media as may be approved by the State Tax Commission for the remainder of the four-year period of retention applicable to the original documents under subdivision (c) of this section. Severe penalties are attached to a failure to comply with these requirements.

(b) The Tax Commission may consent to the destruction of all surrendered or cancelled shares or certificates and all memoranda and any declarations relating to the sale or transfer provided that:

1. The Tax Commission has completed an examination with respect to the transactions to which such documents relate.
2. The Tax Commission is satisfied that the original of such documents no longer need be preserved.
3. A record of such documents is recorded, copied or reproduced by any
process which accurately reproduces or forms a durable medium for reproducing the original.

(c) All such books, records, memoranda, surrendered or cancelled certificates and declarations regarding nonresidents and reproductions pursuant to subdivision (b) of this section must be kept open and available for examination by any duly authorized representative of the State Tax Commission at all times between the hours of 9 a.m. and 5 p.m., except for Saturdays, Sundays and legal holidays. After the State Tax Commission has consented to the reproduction of documents, as provided in subdivision (b) of this section, such reproduced documents must be retained for the remainder of the four-year period of retention applicable to the original documents as specified in subdivision (a) of this section.

(d) The State Tax Commission may permit cancelled certificates to be retained outside the State within the four-year period specified above when an examination with respect to the transactions to which such certificates relate has been completed and it is agreed that the certificates will be returned to New York for further examination within the remainder of the applicable four-year period by an authorized person on form MC-607 or, when prepared by the person required to preserve records pursuant to the provisions of this Part, the State Tax Commission may consent to the destruction of original documents and the preservation of reproduced documents pursuant to the provisions of subdivisions (b) and (c) of this section, when appropriate, on a form in substantially the following format:

"The Tax Commission has completed an examination for stock transfer purposes with respect to the transactions to which (i) the surrendered or cancelled shares of certificates of stock, and (ii) all memoranda and any declarations relating to the sale or transfer thereof relate, which are referred to on the attached lists, and it is agreed that the original of such documents no longer need be preserved. The Tax Commission hereby consents to the destruction of all listed, surrendered or cancelled shares or certificates of stock and all memoranda and any declarations relating to the sale or transfer thereof provided a record of such original documents is recorded, copied or reproduced by a process which provides an accurate reproduction and which has been approved by the Tax Commission.

It is understood and agreed that the reproduction of original documents on the attached lists will be retained for the remainder of the required four-year statutory period and will be made available for further inspection by the Tax Commission or its duly authorized representative upon request."

Historical Note
Sec. ann'd, 1st ed: Mar. 2, 1973; July 22, 1978. Amended (c) and added (d).

PART 447
EXAMPLES OF TRANSACTIONS
(Statutory authority: Tax Law, § 174; art. 12)

Sec. 447.1 Examples of taxable transactions
Sec. 447.2 Examples of non-taxable transactions

Section 447.1 Examples of taxable transactions. (a) For convenient reference, various examples of taxable transactions given in the preceding sections of this Subchapter are collected here. Transactions such as those illustrated are discussed in sections 440.1 and 443.1 of this Title.

1) The transfer of shares of stock, whether or not represented by certifi-
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cates, including shares subscribed for by an accommodation incorporator, although not represented by a certificate.
(2) The transfer of temporary or interim certificates.
(3) The transfer of certificates representing the interest of a subscriber for stock, although further payment must be made.
(4) The transfer of voting trust certificates.
(5) The transfer of certificates of stock in a dissolved corporation.
(6) The transfer of stock on the books of the corporation within the State,
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§ 447.1

regardless of where the other acts in connection with the sale or transfer of the
stock were done.

(7) The transfer of stock by gift.

(8) The transfer of stock from a partnership to a member thereof, or from a
member to a partnership.

(9) The purchase, redemption or other reacquisition by a corporation of its
own shares of stock (except where such shares are cancelled on reacquisition
pursuant to the provisions of section 515 of the Business Corporation Law, or such
shares are cancelled by an appropriate amendment to the corporation's certificate
of incorporation or by action by the board of directors of such corporation within
one year of the date of reacquisition), and also retransfer thereof by the corpo-
rations.

(10) The distribution by a corporation to its stockholders of stock in another
corporation.

(11) The transfer of stock of a corporation to be merged, to the merging
corporation, prior to the actual merger and as a condition precedent to the merger.

(12) The transfer of stock to or by trustees, including the transfer of stock
into or out of a voting trust, investment trust or other trust.

(13) The transfer of stock from an individual to himself as trustee.

(14) The transfer of stock by an executor or administrator, whether to
trustees, legatees or other persons.

(15) The transfer of stock from tenants in common to themselves as in-
dividuals, or to one of them.

(16) The transfer of stock standing in the name of two individuals to them-
sems as joint tenants with right of survivorship.

(17) The transfer of stock held by joint tenants to either one or the other of
the parties while both are alive.

(18) The delivery of a certificate by the transferor, or his agent, to the
transferees or his agent.

(19) The transfer of stock by or to an ambassador or consul representing a
foreign country.

(20) The transfer by a fiduciary, of certificates issued in the name of any one
other than himself, to his nominee.

(21) The transfer by an owner, of certificates issued in the name of any one
other than himself, to his custodian.

(22) The transfer by a broker, of certificates issued in the name of any one
other than himself, to a customer for whom and upon whose order he has pur-
chased them.

(23) The transfer of stock of a customer, held by a broker for sale, to the
broker as owner.

(24) The transfer of stock by or to a broker made, directly or indirectly, for
his own account.

(25) The transfer of stock by a broker at a price different from that at which
he accounts to his selling customer.

(26) The transfer by a broker to a customer of stock issued as a dividend on
stock purchased for the customer by the broker and held by the broker in his own
name.

(27) The transfer of stock from a nominee of a fiduciary to a nominee of a
different fiduciary, except in special cases, as, for example, the case of a substituted
trustee under the same trust.

Historical Note

new (b)(6).

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§ 447.2  Examples of nontaxable transactions. (a) The following are examples of nontaxable transactions given in the preceding sections of this Subchapter. Transactions such as those illustrated are discussed in sections 410.1 and 413.1.

(1) A transfer on the books of the corporation into a new name, made merely because the stockholder has changed his or its name, where no actual change of ownership occurs.

(2) The surrender of a single certificate for reissuance to the same stockholder of several certificates representing, in the aggregate, the same number of shares.

(3) The surrender of a number of certificates for reissuance to the same stockholder, of a single certificate for the same number of shares.

(4) The transfer of a fraction of a share of stock or a certificate representing the right to receive less than one share of stock.

(5) The surrender of preferred stock certificates in exchange for common stock certificates issued to the same stockholder, and vice versa, when made necessary by a change in capital structure.

(6) The mere registration in the State of New York, by a registrar, of a transfer already made by the corporation or its transfer agent outside this State.

(7) The mere execution of an assignment within the State (whether by endorsing the certificate in blank or otherwise) where all other acts connected with the transfer are done outside the State.

(8) The transfer of stock from a trustee of a continuing trust to a successor trustee appointed under power reserved in the deed of trust.

(9) The transfer of stock by a trustee to a successor trustee in a case where the first trustee acting under a deed of trust which empowers him to appoint a cotrustee, appoints such cotrustee and then resigns leaving the cotrustee as the sole trustee.

(10) The transfer of stock held in a testamentary trust from the original trustees to a substitute trustee appointed by the court and the surviving member of the original trustees.

(11) The surrender of stock of a merged corporation in exchange for stock of a merging corporation at the time and as part of a statutory merger.

(12) The surrender of stock of consolidating corporation in exchange for stock in the resulting corporation in the case of the consolidation of two or more corporations.

(13) The transfer of stock in the name of two joint tenants with right of survivorship to the name of the survivor after the death of the other joint tenant.

(14) The transfer of stock from the name of a decedent to his executor or administrator.

(15) The transfer by an ancillary executor to a domiciliary executor of the same estate.

(16) The transfer by an ancillary guardian to himself as domiciliary guardian of the same ward.

(17) The transfer by trustees to surviving, substitute, succeeding or additional trustees of the same trust.

(18) The transfer from the name of the owner to the nominee of his custodian.

(19) The transfer from a custodian or his nominee to a new custodian for the same owner or a nominee of a new custodian.

(20) The transfer of stock held by a nominee of one bank as collateral for a loan, to a nominee of another bank, to be held as collateral for a loan made by the second bank to the same borrower.

(21) The transfer of stock by a custodian for the owner to a broker, for sale for the account of such owner.
STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

Stock Transfer Tax Law
(Article 12 of the Tax Law)
and
Regulations

June 1, 1972

STATE TAX COMMISSION
NORMAN F. GAILLON, President
A. BRUCE MANLEY
MILTON KOENNER

Miscellaneous Tax Bureau
BERTRAM L. SCHULMAN, Director

Law Bureau
SAUL HECKELMAN, Director

State Office Campus, Bldg. No. 9
Albany, New York 12227
Fiscal Agent for the Sale of Stock Transfer Tax Stamps

Bank of New York . . . . 20 Broad St., New York City
Bank of New York . . . . 51 W. 52nd St., New York City
Bank of New York . . . . 530 Fifth Ave., New York City

Sub-Agents

State Bank of Albany . . . . Albany, N.Y.
First-City National Bank of Binghamton, N.Y. . . . Binghamton, N.Y.
Liberty National Bank and Trust Company . . . . Buffalo, N.Y.
Chemung Canal Trust Co. . . . Elmira, N.Y.
Marine Midland Bank-Rochester . . . . Rochester, N.Y.
The Merchants National Bank and Trust Company . . . . Syracuse, N.Y.
Marine Midland Bank-Central . . . . Utica, N.Y.

STAMPS ARE SOLD IN THE FOLLOWING DENOMINATIONS

1c., 2c., 4c., 5c., 8c., 10c., 20c., 40c., 50c., $1.00, $2.00, $3.00, $4.00, $10.00, $20.00, $40.00, $100.00 and $1,000.00
TAX LAW

Article 12

(Including amendments to June 1, 1972)

TAX ON TRANSFERS OF STOCK AND OTHER CORPORATE CERTIFICATES

Section 270. Amount of tax.
270-a. Rates for non-residents; maximum amount of tax; penalties.
270-b. Exemption of certain transfers to legatees and others.
270-c. Transfers by operation of law; special exemptions.
271. Stamps, how prepared and sold.
272. Penalty for failure to pay tax; liability for tax of agent or broker.
273. Canceling stamps; penalty for failure.
274. Contracts for dies; expenses, how paid.
275. Illegal use of stamps; penalty.
275-a. Registration; penalty for failure.
276. Power of tax commission.
277. Penalties; how recovered.
278. Effect of failure to pay tax.
279. Application of taxes.
279-b. Warrant for the collection of taxes.
280. Refund of tax erroneously paid.
281. Statute of limitations not applicable.

§ 270. Amount of tax. 1. There is hereby imposed and shall immediately accrue and be collected a tax, as herein provided, on all sales, or agreements to sell, or memoranda of sales and all deliveries or transfers of shares or certificates of stock, or certificates of rights to stock, or certificates of interest in property or accumulations, or certificates of deposit representing certificates taxable under this article, in any domestic or foreign association, company or corporation, or certificates of interest in business conducted by a trustee or trustees, made after the first day of June, nineteen hundred five, whether made upon or shown by the books of the association, company, corporation, or trustee, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of sale or transfer, whether intermediate or final, and whether investing the holder with the beneficial interest
in or legal title to said stock, or other certificates taxable hereunder,
or merely with the possession or use thereof for any purpose, or to
secure the future payment of money, or the future transfer of any
such stock, or certificates. The purchase, redemption or other re-
acquisition of its own shares by a corporation is subject to tax
under this article unless such shares are cancelled on reacquisition
pursuant to the provisions of section five hundred fifteen of the
business corporation law, or unless within one year of the date of
such purchase, redemption or other reacquisition, such shares are
cancelled by an appropriate amendment to the corporation's cer-
tificate of incorporation or by action of the board of directors of
such corporation.

2. Except as otherwise provided by section two hundred seventy-
a of this chapter, the tax imposed by this section shall be two and
one-half cents for each share, except in cases where the shares or
certificates are sold, in which cases the tax shall be at the rate of
one and one-quarter cents for each share where the selling price is
less than five dollars per share; two and one-half cents for each
share where the selling price is five dollars or more per share and
less than ten dollars per share; three and three-quarters cents for
each share where the selling price is ten dollars or more per share
and less than twenty dollars per share and five cents for each share
where the selling price is twenty dollars or more per share.

3. It shall be the duty of the person or persons making or effect-
uating the sale or transfer, including the person or persons to
whom the sale or transfer is made, to pay the tax provided by this
article; provided, however, that this subdivision shall not apply
to any sale or transfer wherein the vendor or transferee is a gov-
ernmental entity or international organization which is not subject
to the tax.

4. The payment of such tax shall be denoted by an adhesive
stamp or stamps affixed as follows: In the case of a sale or transfer,
where the evidence of the transaction is shown only by the books
of the association, company, corporation or trustee, the stamp shall
be placed upon such books, and it shall be the duty of the person
making or effectuating such sale or transfer to procure and furnish
to the association, company, corporation or trustee the requisite
stamps, and of such association, company, corporation or trustee to
affix and cancel the same. Where the transaction is effected by the
delivery or transfer of a certificate, the stamp shall be placed upon
the surrendered certificate and canceled; and in cases of an
agreement to sell, or where the sale is effected by delivery of the
certificate assigned in blank, there shall be made and delivered by
the seller to the buyer, a bill or memorandum of such sale to which
the stamp provided for by this article shall be affixed and canceled.
Every such bill or memorandum of sale or agreement to sell shall
show the date of the transaction which it evidences, the name of the
seller, the stock, or other certificate, to which it relates, and the
number of shares thereof. All such bills or memoranda of sale shall
bear a number upon the face thereof and no more than one such bill
or memorandum of sale made by the seller on any given day shall bear the same number. The aforesaid identification number of the bill or memorandum of sale shall in all cases be entered and recorded in the book of account required to be kept by section two hundred seventy-six of this chapter; and no further tax is hereby imposed upon the delivery of the certificate, or upon the actual issue of a new certificate when the original certificate is accompanied by the duly stamped memorandum of sale as herein provided.

5. The tax imposed by this section shall not apply to the following, provided the transaction in each case is accompanied by a certificate setting forth the facts or such other certificate or record as the tax commission may require:

(a) A sale, agreement to sell, memorandum of sale, or delivery or transfer of shares or certificates of stock or any certificates taxable under this section, made on an organized securities exchange within this state registered with the securities and exchange commission of the United States, of less than one hundred shares and less than the unit of trading on such exchange, by any person, firm, company, association or corporation registered with such exchange, and engaged thereon, as dealer in less than the unit of trading;

(b) An agreement evidencing the deposit of certificates as collateral security, which certificates are not actually sold, or such certificates so deposited, or transfers of such certificates to the person with whom they are deposited as collateral security or to a nominee of such person or from one nominee of such person to another, provided the same continue to be held by such person or nominees or nominees as collateral security as aforesaid, or the retransfer of such certificates to the depositor;

(c) Transfers or deliveries of certificates pursuant to a statutory provision, to a trustee or public officer to secure the performance of obligations, or retransfers or redeliveries of such certificates to the transferor or depositor;

(d) Transfers of certificates from the name of a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, provided the same continue to be held by such nominee or nominees for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary;

(e) Transfers of certificates from the name of the owner thereof to a custodian where the certificates are to be held or disposed of by such custodian for and subject to the instructions of the owner, or from the name of such custodian to the owner by whom the certificates were transferred to such custodian, or from the name of such custodian to a nominee of such custodian, or from one nominee of such custodian to another, provided the same continue to be held by such nominee or nominees for the same purpose for which they would be held if retained by such custodian, or from the nominee to such custodian;

(f) Mere loans of stock or certificates, or the return thereof;

(g) Deliveries or transfers from the name of the owner to a broker for sale, or deliveries by or transfers from the name of a
broker to a customer for whom and upon whose order he has purchased the same;

(h) Deliveries or transfers of shares or certificates from a corporation to its registered nominee, or from one registered nominee of such corporation to another such nominee, provided the shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such corporation, or from such nominee to such corporation;

(i) Transfers or deliveries of shares or certificates upon the instructions of a broker, whether doing business as a corporation, partnership or individually, from his name or from the name of his customer to such broker’s registered nominee for the purpose of holding such shares or certificates subject to the instructions of a clearing corporation affiliated with any securities exchange in this state, as agent for such broker, and transfers or deliveries upon the instructions of such clearing corporation from the name of such broker’s registered nominee to such broker or customer. For the purposes of this paragraph, the term “broker” shall include any banking corporation or trust company incorporated under the laws of this or another state of the United States and any bank organized under the laws of the United States.

(j) Transfers or deliveries of shares or certificates upon the instructions of a depositor in a system for the central handling of securities (including the clearing and settling of securities transactions) (a) established by a national securities exchange or association registered with the securities and exchange commission of the United States or (b) maintained by a clearing corporation as defined in subsection three of section 8-102 of the uniform commercial code, from the name of such depositor or his nominee or from the name of his customer or the nominee of such customer to the registered nominee of any such system for the purpose of holding such shares or certificates, as agent for such depositor, and transfers or deliveries upon the instructions of any such depositor from the name of the registered nominee of such system to same depositor, customer or nominee. For the purposes of this paragraph, a “depositor” shall include such securities exchanges or associations, registered under a statute of the United States such as the Securities Exchange Act of 1934 as amended, and their affiliated clearing corporations, such banks, trust companies, investment companies, insurance companies and other financial organizations as are subject to supervision or regulation pursuant to the provisions of federal or state banking laws or state insurance laws and such brokers, dealers and investment companies as are registered under the Securities Exchange Act of 1934 as amended, or the Investment Company Act of 1940 as amended, if the foregoing individuals or organizations have been accepted by such system for the central handling of securities as participants therein.

(k) Transfers or deliveries of shares or certificates upon the instructions of a depositor in a system for the central handling of securities as described in paragraph (j) of this subdivision from
the name of the nominee of any such system to the name of the nominee of another such system, provided the same continue to be held by the nominee of such other system for the same purpose as previously held for such depository by the nominee of such other system.

(1) Where the sale, agreement of sale, memorandum of sale, delivery or transfer of a security is effected in a manner which would not otherwise subject such transaction to a tax, the tax shall not apply solely by reason of the receipt or payment of cash in this state as part of a system for the central handling of securities described in paragraph (j) of this subdivision or the making of an accounting, bookkeeping or similar entry in records maintained in this state as part of such system. The tax commission shall prescribe rules and regulations to effectuate the purposes of this paragraph and paragraphs (i), (j) and (k) of this subdivision, and shall have all the rights and powers as set forth in section two hundred seventy-six of this chapter to examine any transactions or records of any nature of such system.

6. The tax imposed by this section shall not apply to shares or certificates of stock, or certificates of rights to stock, or certificates of deposit representing certificates of the character taxed by this article, in any domestic association, company or corporation, even though a record of the transfer is made in the stock book kept in compliance with section ten of the stock corporation law, if the transfer is made upon the books of such association, company or corporation regularly kept at a transfer office or by a transfer agent outside the state, provided the keeping of such books outside the state is necessary or convenient for the transaction of the ordinary business affairs of such association, company or corporation and is approved by the tax commission, and neither the sale, nor the agreement to sell, nor the memorandum of sale, nor the delivery is made in this state and no act necessary to effect the transfer (other than the making of a record in the stock book kept in compliance with section ten of the stock corporation law) is done in this state.

7. As used in this section, the term "registered nominee" means any person registered with the tax commission in accordance with such rules and regulations as it shall prescribe.

8. Nothing in this section contained shall be construed to impose a tax upon sales, agreements to sell, memoranda of sales, deliveries or transfers of shares or certificates.

(a) issued under a noncorporate investment trust agreement of the fixed type and no such sale, agreement to sell, memorandum of sale, delivery or transfer shall result in imposing a tax under this section on the securities held in such an investment trust; or

(b) of an investment trust between the investment trust and an underwriter, between an underwriter and a dealer in securities or between an underwriter or dealer and an investor. As used in this paragraph, the term "investment trust" means an investment trust of the management type, the shareholders of which are, upon rea-
sonable notice, entitled to require the investment trust to redeem or repurchase their shares or certificates for their proportionate interest in the property of the investment trust, or the cash equivalent thereof, less a discount of not more than three per centum thereof, and the term "underwriter" means a person, firm or corporation who has entered into an agreement with such investment trust to effectuate, alone or through others, sales of shares or certificates of the investment trust.

§ 270-a. Rates for nonresidents; maximum amounts of tax; penalties. 1. Notwithstanding the provisions of section two hundred seventy of this chapter on and after July first, nineteen hundred sixty-nine, the rates of tax set forth in paragraph (a) of this subdivision and the maximum amounts of tax set forth in subdivision two of this section shall apply, in the case of those sales made within this state subject to tax under section two hundred seventy and described in paragraph (a) of this subdivision and subdivision two of this section.

(a) On such sales by a nonresident during the periods set forth in the following table, the rates of tax shall be the percentages, set forth in such table, of the rates of tax provided in section two hundred seventy of this article:

<table>
<thead>
<tr>
<th>Period</th>
<th>Percentage of Rates of Tax Provided in Section two hundred seventy of this article</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 1969 to June 30, 1970</td>
<td>95%</td>
</tr>
<tr>
<td>July 1, 1970 to June 30, 1971</td>
<td>90%</td>
</tr>
<tr>
<td>July 1, 1971 to June 30, 1972</td>
<td>80%</td>
</tr>
<tr>
<td>July 1, 1972 to June 30, 1973</td>
<td>65%</td>
</tr>
<tr>
<td>July 1, 1973 and thereafter</td>
<td>50%</td>
</tr>
</tbody>
</table>

The tax so calculated shall not be carried out in its computation beyond four decimal points, that is, it shall be computed to the nearest one one-hundredth of one cent.

(b) For the purposes of this section the following terms shall have the following meanings:

A "nonresident" shall mean an individual or a group of individuals jointly owning securities (but including partnerships only if organized and operating solely for the purpose of investing in securities) selling or trading on his or their own account, who is not, or no one of whom is, a resident.

A "resident" means an individual who on the day upon which the tax imposed by section two hundred seventy of this chapter accrues,

(i) regardless of where he resides or is domiciled, (i) is a member of a securities exchange within this state which is registered with the securities and exchange commission of the United States; (ii) is a dealer in securities required to be registered with the attorney general of the state of New York; (iii) acts as a dealer in securities or as a broker or agent in transactions concerned with
the sale and purchase of securities: or (iv) is a member of or a person employed in a managerial capacity by a firm, company, association or organization, or an officer or director of or a person employed in a managerial capacity by a corporation, which is a member organization of a securities exchange, a dealer in securities, or a dealer, broker or agent, described in clauses (i), (ii) or (iii) of this subparagraph, or

(2) is domiciled in this state, unless on such day he maintained no permanent place of abode in this state, maintained a permanent place of abode elsewhere and during the one year period ending on such day spent in the aggregate, not more than thirty days of such period in this state, or

(3) is not domiciled in this state, but on such day maintained in this state, a permanent place of abode unless such abode is due solely to such individual's being in the armed forces of the United States, or

(4) regardless of where he resides, maintains a permanent place of business within this state or is employed within this state.

(e) No transaction shall be deemed to be by a nonresident and subject to tax at the rates prescribed in this section unless (1) the papers or documents upon or to which are required to be placed or affixed the atamps required by subdivision four of section two hundred seventy of this chapter, to denote the payment of the tax imposed by such section, have also affixed thereto or placed thereon a declaration in form prescribed by the tax commission signed by the person making the sale or transfer, setting forth facts to show that the transaction is one coming within the provisions of this section; or (2) in the case of transactions executed or effected within this state by any member or member organization of any securities exchange within this state which is registered with the securities and exchange commission of the United States (hereinafter in this section referred to as "member of a securities exchange") or by any person, firm, corporation, company or association required to be registered with the attorney general of the state of New York as a dealer in securities other than upon any such exchange (hereinafter in this section referred to as "registered dealer"), who is permitted or required pursuant to any rules and regulations promulgated by the tax commission pursuant to the provisions of section two hundred eighty-one-a of this chapter, to pay the tax imposed by this article without the use of the stamps prescribed by this article, the sale is certified, in such form as the tax commission may prescribe, in the report required to be made to such exchange, or its affiliated clearing corporation or any authorized agency by rules and regulations promulgated by the tax commission pursuant to section two hundred eighty-one-a of this chapter, as being a transaction coming within the provisions of this section. The certification in such report may be made by such member of a securities exchange or registered dealer if he either (i) has obtained from such nonresident a declaration in form prescribed by the tax commission, or (ii) has met requirements set forth in rules and regulations promulgated by the tax commission,
establishing that the sale is one coming within the provisions of this section and (iii) has not on or after the date of obtaining such declaration or its delivery and filing, received from such nonresident either a notice of cancellation, in form prescribed by the tax commission, as described in subparagraph three of paragraph (b) of subdivision three of this section, and has no knowledge or reasonable grounds to believe that the status of such nonresident as a nonresident has changed.

2. Where any sale made within the state and subject to the tax imposed by this chapter relates to shares or certificates of the same class and issued by the same issuer the amount of tax upon any such single taxable sale shall not exceed, during the period beginning on July first, nineteen hundred sixty-nine and ending on June thirtieth, nineteen hundred seventy, the sum of two thousand five hundred dollars; during the period beginning on July first, nineteen hundred seventy and ending on June thirtieth, nineteen hundred seventy-one, the sum of one thousand two hundred fifty dollars; during the period beginning on July first, nineteen hundred seventy-one and ending on June thirtieth, nineteen hundred seventy-two, the sum of seven hundred fifty dollars; during the period beginning on July first, nineteen hundred seventy-two and ending on June thirtieth, nineteen hundred seventy-three, the sum of five hundred dollars; and on and after July first, nineteen hundred seventy-three, the sum of three hundred fifty dollars; provided however, that sales made within this state by any member of a securities exchange or by any registered dealer, who is permitted or required pursuant to any rules and regulations promulgated by the tax commission pursuant to the provisions of section two hundred eighty-one of this chapter to pay the taxes imposed by this article without the use of the stamps prescribed by this article, pursuant to one or more orders placed with the same member of a securities exchange or the same registered dealer on one day, by the same person, each relating to shares or certificates of the same class and issued by the same issuer, all of which sales are executed on the same day (regardless of whether it be the day of the placing of the orders), shall, for the purposes of this subdivision two, be considered to constitute a single taxable sale.

3. (a) Any person who shall knowingly make any false statement in a declaration provided for by paragraph (e) of subdivision one of this section, shall be guilty of a misdemeanor and upon conviction thereof shall be liable to a fine of not less than five hundred nor more than one thousand dollars, or be imprisoned for not more than one year, or be subject to both such fine and imprisonment, in the discretion of the court.

(b) Any person who—
(1) having executed, filed with and delivered to a member of a securities exchange or a registered dealer a declaration provided for by paragraph (e) of subdivision one of this section;
(2) thereafter ceases knowingly to be a nonresident;
(3) fails to execute, file and deliver a notice of cancellation of such declaration, with and to such member or dealer; and
(4) after ceasing to be such a nonresident and prior to the execution, filing and delivery of such notice of cancellation, with intent to evade or defeat the collection of any tax imposed by this article, places and allows to be executed an order with such member or dealer for the sale of any shares or certificates described in section two hundred seventy of this chapter; shall be guilty of a misdemeanor and upon conviction thereof shall be liable to a fine of not less than five hundred nor more than one thousand dollars or be imprisoned for not more than one year, or be subject to both such fine and imprisonment, in the discretion of the court.

§ 270-b. Exemption of certain transfers to legatees and others. The tax imposed by sections two hundred seventy and two hundred seventy-a of this chapter shall not be imposed upon any deliveries or transfers by an executor or administrator to a legatee, heir or distributee of shares or certificates of stock if it is shown to the satisfaction of the tax commission that the value of such shares or certificates is not greater than the amount of the tax that would otherwise be imposed on such delivery or transfer.

§ 270-c. Transfers by operation of law; special exemptions. No transaction taxable under sections two hundred seventy and two hundred seventy-a of this chapter shall be exempt because effected by operation of law. The tax imposed by sections two hundred seventy and two hundred seventy-a of this chapter shall not be imposed upon any delivery or transfer:

1. From a decedent to his executor or administrator;
2. From a minor to his guardian or from a guardian to his ward upon attaining majority;
3. From an incompetent to his committee or similar legal representative, or from a committee or similar legal representative to a former incompetent upon removal of disability;
4. From a bank, trust company, financial institution, insurance company, or other similar entity, or nominee, custodian, or trustee thereof, to a public officer or commission, or person designated by such officer or commission or by a court, in the taking over of its assets, in whole or in part, under state or federal law regulating or supervising such institutions, nor upon redelivery or retransfer by any such transferee or successor thereto;
5. From a bankrupt or person in receivership due to insolvency to the trustee in bankruptcy or receiver, from such receiver to such trustee or from such trustee to such receiver, nor upon redelivery or retransfer by any such transferee or successor thereto;
6. From a transferee under paragraphs one to five, inclusive, to his successor acting in the same capacity, or from one such successor to another;
7. From a foreign country or national thereof to the United States or any agency thereof, or to the government of any foreign country directed pursuant to the authority vested in the president of the United States by section (b) of the trading with the enemy
act (40 Stat. 415), as amended by the first war powers act (55 Stat. 838);

8. From trustees to surviving, substitute, succeeding or additional trustees of the same trust;

9. Upon the death of a joint tenant or tenant by the entirety, to the survivor or survivors;

10. Made in obedience to an order of the Federal Securities and Exchange Commission which has become or becomes final in accordance with law, provided that such order recites that the delivery or transfer is necessary or appropriate to effectuate the provisions of section eleven (b) of the Public Utility Holding Company Act of Nineteen Hundred Thirty-five and specifies and itemizes the securities which are ordered to be delivered or transferred;

11. Made to effectuate any plan of reorganization or adjustment (1) confirmed under the act entitled “An act to establish a uniform system of bankruptcy throughout the United States,” approved July first, eighteen hundred ninety-eight, as amended, (2) approved in an equity receivership proceeding in court involving a corporation, or (3) under sections one hundred nineteen to one hundred twenty-three of the real property law or article nine of the stock corporation law;

12. Made to effectuate any plan of reorganization or adjustment required by a decree of the court under the anti-trust laws of the United States or any territory thereof, or of any state or the District of Columbia.

13. Of the capital stock of no more than one corporation organized under or subject to either articles three or seven of the banking law, delivered or transferred, as provided in section one hundred forty-three of the banking law, in exchange for shares or other securities of a company substantially all of the assets of which will consist of said capital stock immediately after such exchange. The tax commission may require that each such delivery or transfer be accompanied by a certificate setting forth the facts.

§ 271. Stamps, how prepared and sold. Adhesive stamps for the purpose of paying the state tax provided for by this article shall be prepared by the tax commission, in such form, and of such denominations and in such quantities as it may from time to time prescribe, and it shall make provision for the sale of such stamps by its duly authorized agent or agents in such places and at such times as in its judgment may be necessary.

The tax commission may from time to time and as often as it deems advisable, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design. In order to effect such a change and to discontinue the use of stamps of a former design the tax commission shall publish or cause to be published once in each week for each of three months immediately preceding the time for taking effect of such change, in one or more daily newspapers published in each of the first and
second class cities of the state, a notice to the effect that after a certain day, which shall be at least three months after the first publication of said notice, none other than the new issue or design of stamps shall be accepted or made use of in payment of the tax provided for by this article. After such date it shall be unlawful for any person to make use of any other than the new issue or design of stamps in payment of such tax. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Any person lawfully in possession of unused stamps of an old or superseded issue or design may, within ninety days from the time when such change becomes effective as aforesaid, surrender the same to the tax commission together with a sworn statement setting forth the name and address of the owner and party surrendering said stamps, how, when and from whom the same were acquired and such other pertinent information as the tax commission may require; whereupon the tax commission shall redeem such unused and surrendered stamps by exchanging therefor stamps of a like denomination of the new issue or design. Failure or refusal of the tax commission to redeem the same by such an exchange may be enforced by mandamus.

§ 271-a. Sale of stamps. No person, firm, company, association or corporation other than a corporation organized under the banking law of this state or under the national bank act of the United States, or a duly authorized agent of the tax commission, shall sell or expose for sale, traffic in, trade, barter or exchange any stamp issued pursuant to this article, without first obtaining from the tax commission its written consent to sell, traffic in, trade, barter or exchange such stamps, except that in connection with a sale of or agreement to sell stock a broker or agent of the principal making such sale or agreement to sell may supply and affix the stamp or stamps required by this article. No persons shall sell or expose for sale any stamp so purchased or acquired for a sum less than the face value thereof without the written consent of the tax commission. Any person lawfully in possession of unused stamps of the issue then in effect may request the tax commission for its consent to redeem the same. He shall present to the tax commission, if so required, a sworn statement setting forth the name and address of the owner and the party desiring to redeem said stamps, how, when and from whom the same were acquired and such other pertinent and relevant information as the tax commission may require. Thereupon the tax commission may authorize the redemption of such stamps through its fiscal agent appointed for the sale of stock transfer stamps. Upon the failure or refusal of the tax commission to give such authority the same may be enforced by mandamus. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court.
§ 272. Penalty for failure to pay tax; liability for tax of agent or broker. 1. Except as provided in subdivision three of this section, any person or persons liable to pay the tax by this article imposed, and any one who acts in the matter as agent or broker for such person or persons, who shall make any sale, transfer or delivery of shares or certificates taxable under this article without paying the tax by this article imposed, and any person who shall in pursuance of any sale, transfer or agreement, deliver any certificate or evidence of the sale or transfer of or agreement to sell any such certificate, or bill or memorandum thereof, or who shall transfer or cause the same to be transferred upon the books or records of the association, company, corporation, or business conducted by a trustee or trustees, and any association, company, corporation or business conducted by a trustee or trustees, whose stock or other certificates taxable hereunder is sold or transferred, which shall transfer or cause the same to be transferred upon its books, without having affixed thereto the stamps provided for in this article, and where required by the provisions of this article, a declaration as prescribed by paragraph (e) of subdivision one of section two hundred seventy-a of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than five hundred nor more than one thousand dollars, or be imprisoned for not more than six months or by both such fine and imprisonment, in the discretion of the court.

2. Any person who acts as agent or broker for a person liable to pay the tax by this article imposed, who shall be subject to or liable for the penalty provided for by subdivision one of this section shall, regardless of whether he has been prosecuted for or acquitted of such criminal liability, in addition to such criminal liability, be liable for the payment of the tax, and such liability may be enforced in the same manner as any liability for tax imposed by this article, and its determination and collection shall be effected pursuant to and subject to the provisions of sections two hundred seventy-nine-a, two hundred seventy-nine-b and two hundred eighty-one of this chapter. The burden, in any hearing held pursuant to such section two hundred seventy-nine-a, of proving the facts to show the absence of liability for the tax imposed by this subdivision upon such agent or broker, shall be upon such agent or broker.

3. The penalties provided by subdivision one of this section shall not apply to any agent or broker or to any other person who shall perform any of the acts set forth in such subdivision, in good faith, in reliance upon a declaration furnished pursuant to paragraph (e) of subdivision one of section two hundred seventy-a of this chapter, as to which declaration such broker, agent or other person, before such act had received no notice of cancellation of such declaration pursuant to the provisions of clause (iii) of subparagraph (2) of such paragraph and has no knowledge or reasonable grounds to believe that the status of such nonresident as a nonresident has changed.
§ 273. Canceling stamps; penalty for failure. In every case where an adhesive stamp shall be used to denote the payment of the tax provided by this article, the person using or affixing the same shall write or stamp thereupon the initials of his name and the date upon which the same shall be attached or used, and shall cut or perforate the stamp in a substantial manner, so that such stamp cannot be again used; and if any person makes use of an adhesive stamp to denote the payment of the tax imposed by this article, without so effectually canceling the same, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than two hundred nor more than five hundred dollars or be imprisoned for not less than six months, or both, in the discretion of the court.

§ 274. Contracts for dies; expenses, how paid. The tax commission is hereby directed to make, enter into and execute for and in behalf of the state such contract or contracts for dies, plates and printing necessary for the manufacture of the stamps provided for by this article, and provide such stationery and clerk hire together with such books and blanks as in its discretion may be necessary for putting into operation the provisions of this article; the tax commission shall be the custodian of all stamps, dies, plates or other material or thing furnished by it and used in the manufacture of such state tax stamps, and all expenses incurred by it and under its direction in carrying out the provisions of this article shall be paid to it by the state treasurer from any moneys appropriated for such purpose.

§ 275. Illegal use of stamps; penalty. Any person who shall willfully remove or alter or knowingly permit to be removed or altered the canceling or defacing marks of any stamp provided for by this article with intent to use such stamp, or who shall knowingly or willfully buy, prepare for use, use, have in his possession or suffer to be used any washed, restored or counterfeit stamp, and any person who shall intentionally remove or cause to be removed or knowingly permit to be removed any stamp, affixed pursuant to the requirements of this article, shall be guilty of a misdemeanor and on conviction thereof shall be liable to a fine of not less than five hundred nor more than one thousand dollars, or be imprisoned for not more than one year, or by both such fine and imprisonment, at the discretion of the court.

§ 275-a. Registration; penalty for failure. Every person acting individually or as a trustee, firm, company, association or corporation engaged in whole or in part in the making or negotiating of sales, agreements to sell, deliveries or transfers of shares or certificates taxable under this article, or conducting or transacting a stock brokerage business, and every corporation, stock association, company or trustee which shall maintain a principal office or place of business within the state or which shall keep or cause to be kept within the state of New York a place for the sale, transfer or delivery of its stock, or other certificates included within this article,
shall within ten days after the amendment to this section shall take
effect if such a certificate shall not have been theretofore filed
with the state comptroller, or within ten days after engaging in
such business or after establishing such principal office or place of
business, or such place for the sale or transfer of its certificates, as
the case may be, file in the office of the tax commission a certificate
setting forth the name under which such business is, or is to be,
conducted or transacted, and the true or real full name or names of
the person or persons conducting or transacting the same, with the
post office address or addresses of said person or persons, unless
the party so certifying be a corporation or trustee, in which event
it shall set forth its said principal office or place of business and
when and where incorporated or organized. Said certificate shall be
executed and duly acknowledged by the person or persons so con-
ducting or intending to conduct said business or by the president or
secretary of the corporation as the case may be.

In the event of a change in the persons composing such firm,
company or association or of the persons acting as such trustees
or of the address of any such person, firm, company, association,
corporation or trustees, or termination of such business or relation-
ship, a like certificate setting forth the facts with respect to such
change or termination shall within ten days thereafter be filed in
the office of the tax commission.

Any such person acting individually or as a trustee, firm, com-
pany, association or corporation who shall fail to comply with the
provisions of this section shall be guilty of a misdemeanor, and
upon conviction thereof shall pay a fine of not less than one hun-
dred dollars nor more than five hundred dollars or be imprisoned
for not more than six months or by both such fine and imprison-
ment, in the discretion of the court.

§ 276. Power of tax commission. Every person, firm, company,
association, corporation or business conducted by a trustee or trus-
tees, engaged in whole or in part in the making or negotiating of
sales, agreements to sell, deliveries or transfers of shares or cer-
tificates taxable under this article, or conducting or transacting a
brokerage business, hereinafter in this section called "broker",
shall keep or cause to be kept at some accessible place within the
state of New York, a just and true book of account, in such form
as may be prescribed by the tax commission, wherein shall be
plainly and legibly recorded in separate columns; (1) unless pro-
vided otherwise by rules and regulations of the tax commission,
providing for its recording in some other manner in records kept
by such broker, the date of receipt of every order for every sale,
agreement to sell, delivery or transfer of such shares or certificates
together with the name, class and number of shares to which such
order relates and the name and address (or other identification
which refers to records kept by such broker containing such name
and address) of the person placing the order; (2) the date of
making every sale, agreement to sell, delivery or transfer of such
shares or certificates, the name and the number of shares thereof,
the selling price, the date of the order or orders to which such transaction relates; (3) the name and address (or other identification which refers to records kept by such broker, containing such name and address) of the seller or transferrer, and his resident or nonresident status, as defined in the provisions of section two hundred seventy-a of this chapter; (4) the name of the purchaser or transferee; (5) the face value of the adhesive stamps affixed; and (6) the identifying number of the bill or memorandum of sale used as provided for by section two hundred and seventy of this chapter. This book shall also have recorded therein each separate purchase of stock transfer stamps, showing the date, the amount and from whom purchased.

Every association, company or corporation or business conducted by a trustee or trustees shall keep or cause to be kept at some accessible place within the state of New York a stock certificate book and a just and true book of account, transfer ledger or register, in such form as may be prescribed by the tax commission, wherein shall be plainly and legibly recorded in separate columns, the date of making every transfer of stock, or other certificates included within this article, the name and number of shares thereof, the serial number of each surrendered certificate, the name of the parties surrendering such certificate, the serial number of the certificate issued in exchange therefor, the number of shares covered by said certificate, the name of the party to whom said certificate was issued and the face value of the stamps attached in payment of the tax on the transfer of the certificate. Evidence of the payment of the tax provided for by sections two hundred and seventy and two hundred and seventy-a of this chapter shall be provided in one of the following manners and not otherwise, to wit:

(a) By attaching to the certificate surrendered for transfer, the stamps required for and any declaration permitted by paragraph (c) of subdivision one of section two hundred seventy-a of this chapter with respect to such transfer, or

(b) If the stamps and any such declaration are not attached to the certificate, but are attached to the bill or memorandum of sale effecting or evidencing the transfer of such certificate, by attaching to said certificate the said bill or memorandum of sale with stamps and declaration, if any, attached, or

(c) If the stamps and declaration, if any, covering the transfer are attached to a bill or memorandum effecting a transfer of one or more certificates or to one or more certificates included in said transfer, a notation must be made upon such certificates, bill or memorandum, as the case may be, clearly specifying and identifying the certificate or certificates to the sale or transfer of which the said stamps and declaration apply, or

(d) If the bill or memorandum bearing such stamps and declaration is not attached to the surrendered certificate or certificates to which it applies, a notation must be made upon such bill or memorandum stating the serial number or numbers of the certificates to which said bill or memorandum applies, as provided by
section two hundred and seventy of this chapter. It shall also retain and keep all surrendered or canceled shares or certificates and all memoranda and any declarations relating to the sale or transfer of any thereof. All such books of account, transfer ledgers, registers and certificate books, shall be retained and kept as aforesaid for a period of at least four years subsequent to the date of the last entry made therein as herein required; and all such surrendered or canceled shares or certificates, memoranda and declarations relating to the sale or transfer of shares or certificates taxable under this article, shall be retained and kept for a period of at least four years from the date of the delivery thereof. For the purpose of ascertaining whether the tax imposed by this article has been paid, all such books of account, transfer ledgers, registers, certificate books, surrendered or canceled shares or certificates and memoranda and declarations relating to the sale or transfer thereof, shall at all times between the hours of ten o'clock in the forenoon and three o'clock in the afternoon except Saturdays, Sundays and legal holidays, be open to examination by the tax commission or its duly authorized representatives. The tax commission may consent to the destruction of all surrendered or canceled shares or certificates and all memoranda and any declarations relating to the sale or transfer thereof provided the tax commission has completed an examination with respect to the transactions to which such documents relate, is satisfied that the original of such documents no longer need be preserved, a record of such documents is recorded, copied or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original and such record is retained for the remainder of the applicable four year period specified above and is open to examination by the tax commission on the days and during the hours set forth above.

The tax commission by a special proceeding in the supreme court may enforce its right to examine such books of account, bills or memoranda of sale or transfer, transfer ledger, register and certificate books and surrendered or canceled shares or certificates and declarations or a record of such shares or certificates and all memoranda and any declarations relating to the sale or transfer thereof recorded, copied or reproduced as herein provided. If the tax commission ascertains that the tax provided for in this article has not been paid, the attorney general, at the instance of the commission, shall bring an action in its name as such tax commission, in any court of competent jurisdiction for the recovery of such tax and for any penalty incurred by any person under the provisions of this article.

Every person, firm, company, association or corporation or business conducted by a trustee or trustees that shall fail to keep such book of account or bills or memoranda of sale or transfer, or transfer ledger, register or certificate book or surrendered or canceled shares or certificates or declarations as herein required, or who alters, cancels, obliterates or destroys any part of said records except as herein permitted, or makes any false entry therein, or who shall refuse to permit the tax commission or any of its authorized
representatives freely to examine any of said books, records or papers at any of the times herein provided, or who shall in any other respect violate any of the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof shall for each and every such offense pay a fine of not less than five hundred dollars nor more than five thousand dollars, or be imprisoned not less than three months nor more than one year, or both in the discretion of the court.

§ 277. Penalties; how recovered. Any person, firm, company, association or corporation, or business conducted by a trustee or trustees that shall violate any of the provisions of section two hundred seventy, section two hundred seventy-a or section two hundred seventy-two of this chapter shall, in addition to the other penalties provided for in this article, be subject to a penalty of one dollar for each and every share of stock or of other interest taxable under this article so sold or transferred, or transferred or entered upon the books of the corporation or trustees, as the case may be, without the payment of the tax by this article imposed thereon. Such penalty may be compromised by the tax commission. Any person who shall violate any of the other provisions of this article shall, in addition to the other penalties provided for in this article, be subject to a penalty of five hundred dollars for each and every such violation.

The attorney general at the instance of the tax commission shall bring an action in its name as such tax commission in any court of competent jurisdiction for the recovery of any penalty imposed by this section. All moneys collected as penalties shall be paid into the stock transfer tax fund. In an action against a corporation or trustees, or its or their transfer agent to recover a penalty because of the transfer of a certificate, upon the books or records of the corporation or trustees without requiring the payment of the tax by this article imposed, the failure of the corporation or trustees or its or their transfer agent, on the demand of the tax commission or its duly authorized representative, to produce the surrendered certificate or memoranda of sale with the required stamps and any declaration prescribed by paragraph (a) of subdivision one of section two hundred seventy-a of this chapter, if required, attached, shall constitute prima facie proof of the nonpayment of the taxes imposed by section two hundred seventy and section two hundred seventy-a of this chapter.

§ 278. Effect of failure to pay tax. No transfer of certificates taxable under this article made after June first, nineteen hundred and five, on which a tax is imposed by this article, and which tax is not paid at the time of such transfer shall be made the basis of any action or legal proceedings, nor, except in a proceeding under articles ten-e and twenty-six of this chapter, shall proof thereof be offered or received in evidence in any court in this state.
§ 279. Application of taxes. The taxes imposed under this article and the revenues thereof, after the deduction of refunds of taxes erroneously paid, shall be paid by the tax commission into the stock transfer tax fund to the credit of the commissioner of taxation and finance.

§ 279-a. Determination of tax. If any person fails to pay any tax required by this article the tax commission shall determine the amount of tax due at any time within five years after the tax became payable and shall give written notice of such determination to the person or persons liable therefor. Such a determination shall finally and irrevocably fix the tax unless the person against whom it is assessed shall within thirty days after the mailing of notice of such determination apply to the tax commission for a hearing. After such hearing the tax commission shall give written notice of its decision to the person against whom the tax was assessed. The decision of the tax commission may be reviewed under article seventy-eight of the civil practice law and rules if a proceeding is commenced within ninety days after the mailing of the notice thereof but the proceeding may not be commenced unless the amount of tax stated in the determination with penalties thereon, if any, shall have first been deposited with the tax commission and an undertaking filed with it in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if the proceeding be dismissed or the determination confirmed the petitioner will pay all costs and charges which may accrue against him in the prosecution of the proceeding or at the option of the petitioner such undertaking may be in a sum sufficient to cover the tax, penalties, costs and charges aforesaid in which event the petitioner shall not be required to pay such tax and penalties as a condition precedent to the commencement of the proceeding. The remedy provided by this section for a review of the decision of the tax commission shall be the exclusive remedy available to judicially determine the liability for taxes under this article.

§ 279-b. Warrant for the collection of taxes. Whenever any person shall fail to pay any tax he is required to pay under the provisions of this article, the tax commission may issue a warrant under its official seal, directed to the sheriff of any county of the state, commanding him to levy upon and sell the real and personal property of such person, found within his county, for the payment of the amount thereof, with the penalties, interest and the cost of executing the warrant, and to return such warrant to the tax commission and to pay to it the money collected by virtue thereof within sixty days after the receipt of such warrant. The sheriff shall within five days after the receipt of the warrant, file with the clerk of his county a copy thereof, and thereupon the clerk shall enter in the judgment docket the name of the person mentioned in the warrant, and the amount of the tax and penalties for which the warrant is issued and the date when such copy is filed, and thereupon the amount of such warrant so docketed shall become
a lien upon the title to and interest in real property or chattels real of the person against whom the warrant is issued in the same manner as a judgment duly docketed in the office of such clerk. The sheriff shall thereupon proceed upon the warrant in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. In the discretion of the tax commission a warrant of like terms, force and effect may be issued and directed to any officer or employee of the department of taxation and finance, and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty. Upon such filing of a copy of a warrant, the tax commission shall have the same remedies to enforce the claim for taxes against the person as if the people of the state had recovered judgment against such person for the amount of the tax.

§ 280. Refund of tax erroneously paid. If any stamp or stamps shall have been erroneously affixed to any book, certificate, or bill or memorandum of sale, or if any tax provided by this article shall be erroneously paid otherwise than by the use of a stamp or stamps, the tax commission may, upon presentation of a claim for the amount of such stamp or stamps, or tax, and upon the production of evidence satisfactory to it that such stamp or stamps was or were so erroneously affixed, or such tax was so erroneously paid, so as to cause loss to the person or persons making such claim, pay such amount or such part thereof as it may allow, to such claimant out of any moneys collected under this article. Provided, however, that where such erroneous payment was made otherwise than by the use of stamps pursuant to the provisions of section two hundred eighty-one of this chapter and resulted from payment of tax in excess of the amount due under subdivision two of section two hundred seventy-a of this chapter in lieu of the presentation of a claim for refund an adjustment for such erroneous payment may be made on the written report required to be made to the exchange affiliated clearing corporation or authorized agency if such adjustment is made on such a written report filed within thirty business days following such erroneous payment, in such form and with such substantiating evidence as the tax commission may prescribe and provided further that at the time of the making of such adjustment the person, firm, company or association making such report has either paid to the person or persons erroneously charged with such tax the amount of such overpayment or has applied such amount in reduction of any amount owing to it from the person or persons so charged. Any claim for refund shall be presented to the tax commission in writing, duly verified, and shall state the full name and address of the claimant, the date of such erroneous affixing, or other payment of the tax, the face value of such stamp or stamps, or the amount of such tax, as the case may be, and
contain such evidence as may be available upon which the demand for such refund is based. If the claim is based on the erroneous affixing of a stamp or stamps the claim shall describe the instrument to which the stamp or stamps were affixed. Such claims shall be presented within two years after such erroneous affixing or payment, as the case may be. The tax commission shall grant or deny such claim in whole or in part and shall notify the claimant by mail of its determination. Such determination shall be final and irrevocable unless the claimant shall within thirty days after the mailing of notice of such determination apply to the tax commission for a hearing. After such hearing the tax commission shall mail notice of its decision to the claimant. The decision of the tax commission may be reviewed under article seventy-eight of the civil practice law and rules if a proceeding under that article is commenced within ninety days after the mailing of the notice of such decision. However, such a proceeding may not be commenced unless an undertaking is filed with the tax commission in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if the proceeding be dismissed or the decision confirmed the petitioner will pay all costs and charges which may accrue against him in the prosecution of the proceeding. The remedy provided by this section for review of the decision of the tax commission shall be the exclusive remedy available to judicially determine the liability for taxes under this article.

§ 281. Statute of limitations not applicable. The provisions of the civil practice law and rules relative to the limitation of time of enforcing a civil remedy shall not apply to any proceeding or action taken to levy, determine or enforce the collection of any tax or penalty prescribed by this article, provided, however, that no such proceeding or action shall be commenced after the expiration of ten years after a tax became due or a penalty incurred, except that such proceeding or action may be commenced at any time if the failure to pay the tax or penalty was with intent, in any manner, to defeat or evade the same.

§ 281-a. Alternative method of collection. Notwithstanding any other provisions of this article, the tax commission may by rules and regulations provide that the taxes imposed by this article on any sale, delivery or transfer executed or effected within this state by any member of any securities exchange within this state which is registered with the securities and exchange commission of the United States shall be paid to such exchange or in the discretion of the tax commission to an affiliated clearing corporation by the person, firm, company or association executing or effecting the sale, delivery or transfer, without the use of the stamps prescribed by this article; and that the taxes imposed by this article on any sale or transfer executed or effected within this state by any person, firm, corporation, company or association required to be registered with the attorney general of the state of New York as a dealer in securities, other than upon any such exchange, may be paid, under such rules and regulations as the tax commission
may prescribe, to any agency duly authorized by the tax commission, by the person, firm, company, corporation or association executing or effecting such sale or transfer without the use of the stamps prescribed by this article. In such event, a written report shall be made to such exchange, affiliated clearing corporation or authorized agency for each business day or such period as the tax commission may prescribe, by each such person, corporation, firm, company or association showing the amount of tax payable on all such sales, deliveries or transfers and such other reasonable information as the tax commission may prescribe. Such report shall be preserved for such period as the tax commission may prescribe. At the time of making such report, the amount of tax shown to be due thereon shall be paid for the account of the tax commission to such exchange, affiliated clearing corporation or authorized agency and shall be remitted daily, unless otherwise prescribed by the tax commission, by such exchange, affiliated clearing corporation or authorized agency to the tax commission together with a report in such form as may be prescribed by the tax commission. The payment of the tax through an exchange, affiliated clearing corporation or authorized agency on each sale or transfer as hereinbefore provided shall be evidenced by a certification in such form and manner as the tax commission may prescribe. In the event that collection of the tax is prescribed without the use of stamps as hereinbefore provided, all of the provisions of this article not inconsistent with this section shall apply. For the purposes of this section the term “affiliated clearing corporation” shall, if it has a place of business in this state, include a clearing corporation as defined in subsection three of section 8-102 of the uniform commercial code and a clearing corporation affiliated with a national securities exchange or association registered with the securities and exchange commission of the United States, and the persons, firms, corporations, companies or associations by whom taxes may be paid without the use of stamps may, in the discretion of the tax commission, include depositors in the system maintained by such clearing corporation.
STOCK TRANSFER TAX REGULATIONS

(Subchapter G of Chapter III of Title 20 of the Official Compilation of Codes, Rules and Regulations)

APPENDICES

SUBCHAPTER G

Stock Transfer Tax Regulations

PART

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PART 440

GENERAL PROVISIONS

(Statutory authority: Tax Law, § 171; art. 12)

See. 440.1 Taxable transactions in general 440.3 Who must pay tax
See. 440.2 When taxable event is deemed to occur within New York 440.4 Requirements as to bills, memoranda of sale

Section 440.1 Taxable transactions in general. (a) By section 270 of the Tax Law, a tax is imposed upon transactions with reference to: (1) shares of stock; (2) certificates of stock; (3) certificates of rights to stock; (4) certificates of interest in property or accumulations; (5) certificates of interest in business conducted by a trustee or trustees; (6) certificates of deposit representing any of the foregoing. The tax applies to such shares or certificates in any domestic or foreign corporation, company, association, or business conducted by a trustee or trustees and to transactions by residents and nonresidents alike.

(b) The tax is imposed on (1) sales, (2) agreements to sell, (3) memoranda of sales, (4) deliveries, and (5) transfers, of the shares and certificates described above, including transfers of record ownership on the books of the corporation or other entity issuing the shares or certificates involved.
(c) Shares and certificates described in subdivision (a) of this section include:
1. shares of stock, whether or not represented by certificates, including shares subscribed for by an accommodation incorporator;
2. temporary or interim certificates;
3. certificates representing the interest of a subscriber for stock, although further payment must be made;
4. voting trust certificates;
5. certificates of stock in a dissolved corporation.

(d) No tax is imposed upon transactions in shares or certificates issued under a noncorporate investment trust agreement of the fixed type.

(e) With respect to shares or certificates of an investment trust of the management type, if its shareholders are entitled upon reasonable notice to require it to redeem or repurchase their shares or certificates for their proportionate interest in the property of the investment trust, or the cash equivalent thereof, less a discount of not more than three per cent, no tax is imposed upon transfers involved in the distribution of its shares by the trust to investors, or in the redemption thereof by the trust (transfers between the investment trust and an underwriter, between an underwriter and a dealer in securities, or between an underwriter or dealer and an investor). However, other transfers of the shares of such a trust, such as sales by one dealer to another, or by one investor to another, are subject to tax.

(f) An agreement of the type known as a "call" constitutes an agreement to sell, and is subject to tax when given. It is immaterial whether the option thereby given is actually exercised, but, if exercised, no tax is payable on the sale, delivery or transfer made pursuant to the "call", provided that the tax has been paid thereon. In such a case, a certificate in the following form may be submitted to the transfer agent:

We hereby certify that the transfer of ............... shares of the within stock to ............... has been made pursuant to a "call" and that the Federal and New York State stock transfer tax stamps for the transaction are affixed to such "call", which is in our possession.

.................

Seller's signature

(g) Sales, agreements to sell and deliveries of shares or certificates are taxable even though no transfer is made on the books of the corporation. Neither is it necessary that the transaction pass the legal title to the shares; the tax is imposed whether the transaction invests the holder of the shares or certificates with either the beneficial interest in them or legal title to them, or merely with possession or use of them for any purpose. It is not necessary that a transaction involve a sale to be taxable; a delivery or transfer of shares or certificates as a gift is taxable.
(h) The tax does not apply to the original issuance of stock. New York, unlike the United States, has no law taxing the issuance of stock.

(i) The following are examples of taxable transactions:
1. The transfer of stock by gift.
2. The transfer of stock from a partnership to a member thereof or from a member to a partnership.
3. The acquisition by a corporation of its own stock (except where the stock is acquired for retirement and is retired by amendment to the certificate of incorporation) and transfers of its own stock by the corporation.
4. The distribution of stock in one corporation owned by another to stockholders of the latter.
5. The transfer of stock of a corporation to be merged, to the merging corporation, prior to the actual merger and as a condition precedent to the merger.
6. The transfer of stock to or by trustees, including the transfer into or out of a voting trust, investment trust or other trust.
7. The transfer of stock from an individual to himself as trustee.
8. The transfer of stock by an executor or administrator, whether to trustees, legatees, or other persons.
9. The transfer of stock from tenants in common to themselves as individuals or to one of them.
10. The transfer of stock standing in the name of two individuals to themselves as joint tenants with right of survivorship.
11. The transfer of stock held by joint tenants to either one or the other of the parties while both are alive.
12. The delivery of a certificate by the transferor, or his agent, to the transferee, or his agent.
13. The transfer of stock by or to an ambassador or consul representing a foreign country.

(j) The following are examples of transactions not subject to tax:
1. A transfer on the books of the corporation into a new name, made merely because the stockholder has changed his or its name, where no actual change of ownership occurs.
2. The surrender of a single certificate for reissuance to the same stockholder of several certificates representing, in the aggregate, the same number of shares.
3. The surrender of a number of certificates for reissuance, to the same stockholder, of a single certificate for the same number of shares.
4. The transfer of a fraction of a share of stock or a certificate representing the right to receive less than one share of stock.
5. The surrender of preferred stock certificates in exchange for common stock certificates issued to the same stockholder.
and vice versa, when made necessary by a change in capital structure.

6. The mere registration in the State of New York, by a registrar, of a transfer already made by the corporation or its transfer agent outside this State.

7. The mere execution of an assignment within the State (whether by endorsing the certificate in blank or otherwise) where all other acts connected with the transfer are done outside the State.

8. The transfer of stock from a trustee of a continuing trust to a successor trustee appointed under power reserved in the deed of trust.

9. The transfer of stock by a trustee to a successor trustee in a case where the first trustee, acting under a deed of trust which empowers him to appoint a cotrustee, appoints such cotrustee and then resigns, leaving the cotrustee as the sole trustee.

10. The transfer of stock held in a testamentary trust from the original trustees to a substitute trustee appointed by the court and the surviving member of the original trustees.

11. The surrender of stock of a merged corporation in exchange for stock of a merging corporation at the time and as part of a statutory merger.

12. The surrender of stock of a consolidating corporation in exchange for stock in the resulting corporation in the case of the consolidation of two or more corporations.

13. The transfer of stock in the names of two joint tenants with right of survivorship to the name of the survivor after the death of the other joint tenant.

440.2 When a taxable event is deemed to occur within the State of New York. The fact that two or more of the taxable events listed in section 440.1 occur within the State of New York with respect to a single transaction does not mean that more than one tax is imposed; only one tax is payable with respect to any one transaction. Thus, if a sale, delivery of the certificates and record transfer to the name of the purchaser are all made within the State, only one tax is payable. However, if any one of these taxable events occurs within the State with reference to any transaction, it is subject to tax regardless of where the others occurred. Thus, a transfer of record ownership on the books of the corporation within the State is subject to tax, even though the sale and delivery of the certificates were made outside the State. The same is true of a sale or agreement to sell, or a delivery of certificates made within the State, although all other events relating to the same transaction occurred without the State.

440.3 Who must pay the tax. (a) Subdivision 3 of section 270 of the Tax Law imposes liability for the tax upon the person or persons making or effectuating the sale or transfer, including the person or persons to whom the sale or transfer is made. Thus, both
transferor and transferee are liable, and if a transfer is made on the books of the corporation, it is also liable.

(b) As between themselves, the parties may agree which of them shall bear this liability and payment of the tax by either discharges the liability of both. However, if the party who has agreed to pay the tax fails to do so, the other party is not exonerated from liability by such agreement and in such case payment may be enforced against either party.

(c) The fact that either the transferor or transferee may not be subject to tax does not exempt the transaction. For example, a transfer by or to the United States or any of its agencies, a foreign government, the State of New York or any of its political subdivisions is subject to the tax.

440.4 Requirements as to bills and memoranda of sale. (a) Every bill or memorandum of sale, agreement to sell and sale ticket must show:
1. The date of the transaction which it evidences.
2. The name of the seller.
3. The stock to which it relates and the number of shares thereof.
4. The selling price per share.
5. An identifying number as provided by section 270 of the Tax Law.

(b) A memorandum of sale must bear a date the same as or later than the date of the assignment of the stock certificate which it accompanies. When such memorandum bears a date prior to the date on the surrendered certificate, a certificate must be attached to the memorandum in the following form:

This is to certify that this memorandum of sale was issued in compliance with section 270 of the Tax Law and applies to the certificate hereto attached, delivery of which was made on (date) ..................

Broker

PART 441

AMOUNT OF TAX

(Statutory authority: Tax Law, § 171; art. 12)

Sec. 441.1 Rate of tax; evidence of payment at proper rate

Sec. 441.2 Tax on sales by nonresidents

Section 441.1 Rate of tax; evidence of payment at proper rate.
(a) [Rate of tax.] 1. Subdivision 2 of section 270 of the Tax Law provides that where shares or certificates of stock are sold, the rate of tax is dependent upon the selling price, as follows:

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Selling price per share | Rate of tax
----------------------|------------------
Less than $5          | 1½ cents per share
$5 or more and less than $10 | 2½ cents per share
$10 or more and less than $20 | 3½ cents per share
$20 or more           | 5 cents per share

2. Where a delivery or transfer subject to tax occurs without the shares or certificates being sold, as in the case of a gift or other voluntary transfer, the rate of tax is two and one-half cents per share.

3. The tax is to be computed at the statutory rates on the total number of shares involved in each transaction. On odd-lot sales, these rates may produce an amount which includes a fraction of a cent. For the purpose of the computation to the nearest cent, a fractional part of a cent shall be disregarded unless it amounts to one half cent or more, in which case the amount (determined without regard to the fractional part of a cent) shall be increased by one cent.

(b) [Transfer by sale.] A certificate of stock or other corporate certificate which is presented for transfer shall, if the transfer was by sale and the tax was paid by the use of adhesive stamps, be accompanied either by a bill or memorandum of sale showing the sale price or by a certificate in substantially the following form:

We hereby certify that these shares were sold by us at $......... per share.

(Seller)

(c) [Transfer not by sale.] A certificate of stock or other corporate certificate which is presented for transfer shall, if the transfer was otherwise than by sale and the tax was paid by the use of adhesive stamps, be accompanied by a certificate in substantially the following form:

We hereby certify that these shares were transferred by us otherwise than by sale.

(Transferor)

Historical Note
Sec. amd. filed June 4, 1969 eff.
immediately. Substituted new (a).

441.2 Tax on sales by nonresidents.

(a) 1. Subdivision 1 of section 270-a of the Tax Law provides that where shares or certificates of stock are sold by a “nonresident” of the State, the rate of tax is dependent upon the selling price and the applicable percentage of the rates provided in section 270-a of the Tax Law. Expressed in cents, the rates of tax per share obtained by applying such percentages are as follows:
Period | Selling price per share | Rate in cents
--- | --- | ---
July 1, 1969 to June 30, 1970 | Less than $5 | 1.1875
| $5 to less than $10 | 2.375
| $10 to less than $20 | 3.5625
| $20 or more | 4.75

July 1, 1970 to June 30, 1971 | Less than $5 | 1.25
| $5 to less than $10 | 2.25
| $10 to less than $20 | 3.375
| $20 or more | 4.5

July 1, 1971 to June 30, 1972 | Less than $5 | 1.0
| $5 to less than $10 | 2.0
| $10 to less than $20 | 3.0
| $20 or more | 4.0

July 1, 1972 to June 30, 1973 | Less than $5 | .8125
| $5 to less than $10 | 1.625
| $10 to less than $20 | 2.4375
| $20 or more | 3.25

July 1, 1973 and thereafter | Less than $5 | .625
| $5 to less than $10 | 1.25
| $10 to less than $20 | 1.875
| $20 or more | 2.5

2. The computation of the tax calculated by applying the above rates is not required to be carried out beyond four decimal points, that is, it is to be computed to the nearest one one-hundredth of one cent. However, the tax is to be computed at the statutory rates on the total number of shares involved in each transaction. These rates may produce an amount which includes a fraction of a cent. For the purpose of the computation to the nearest cent, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case the amount (determined without regard to the fractional part of a cent) shall be increased by one cent.

(b) Resident and nonresident defined. 1. Section 270-a (1)(a) of the Tax Law provides for reduced rates of tax on sales within the State by “nonresidents” of the State. However, the reduced rates of tax are not applicable in the case of sales effected outside the State if there is a subsequent taxable act within the State. A nonresident for this purpose is an individual or a group of individuals, owning securities and selling or trading for his or their own account. In order for a partnership to qualify as a “nonresident” it must be organized and operated solely for the purpose of investing in securities and none of the partners may be a “resident”. Likewise, in the case of joint ownership (whether as tenants in common, joint tenants with right of survivorship, or other form of joint ownership) of securities none of the joint

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owners may be a “resident”. For example, a “nonresident” may include an “investment club” or other entity in partnership form which is organized and operated solely for the purpose of investing in securities for its own account, if no participant or partner is a resident of the State. A nonresident for purposes of this provision must be an individual person and a trust, estate or corporation is not included within such definition. A member of a partnership (other than a partnership having a partner [i] as a member of a securities exchange within this State which is registered with the Securities and Exchange Commission of the United States, [ii] as a dealer in securities required to be registered with the Attorney General of this State, or [iii] acting as a dealer in securities or as a broker or agent in transactions concerned with the sale and purchase of securities) selling securities for his own account will not be considered a resident solely by reason of the maintenance by the partnership of a permanent place of business within this State. In the case of sales of securities by a custodian of securities under the Uniform Gifts to Minors Act, or similar act, or a guardian of a minor or incompetent, resident or nonresident status shall be determined on the basis of the status of the minor or incompetent.

2. The term resident means an individual who on the day the tax accrues (i) is domiciled in this State, unless he maintained no permanent place of abode here, maintained a permanent place of abode elsewhere, and during the one year prior to such day spent in the aggregate not more than 30 days within this State; (ii) is not domiciled in this State but maintained a permanent place of abode here unless such abode is due solely to his being in the armed forces of the United States; (iii) regardless of his residence either maintains a permanent place of business or is employed within this State.

3. The term “resident” also includes an individual regardless of where he resides or is domiciled, who on the date on which the tax accrues (i) is a member of a securities exchange within this State which is registered with the Securities and Exchange Commission of the United States; (ii) is a dealer in securities required to be registered with the Attorney-General of this State; (iii) acts as a dealer in securities or as a broker or agent in transactions involving sales and purchases of securities; or (iv) is a member of a firm, company, association or organization, or an officer or director of a corporation, or a person employed in a managerial capacity by any of the foregoing organizations which is a member organization of a securities exchange, a dealer in securities, or a dealer, broker or agent, described in subparagraphs (i), (ii) or (iii) of this paragraph. Thus, an individual who is neither domiciled nor resident in New York but who is a member of a securities exchange located in the State, or is a broker or “registered representative” with, or is employed in a managerial capacity by, a member firm or member corporation of a securities exchange within the State, is deemed a resident for purposes of section 270-a of the Tax Law.

4. The term agent, as used in (iii) of the foregoing paragraph shall mean any broker or other representative of a taxpayer who
acts in the sale of securities for an individual. Thus, an agent or representative whose sole function is the delivery of securities, or who is a mere custodian or pledgee of securities or who aids in the effecting of transfers on the books of the issuing corporation is not an “agent”.

5. Managerial capacity as used in paragraphs (4) and (5) of this subdivision means any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of an outside salesman, within the purview of section 13(a)(1) of the Fair Labor Standards Act (29 U.S.C.A. 213[a][1] and regulations thereunder.

(c) Declaration of nonresidence. 1. In order to evidence his right to the application of the reduced rates of tax prescribed in paragraph (1) of subdivision (a) of this section, a nonresident must file with his broker, dealer, transfer agent or corporation a declaration in substantially the following form:

"The undersigned hereby certifies for the purpose of obtaining the reduced rate of tax imposed under section 270-a of the Tax Law, that he (she):

(i) (a) is not domiciled in the State of New York and maintains no permanent place of abode in this State (except as may be due solely to being in the armed forces of the United States); or (b) is domiciled in this State but maintains no permanent place of abode in this State, maintains a permanent place of abode elsewhere, and during the one year period ending on the date hereof spent in the aggregate not more than 30 days of such period in this State;

(ii) does not maintain a permanent place of business in this State and is not employed in this State;

(iii) is not a member of a securities exchange located in this State;

(iv) is not a dealer in securities required to be registered with the Attorney-General of this State;

(v) does not act as a dealer or as a broker or agent in transactions involving the sale and purchase of securities;

(vi) is not a member of a firm, or an officer or director of a corporation, or employed in a managerial capacity by either an individual, firm, or corporation, described in (iii), (iv) or (v) above;

(vii) is a custodian under the Uniform Gifts to Minors Act, or similar act, or guardian of a minor or incompetent and that said minor or incompetent is a nonresident of this State;

(viii) is a member of a partnership (other than a partnership having a partner [a] as a member of a securities exchange within this State which is registered with the Securities and Exchange Commission of the United States [b] as a dealer in securities required to be registered with the Attorney-General of this State, or [c] acting as a dealer in securities
or as a broker or agent in transactions concerned with the sale and purchase of securities) or a group of individuals all of whom are nonresidents of this State;

(ix) will notify any member firm or dealer to whom this declaration is made of any change in the facts set forth above.

(Signature)

(Address)

(City, State & Zip No.)

(Date)  

2. The notice of cancellation to be furnished indicating to such broker, dealer, transfer agent or corporation, with whom he filed a declaration of nonresidence of a change of his status as a nonresident shall be in substantially the following form:

"The undersigned hereby gives notice, pursuant to section 270-a(1)(e) of the Tax Law, that as of the date hereof, the requirements for nonresidence set forth in a declaration of nonresidence executed by the undersigned on

(Date)  

with (broker, dealer, transfer agent or corporation) shall hereafter be deemed cancelled.

(Signature)

(Address)

(City, State & Zip No.)

(Date)  

(d) Certification by exchange member or registered dealer. 1. In the case of transactions executed or effected by a member of a securities exchange or by any organization registered as a dealer who is permitted or required pursuant to the provisions of section 281-a to pay transfer taxes without the use of stamps, the tax may be paid at the reduced rates prescribed in paragraph (1) of subdivision (a) of this section and such sale may be certified, as provided in subdivision (e) of this section, by such member of a securities exchange or a registered dealer in the report to clearing

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corporation (Form MT-675) required to be made to such exchange or its affiliated clearing corporation, authorized agency or in the Weekly Report (Form MT-651) to the State Tax Commission pursuant to section 281-a as being a transaction entitled to such reduced rate of tax, if such nonresident has (i) furnished the member or dealer with a declaration in the form of that prescribed in paragraph (1) of subdivision (e) of this section or (ii) furnished such member or dealer with other written information which would reasonably indicate that the individual is in fact a nonresident and (iii) such member or dealer has not received a notice of cancellation in the form prescribed in paragraph (2) of subdivision (e) of this section from such nonresident or has no knowledge or reasonable cause to believe that the status of such individual as a nonresident has changed. For purposes of (ii) above, an exchange member or registered dealer executing an order for another member, dealer or a bank may rely on recorded instructions by such member, dealer or bank that certain sales made for such member, dealer, or bank are entitled to be treated as made by a nonresident. In the absence of such declaration of nonresidence or other written information or recorded instructions as set forth above, it shall be the duty of the person or persons making or effectuating the sale or transfer, including the person or persons to whom the sale or transfer is made, to pay the tax provided by subdivision 2 of section 270 of the Tax Law; provided, however, that this section shall not apply to any sale or transfer wherein the vendor or transferor is a governmental entity or international organization which is not subject to the tax.

(e) Certification on payment of tax by use of stamps. 1. In order to evidence the right to the application of the reduced rates of tax prescribed in paragraph (1) of subdivision (a) of this section, a dealer, bank or corporation effecting any delivery or transfer must impress by rubber stamp to the stock certificate(s) or memorandum(s) of sale on which stock transfer taxes are required to be paid by the use of stamps, a certification in substantially the following form:

It is hereby certified that the transfer of the attached shares is made under such circumstances as to come within the reduced rate of tax specified in section 270-a of the Tax Law of the State of New York and that evidence in proof of the reduced rate is maintained by the undersigned and is available for inspection by officers and representatives of the New York State Tax Commission.

............................
(Signature)

(f) Single taxable sale. 1. Subdivision 2 of section 270-a of the Tax Law limits the tax imposed by section 270 (or, where applicable, section 270-a) on a “single taxable sale” to certain specified amounts. Normally, “single taxable sale” means any sale executed pursuant to a specific order pertaining to a particular issue and
class of stock. However, in the case of sales made or effected by any member of a securities exchange or any registered dealer, who is permitted or required to pay the tax without the use of stamps, a “single taxable sale” shall be considered to constitute all sales made pursuant to one or more orders placed with the same member of a securities exchange or the same registered dealer on one day, by the same person, each relating to shares or certificates of the same class and issued by the same issuer, all of which sales are executed on the same day (regardless of whether it be the day of the placing of the orders). A person under this subdivision shall mean a natural person, corporation, company, partnership, trust, association and a group of individuals jointly owning securities (whether as tenants in common, joint tenants with right of survivorship, or other form of joint ownership). An order placed without limitation on the time for its execution shall be deemed placed on each day during which it remains unexecuted.

2. “Shares or certificates of the same class” shall mean all shares of the same issuer which are identical with respect to the rights and interests such shares represent in the control, profits and assets of the corporation issuing such shares.

Historical Note
Sec. added, filed June 4, 1909 eff.
July 1, 1909.

PART 442
PAYMENT OF TAX
(Statutory authority: Tax Law § 171; art. 12)

Section 442.1 Payment of tax by use of stamps. (a) The tax must be paid by affixing and canceling New York stock transfer tax stamps in all cases, except with respect to a transaction executed or effected within the State of New York by:
1. brokers who are members of a registered securities exchange within the State of New York; or
2. dealers in securities who are not members of such an exchange and who have filed with the State Tax Commission written notice of their election to pay the tax to the commission without the use of stamps.

(b) Where stamps are used, they must be affixed as follows:
1. in the case of a sale effected by delivery of a certificate endorsed in blank, to a bill or memorandum of sale;
2. in the case of a transaction effected by delivery of a certificate, other than a sale of a certificate endorsed in blank, to the certificate surrendered;
3. in the case of an agreement to sell, to a bill or memorandum of sale;
4. in case evidence of the transaction is shown only by the books of the corporation, to such books.

(c) Meter stamps. 1. The Tax Commission will permit the use of metering machines approved by it, but reserves the right to rescind such permission upon 30 days notice, should such action be deemed to be in the best interest of the State of New York. Each user, when his application is approved, shall be assigned a distinctive number which must be clearly incorporated in the design of the meter stamp. The design of the meter stamp is also subject to approval by the Tax Commission.

2. A prospective user of a meter machine must obtain the permission of the State Tax Commission by filing an Application and Permit to Use Stock Transfer Stamp Tax Meter (form MT-672) with the Miscellaneous Tax Bureau, Stock Transfer Tax Section, State Campus, Albany, New York 12226.

3. After approval of an application, the applicant must arrange to meet the meter manufacturer’s representative at the office of the fiscal agent or one of its subagents designated by the State Tax Commission to set the meter. The meter cannot be delivered to the user by the manufacturer’s representative until it has been set and sealed at the office of the fiscal agent or subagent. The user must present at that office (i) his endorsed and completed copy of a form MT-672, (ii) a completed Order for Setting Stock Transfer Stamp Tax Meter (form MT-673), and (iii) a remittance in the amount for which he wishes to have the meter set. The maximum total amount for which a meter can be set is $99,999.99.

4. Each time thereafter when the user wishes to have the meter reset, he must bring to the office of the fiscal agent or subagent (i) the meter, (ii) a Meter Record Book (form MT-671) provided by the meter manufacturer, (iii) a completed form MT-673, and (iv) a remittance. The meter will be reset and sealed, and the meter record book will be returned to the user.

5. The user should report immediately to the manufacturer’s representative any mechanical failure of a meter. If the meter must be repaired, the user must take the meter and the meter record book to the office of the fiscal agent or subagent which set the meter. The amount of unused stamp value in the meter may be transferred to another meter, or it may be refunded to the user.

6. When the user discontinues the use of a meter, he must return it to the office of the fiscal agent or subagent which set the meter, in order to have the amount of unused stamp value in the meter transferred to another meter or refunded to the user. If the user desires that this unused amount be refunded, he must submit Application for Refund of Stock Transfer Taxes (form MT-653)
when he returns the meter. The user may not transfer the meter to another person for use.

7. The meter user may file an application for refund with respect to any unused or erroneously issued stamps. To be eligible for refund, the amount of such stamps must be determinable to the satisfaction of the State Tax Commission. The application must be supported by submitting the stamps or other information required by the State Tax Commission.

(d) Stamps should be cancelled by having the initials of the name of the person affixing them, and the date upon which they are attached, written thereon with ink or indelible pencil or stamped thereon. Also, the stamps should be cut or perforated in a substantial manner so that they cannot be used again. Stamping the initials or date, or both, with a perforating stamp mutilates the stamp sufficiently.

(e) Stamps may be purchased from the fiscal agent appointed by the State Tax Commission, Bank of New York, 20 Broad Street, 51 West 52nd Street or 530 Fifth Avenue, New York, N. Y., or from any of the following subagents:

<table>
<thead>
<tr>
<th>State Bank of Albany</th>
<th>Albany, N. Y.</th>
</tr>
</thead>
<tbody>
<tr>
<td>First City National Bank</td>
<td>Binghamton, N. Y.</td>
</tr>
<tr>
<td>Liberty National Bank and Trust Co.</td>
<td>Buffalo, N. Y.</td>
</tr>
<tr>
<td>Chemung Canal Trust Co.</td>
<td>Elmira, N. Y.</td>
</tr>
<tr>
<td>Marine Midland-Chautauqua National Bank</td>
<td>Jamestown, N. Y.</td>
</tr>
<tr>
<td>Marine Midland Trust Co. of Rochester</td>
<td>Rochester, N. Y.</td>
</tr>
<tr>
<td>Merchants National Bank and Trust Co.</td>
<td>Syracuse, N. Y.</td>
</tr>
<tr>
<td>Marine Midland Trust Co. of the Mohawk Valley</td>
<td>Utica, N. Y.</td>
</tr>
<tr>
<td>First National Bank</td>
<td>Boston, Mass.</td>
</tr>
</tbody>
</table>

(f) Stamps are sold in the following denominations: 1 cent, 2 cents, 4 cents, 5 cents, 8 cents, 10 cents, 20 cents, 40 cents, 50 cents, 60 cents, $1, $2, $3, $4, $10, $20, $40, $100 and $1,000.

Historical Note

Sec. amd., filed Dec. 28, 1905 to be eff. Jan. 2, 1906. New subd. (c) added; former subds. (c-c) relabeled (d-f).

442.2 Payment of tax by brokers through clearing corporation.

(a) The taxes imposed by article 12 of the Tax Law on any sale, delivery or transfer of stock or other corporate certificates, executed or effected within the State of New York by a member of any securities exchange within the State of New York which is registered with the Securities and Exchange Commission of the United States, shall be paid to the affiliated clearing corporation
of such exchange, for the account of the State Tax Commission, by such member (hereinafter called the broker) without the use of the stamps prescribed by said article 12. In the case of sales, deliveries or transfers made on a securities exchange, or otherwise, by a broker who is a member of more than one such exchange, such broker shall choose the clearing corporation affiliated with one such exchange through which he shall pay the taxes on all his transactions. Such choice when made shall be irrevocable except upon the written consent of the State Tax Commission.

(b) Every broker shall, for each full business day upon which such clearing corporation is clearing or settling, make a report to such clearing corporation on a form prescribed by the State Tax Commission (form MT-675). The report shall show the amount of stock transfer taxes payable on all sales, deliveries or transfers executed or effected by such broker which under the rules of such exchange or otherwise are due for clearance or settlement on that day by such broker and such other information as the State Tax Commission may prescribe. The report shall also authorize and direct such clearing corporation to remit to the State Tax Commission or its duly designated depository the amount of taxes shown upon the report to be payable and to charge such amount to the account of the broker making the report. Such report shall be filed with such clearing corporation not later than the business day following that for which the report is made. The amount of taxes so required to be reported must be shown in a separate account on the general ledger of the broker, and the postings to such account shall clearly refer to the books of original entry showing separately the tax required to be reported on:

1. New York Stock Exchange transactions,
2. American Stock Exchange transactions and
3. all other transactions,
so that they may be readily audited by the State Tax Commission.

(c) Each such clearing corporation shall, on the business day on which it receives any such report, remit to the depository designated by the State Tax Commission the aggregate amount of all taxes received by it. Checks will be accepted by the depository, subject to final payment. The remittance shall be accompanied by a report and schedule on forms prescribed by the State Tax Commission (forms MT-680 and 680.1).

(d) Every broker executing or effecting a sale, delivery or transfer where the taxes are paid through a clearing corporation shall impress by rubber stamp (1) on the certificate of stock or other corporate certificate where such certificate is delivered pursuant to a balance order issued by the clearing corporation, (2) on each page of a copy of the sale contract list and supplemental sale contract list retained by the broker, and (3) on the comparison notice filed with the clearing corporation, covering sales of cleared securities made with their clearing brokers a certificate in substantially the following form:

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New York State and Federal stamp taxes paid through

(Insert name of clearing corporation)

(Member securities exchange)

Such certification shall bear the facsimile signature of the broker and the rubber stamp shall be kept in the possession of the broker and used only by him or his duly designated representative.

(e) A certificate of stock or other corporate certificate which is presented for transfer shall, if the tax was paid through a clearing corporation, be accompanied by a memorandum of sale bearing the rubber stamp certification described in subdivision (d) above or there shall be impressed upon it by rubber stamp a certification in substantially the following form:

It is hereby certified that the New York State and Federal stamp taxes applicable to the transfer of _______ shares of this certificate have been paid through

(Insert name of clearing corporation)

on our behalf (or for the account of ________).

(Date) (Member Securities Exchange)

Such certification shall bear the facsimile signature of the broker and the rubber stamp shall be kept in the possession of the broker and used only by him or his duly designated representative. In all other cases, payment of the tax must be evidenced by adhesive stamps.

(f) Where a broker sells shares of stock of a corporation for a registered owner thereof and purchases the same number of shares of the same stock as buying broker for a customer, the broker may use a certificate setting forth the facts of both transactions for use in obtaining a transfer on the books of the corporation from the name of such registered owner to the name of such buying customer, provided there is impressed upon an accompanying memorandum of sale or upon the certificate of stock or other corporate certificate presented for transfer, a rubber stamp certification in substantially the following form:

It is hereby certified that _______ of the shares represented by this certificate were delivered to us by the registered owner for sale, under such circumstances as to come within one of the exemptions specified in section 270(5) of the Tax Law of the State of New York, and that evidence in proof of the exemption is maintained by the undersigned and is available for inspection by officers and representatives of the New York State Tax Commission;
that we sold the same and paid New York State stock transfer taxes through the Stock Clearing Corporation and that they are now being transferred to our customer for whom and upon whose order we purchased an equal number of shares of the same stock.

(Date)  
(Member Securities Exchange)

Such certification shall bear the facsimile signature of the broker and the rubber stamp shall be kept in the possession of the broker and used only by him or his duly designated representative.

(g) Claims for refunds of taxes erroneously paid shall be presented on forms prescribed by the State Tax Commission.

(h) All reports and schedules prescribed by the State Tax Commission in this regulation shall be preserved for a period of four years.
(i) Forms:

Form MT-675

REPORT TO CLEARING CORPORATION

We hereby certify that the amount specified below is the amount of stock transfer taxes payable by us on all sales, deliveries or transfers made by us and due for settlement by us this day, and we hereby authorize and direct the Clearing Corporation to remit to the New York State Tax Commission or its duly designated depositary, and to charge to our account, such amount.

Amount of tax due $_________

Date _____________  Broker's signature

ITEMS OF ABOVE AMOUNT

New York Stock Exchange Transactions $_________
American Stock Exchange Transactions $_________
All other transactions $_________

Form MT-680

To (Name of Depositary)
Depositary, New York State Tax Commission,
Address

We remit herewith the amount stated below representing the total amount of New York State stock transfer taxes which we have been authorized to pay on all sales, deliveries or transfers due for clearance or settlement this day on behalf of the clearing brokers listed in the accompanying schedule bearing even date herewith.

AMOUNT OF REMITTANCE

Must agree with amount shown on accompanying schedule

Date ____________

______________ CLEARING CORPORATION

By ____________________________________________
Authorized signature

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To: State Tax Commission
Miscellaneous Tax Bureau
State Office Building
Albany, New York

We have this day credited to the account of the New York State Tax Commission subject to final payment, a check of __________ stated by them to represent the total amount of taxes they have been authorized to pay on all sales, deliveries or transfers due for clearance or settlement this day on behalf of the clearing brokers listed in a schedule accompanying said check and bearing even date herewith which schedule has been retained in our files.

Date __________

__________________________
Depositary

By __________

__________________________
Stamp Teller

__________________________
To _______ Clearing Corporation. This stub when stamped with facsimile signature of stamp teller, date, transaction number, with an amount entered in ink over the autograph signature of stamp teller, or assistant stamp teller, constitutes a receipt for your remittance accompanied by Forms MT-680 and 680.1.

AMOUNT $________

__________________________
Depositary

By __________

__________________________
(Stamp Teller)
Form MT-680.1

SCHEDULE OF TAXES DEPOSITED BY
CLEARING CORPORATION

(to accompany Form MT-680)

<table>
<thead>
<tr>
<th>NAME OF CLEARING BROKER</th>
<th>AMOUNT OF TAX</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$</td>
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<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
</tr>
</tbody>
</table>

Date ____________________________
Clearing Corporation

Note: This schedule shall be prepared in duplicate and used as follows:
(1) Copy to be retained by clearing corporation.
(2) Copy to be received by depository.

Historical Note
Sec. amd., filed Jan. 3, 1960 to be eff. Jan. 1, 1966. New subd. (f) added; former subds. (f)-(h) relet-tered (g)-(l).

442.3 Optional method of payment by dealers in securities who are not members of a securities exchange. [Additional statutory authority: Tax Law, § 281-a]

(a) The taxes imposed by article 12 of the Tax Law on any sale or transfer of any stock or other corporate certificates executed or effected within the State of New York (other than upon a securities exchange) by any person, firm, corporation, company or association registered with the Attorney-General of the State of New York as a dealer in securities shall, if such dealer is not required to pay taxes to an authorized corporation pursuant to section 442.4 of this Part, and if such dealer so elects, be paid to the State Tax Commission by such dealer without the use of stamps prescribed by said article 12. In the event that such dealer uses a clearing agent and also duly appoints such agent to act for him in the payment of the tax without the use of stamps, then only said agent shall remit the tax. The appointment of every such agent shall be subject to the written approval of the State Tax Commission. An election to pay the tax without the use of stamps shall be made by a notice in writing filed by such dealer with the commission. Such notice shall state:

1. that on and after a specified date the dealer will pay the tax to the commission without the use of stamps;
2. the date of the dealer's registration with the Attorney-General of the State of New York as a dealer in securities; and
3. the name and address of the agent of the dealer, if any, who will act as clearing agent and who will remit the tax on behalf of the dealer.

An election once made shall be irrevocable, except with the written consent of the commission, and except that if any dealer becomes an eligible member of an authorized corporation as defined in section 442.4 of this Part and is thereby required to pay taxes to such corporation, his selection to pay taxes pursuant to this section shall be thereby terminated. The commission may at any time withdraw from any dealer the privilege of paying the tax without stamps. Written notice of the termination of the authority of any such agent shall be given immediately to the commission. Any stamps lawfully in the possession of a dealer at the time his election becomes effective shall be subject to redemption under the law pertaining thereto and shall not be used as part payment of the tax due from such dealer.

(b) Every dealer shall make a weekly report in duplicate to the commission on a form prescribed by the commission (form MT-651). In the event that the commission has approved the appointment of an agent to remit the tax on a dealer's behalf, then said agent shall make the said weekly report for such dealer. Where an agent acts on behalf of more than one dealer a separate report for each dealer must be made. The report shall show the daily amount of stock transfer taxes payable on all sales and transfers due for settlement within the period for which the report is filed, and such other information as the commission may require. Such report shall be mailed or delivered to the Miscellaneous Tax Bureau, Department of Taxation and Finance, Albany, New York, together with a remittance of the amount of taxes shown on the report to be payable. The report and taxes shall be due not later than the second business day of the week following that for which the report is made. Checks payable to the State Tax Commission may be used in making remittances.

(c) Every dealer executing or effecting a sale or transfer where the tax is paid without the use of stamps and who does not employ a clearing agent shall impress, by rubber stamp, on the memorandum of sale for each transaction a statement in substantially the following form:

`N. Y. tax paid direct
 to Tax Commission`

Date
Dealer's signature

Such statement shall bear the facsimile signature of the dealer and the rubber stamp shall be kept in the possession of the dealer and used only by him or his duly designated representative.

(d) Where a dealer employs an agent in clearing his transactions and the tax is paid without the use of stamps such agent
shall impress by rubber stamp upon the memorandum of sale for each transaction a statement in substantially the following form:

N. Y. tax paid direct to the
Tax Commission for account
of ____________________

Dealer’s signature

Date ____________________ Agent’s signature

Such statement shall bear the facsimile signatures of the dealer and of the agent and the rubber stamp shall be kept in the possession of the agent and used only by him or his authorized representative.

(e) A certificate of stock or other corporate certificate which is presented for transfer shall, if the tax was paid otherwise than by the use of stamps, by a dealer who does not employ a clearing agent, be accompanied by a memorandum of sale bearing the stamped statement described in subdivision (c) hereof or there shall be impressed upon it, by rubber stamp, a statement in substantially the following form:

N. Y. tax on ____________________ shares
paid direct to the Tax Commission
Date ____________________
(Dealer’s name printed)

Dealer’s signature

(f) A certificate of stock or other corporate certificate which is presented for transfer shall, if the tax was paid through an agent otherwise than by the use of stamps, be accompanied by a memorandum of sale bearing the stamped statement described in subdivision (d) or there shall be impressed upon it, by rubber stamp, a statement in substantially the following form:

N. Y. tax on ____________________ shares
paid direct to the Tax Commission
Date ____________________
(Dealer’s name printed)

Dealer’s signature

Agent’s signature
Such statement shall bear the facsimile signatures of the dealer and the agent and the rubber stamp shall be kept in the possession of the agent and used only by him or his authorized representative.

(g) Claims for refunds for taxes erroneously paid must be presented on forms prescribed by the commission.

Historical Note

Subd. (a) amd., filed Oct. 4, 1933, inserted “if such dealer is not dealer shall be thereby terminated,” for “but” after “consent of the commission”.

442.4 Payment of tax by dealers through authorized corporation. [Additional statutory authority: Tax Law, § 281-a] (a) As used in this section, the following terms shall have the meanings herein set forth:

1. Authorized corporation shall mean a corporation formed to provide facilities for clearing transactions in over-the-counter securities by dealers and brokers and which has been authorized by the State Tax Commission to receive payment of taxes pursuant to this section;

2. Eligible member shall mean a clearing member of an authorized corporation who does not make payment of tax through a clearing corporation affiliated with a registered securities exchange pursuant to section 442.2 of this Part; and

3. Over-the-counter securities shall mean securities which are not bought and sold on a securities exchange within the State of New York which is registered with the Securities and Exchange Commission of the United States.

(b) The taxes imposed by article 12 of the Tax Law on any sale, delivery or transfer of stock or other corporate certificates, executed or effected within the State of New York by an eligible member of an authorized corporation, shall be paid to such corporation for the account of the State Tax Commission by such member without the use of the stamps prescribed by article 12.

(c) Every eligible member shall, for each full business day upon which such authorized corporation is clearing or settling, make a report to such corporation on a form prescribed by the State Tax Commission (Form MT-676). The report shall show the amount of stock transfer taxes payable on all sales, deliveries or transfers executed or effected by such member which under the rules of such corporation or otherwise are due for clearance or settlement on that day by such member, and shall also contain such other information as the State Tax Commission may prescribe. The report shall also authorize and direct such corporation to remit to the State Tax Commission or its duly designated depository the amount of taxes which such report shows to be payable, and to charge such amount to the account of the member making
the report. Such report shall be filed with such corporation not later than the business day following that for which the report is made. The amount of taxes so required to be reported must be shown in a separate account on the general ledger of the member, and the postings to such account shall clearly refer to the books of original entry showing separately the tax required to be reported on:

1. transactions cleared through such authorized corporation, and
2. all other transactions,

in such form and manner that they may be readily audited by the State Tax Commission.

(d) Every eligible member executing or effecting a sale, delivery or transfer where the tax is paid through an authorized corporation shall impress by rubber stamp (1) on the certificate of stock or other corporate certificate where such certificate is delivered pursuant to a balance order issued by the authorized corporation, (2) on each page of a copy of the sale contract list and supplemental sale contract list retained by the member, and (3) on the comparison notice filed with the eligible corporation, covering sales of cleared securities made with its clearing members, a certificate in substantially the following form:

New York State stamp taxes paid through

(Insert name of authorized corporation)

(Insert name of eligible member)

Such certification shall bear the facsimile signature of the member and the rubber stamp shall be kept in the possession of the member and used only by him or his duly designated representative. If such authorized corporation has also been authorized to receive payment of Federal stock transfer taxes, the form of certificate shown above may be modified to state that New York State and Federal stamp taxes have been paid through such corporation.

(e) The provisions of subdivision (c), (f), (g) and (h) of section 442.2 of this Part shall be applicable for the purposes of this section, except that the terms "clearing corporation" and "broker" used in said subdivisions shall be read as "authorized corporation" and "eligible member", respectively, for the purposes of this section, and except that an eligible member of an authorized corporation, instead of using form MT-675, shall make his daily report to such corporation on form MT-676, set forth hereunder.
REPORT TO ____________________________

(Insert name of authorized corporation)

We hereby certify that the amount specified below is the amount of stock transfer taxes payable by us on all sales, deliveries or transfers made by us and due for settlement by us this day, and we hereby authorize and direct the Corporation to remit to the New York State Tax Commission or its duly designated depositary, and to charge to our account, such amount.

Amount of tax due $____________________

______________________________
Date

(Member's signature)

ITEMS OF ABOVE AMOUNT

Transactions cleared by ______________ Corporation $____________________

All other transactions ______________________________ $____________________

(f) The authority granted to any corporation to receive payment of taxes pursuant to this section may be cancelled at any time upon 30 days' written notice to such corporation, and if the Tax Commission believes that the collection of taxes due will be jeopardized by delay, may be cancelled forthwith or upon less than 30 days' notice.

(g) Every authorized corporation shall forthwith, upon being authorized by the State Tax Commission to receive payment of taxes pursuant to this section, report to the commission the names and addresses of all its eligible members as defined in subdivision (a) of this section, and shall furnish to the commission such other information as it may require with respect to such members. It shall also advise the commission forthwith when any person, firm or corporation becomes an eligible member or ceases to be an eligible member, and of the date as of which such membership begins or terminates.

Historical Note

Sec. added, filed Oct. 4, 1903.

PART 443

EXEMPTIONS

(Statutory authority: Tax Law, § 171; art. 12)

Sec. 443.1 Exemptions generally

Sec. 443.2 Transfers through clearing corporation
Section 443.1 Exemptions generally. (a) Various types of transfers are expressly exempted from the tax. Under subdivision 5 of section 270 of the Tax Law some of these transactions are exempt only if accompanied by an exemption certificate (see §444.1 and 444.2, infra, for the forms of certificates required in such cases). In other instances, no exemption certificate is required.

(b) Transfers of certain types resulting from death, insanity, bankruptcy and similar contingencies, in which change of ownership is effected by operation of law, are exempted from the tax by section 270-e of the Tax Law. No exemption certificate is required for such transfers. The following are examples of exempt transfers in this category:

1. a transfer of stock from the name of a decedent to his executor or administrator;
2. a transfer by an ancillary executor to a domiciliary executor of the same decedent;
3. a transfer by an ancillary guardian to himself as domiciliary guardian of the same ward;
4. a transfer to survivor, substituted, succeeding or additional trustees of the same trust.

(c) A transfer by an executor or administrator to a legatee, heir or distributee is ordinarily subject to tax. However, section 270-b (of the Tax Law) provides that such a transfer is exempt if it is shown to the satisfaction of the State Tax Commission that the value of the shares or certificates is no greater than the amount of the tax which would otherwise be imposed.

(d) 1. The transfers which are exempt only if accompanied by a proper exemption certificate are set forth in subdivision 5 of section 270 of the Tax Law. Such transfers are of the following types:

(i) odd lot sales on an exchange within the State of New York;
(ii) transfers of collateral security, and the return thereof;
(iii) transfers of security pursuant to some statutory provision, and the return thereof;
(iv) transfers between a fiduciary and its nominee, or between nominees of the same fiduciary;
(v) transfers between the owner and his custodian, or between a custodian and its nominee, or between nominees of the same custodian;
(vi) loans of stock, or the return thereof;
(vii) transfers between broker and customer, for sale or to complete a purchase;
(viii) transfers between a corporation and a nominee thereof registered with the State Tax Commission as provided in section 444.2, or between two registered nominees of the same corporation.
(ix) transfers between broker or customer and the broker's nominee registered with the State Tax Commission, as provided in section 445.4, or between broker or customer and a bank or trust company within the State of New York or its nominee so registered, where made subject to instructions of a clearing corporation affiliated with an exchange within the State of New York.

2. In certain of the above cases, the statutory exemption is applicable to a transfer of record ownership on the books of the corporation only where such transfer is made "from the name of" a particular person, specified in the statute. These are: transfers from the name of a fiduciary to a nominee of such fiduciary; transfers from the name of the custodian to its nominee or to the owner; transfers from the name of the owner to his custodian; transfers from the name of a broker to a customer for whom and upon whose order he has purchased the certificates; transfers from the name of the owner to a broker; and transfers from the name of a broker or his customer to the broker's registered nominee or to a bank or trust company or its registered nominee; and transfers from the name of such broker's registered nominee or of such bank or trust company or its registered nominee to such broker or customer. Thus, if a fiduciary, having possession of certificates issued in the name of any one other than himself, transfers the same into the name of his nominee, such transfer is not exempt from tax because not made "from the name of" the fiduciary. Likewise, no exemption exists for a transfer by the owner of certificates issued in some name other than his own, to his custodian, or for a transfer by a broker of certificates issued in some name other than his own, to a customer upon whose order he has purchased them.

3. This rule with reference to such transfers is subject to one exception. If the tax has been paid upon the transaction in which shares or certificates were acquired by the transferor (fiduciary, owner or broker), and proper evidence of such payment is furnished to the transfer agent (Part 442, supra), it is unnecessary to make a double transfer on the books of the corporation, first to the name of such party, and then to the name of his transferee (the fiduciary's nominee, the owner's custodian or the broker's customer). If such a double transfer were made, no tax would be payable, the tax upon the first step having already been paid, and the second step being exempt. Accordingly, if a proper exemption certificate is submitted in proof of the exempt character of the second step, a short-cut transfer may be made directly to the name of such transferee.

(c) The following are examples of transfers which are not exempt:

1. the transfer of stock of a customer, held by a broker for sale, to the broker as owner;
2. the transfer of stock by or to a broker made, directly or indirectly, for his own account;
3. the transfer of stock by a broker at a price different from that at which he accounts to his selling customer;
4. the transfer by a broker to a customer of stock issued as a dividend on stock purchased for the customer by the broker and held by the broker in his own name;
5. the transfer of stock from a nominee of a fiduciary to a nominee of a different fiduciary, except in special cases, as, for example, the case of a substituted trustee under the same trust.

(f) Certain transfers not expressly described in subdivision 5 of section 270 of the Tax Law are exempt because they represent a combination of exempt transfers. For example, since a transfer from the name of an owner to his custodian is tax-free and a transfer from the custodian to his nominee is tax-free, a transfer directly from the name of the owner to the nominee of his custodian is tax-free. Likewise, a transfer from a custodian or his nominee to a new custodian for the same owner or a nominee of a new custodian is tax-free. The principle is that where all the transfers in a chain of transfers are exempt from taxation, any of the intermediate links of the chain may be omitted and the transfer still be exempt. Other examples of exempt transfers growing out of the application of this principle are as follows:

1. the transfer of stock held by a nominee of one bank as collateral for a loan, to a nominee of another bank, to be held as collateral for a loan made by the second bank to the same borrower;
2. the transfer of stock by a custodian for the owner to a broker, for sale for the account of such owner.

Historical Note
Subd. (d) added, filed May 17, 1965 to be eff. immediately. Added subpar. (ix) in par. (1); substitute new par. (2).

443.2 Transfers through clearing corporation. (a) Transfers upon the instructions of a broker, whether doing business as a corporation, partnership or individually, from his name or his customer's name either to the broker's registered nominee or to a New York bank or trust company or to its registered nominee are exempt from tax where such transfers are made for the purpose of holding the shares subject to the instructions of a clearing corporation affiliated with a securities exchange within the State of New York, as agent for such broker. Transfers upon the instructions of the clearing corporation from the name of such registered nominees, or from the name of such bank or trust company, to the broker or customer are similarly exempt. Such exemption will not apply, however, in the case of a transfer resulting from a purchase or sale or a contract therefor unless such purchase, sale or contract was made upon or pursuant to the rules of a securities exchange within the State of New York. (See § 445.4 for provisions relating to registration of nominees.)
(b) Each of the above transfers shall be accompanied by the exemption certificate set forth in subdivision (a) of section 444.1, infra, in order to be entitled to exemption under paragraph (1) of subdivision 5 of section 270 of the Tax Law.

(c) Such exemption certificates shall be used only by (1) a broker who is a member of a clearing corporation affiliated with a registered securities exchange within the State of New York, or (2) a bank, national banking association or trust company maintaining a regular place of business in the State of New York.

(d) 1. Where a broker as described in paragraph (1) of subdivision (e) above certifies to such clearing corporation that all of the entries in his account with such clearing corporation as reflected in a daily statement of transactions represent transactions subject to the stock transfer tax upon which the tax has been paid, and/or transactions which come within one or more of the exemptions specified in subdivision 5 of section 270 of the Tax Law, such certification shall be deemed to apply to all of the transfers reflected on such daily statement which represent transfers exempt under any of the provisions of subdivision 5 of section 270 of the Tax Law.

2. The certification referred to in paragraph (1) above shall be in substantially the following form and bear the facsimile signature of the broker:

It is hereby certified that all of the entries reflected hereon represent transactions subject to the New York stock transfer tax upon which such tax has been paid, as disclosed by the undersigned’s records, and/or transactions which come within one or more of the exemptions specified in section 270(5) of the Tax Law of the State of New York, and that evidence in proof of each such exemption is maintained by the undersigned and is available for inspection by representatives of the New York State Tax Commission.

Broker’s Signature

Historical Note
Sec. added, filed May 17, 1966 to be eff. immediately.

PART 444
EXEMPTION CERTIFICATES
(Statutory authority: Tax Law, §171; art. 12)

Sec. 444.1 Exemption certificates by banks, brokers, securities dealers

Sec. 444.2 Exemption certificates in all other cases

Sec. 444.3 Records to be maintained by out-of-State brokers, dealers in securities
Section 444.1 Exemption certificates by banks, brokers and securities dealers.

(a) Every broker who is a member of a registered securities exchange within the State of New York which is registered with the Securities and Exchange Commission of the United States and who maintains a regular place of business within the State of New York, and any bank, national banking association or trust company maintaining a regular place of business in the State of New York, and any dealer in securities, as hereinafter defined, maintaining a regular place of business in the State of New York, effecting any delivery or transfer of a certificate of stock or other corporate certificate within the State, may, provided such delivery or transfer is exempt from tax under subdivision 5 of section 270 of the Tax Law, impress by rubber stamp on the certificate or certificates delivered or transferred, or on the memorandum of sale, a certification in substantially the following form:

It is hereby certified that the transfer of the attached shares is made under such circumstances as to come within one of the exemptions specified in section 270(5) of the Tax Law of the State of New York and that evidence in proof of the exemption is maintained by the undersigned and is available for inspection by officers and representatives of the New York State Tax Commission.

(Signature)

(b) Brokers and dealers in securities who are members of a registered securities exchange within the State of New York (including member firms and corporations) but who do not maintain a regular place of business in the State of New York may also use the certificate set forth above provided that such brokers or dealers in securities maintain adequate records of all transactions which are subject to a New York State stock transfer tax and provided that such records are maintained in accordance with section 444.3, infra, and are available for inspection by representatives of the New York State Tax Commission.

(c) Brokers and dealers in securities who are not members of a registered securities exchange within the State of New York and who do not maintain a regular place of business in the State of New York shall not use the above exemption certificate but may use an exemption certificate setting forth briefly the specific facts giving rise to the exemption claimed. (Examples of such certificates are set forth in section 444.2 below.) Such short form of exemption certificate may be used provided that such brokers or dealers in securities maintain adequate records of all transactions which are subject to a New York State stock transfer tax and provided that such records are maintained in accordance with section 444.3 and are available for inspection by representatives of the New York State Tax Commission.
(d) Where a transfer is exempt from New York stock transfer tax under paragraph (d) or (e) of subdivision 5 of section 270 of the Tax Law, relating to fiduciaries and custodians and their nominees, and where the exemption certificate is made by a bank, national banking association or trust company, not maintaining a regular place of business in the State of New York, such exemption may be claimed by a certificate in the following form:

It is hereby certified that the transfer of the attached shares is made under such circumstances as to come within one of the exemptions specified in section 270(5) (d) or (e) of the Tax Law of the State of New York and that evidence in proof of the exemption is maintained by the undersigned and is available for inspection by officers and representatives of the New York State Tax Commission.

(Signature)

(e) Such certifications may be impressed by rubber stamp on the certificate or certificates delivered or transferred, or on the memorandum of sale.

(f) The certification used by any broker or dealer in securities shall bear the facsimile signature of the broker or dealer and the rubber stamp shall be kept in the possession of the broker or dealer for use only by him or his duly designated representative.

(g) The certification used by any bank, national banking association or trust company shall bear as signature the name of such institution and the facsimile signature of an officer thereof, and the rubber stamp shall be kept in the possession of an officer thereof and used only by its duly designated representative.

(h) The term dealer in securities as used herein, means any person, firm, company, association or corporation engaged in the making or negotiating of sales, agreements to sell, deliveries or transfers of shares or certificates taxable under article 12 of the Tax Law, or conducting or transacting a stock brokerage business.

Historical Note

444.2 Exemption certificates in all other cases. Where an exemption certificate is made by any person other than a banking institution, broker or dealer in securities, or is made by a banking institution not maintaining a regular place of business within the State of New York with reference to an exemption other than those for fiduciary or custodian transfers or is made by a broker or dealer in securities not a member of a registered securities exchange within the State of New York and not maintaining a regular place of business within the State of New York, the forms set forth in
section 444.1 may not be used. In such cases the exemption certificate must set forth briefly the specific facts giving rise to the exemption claimed. The following are examples of certificates which may be used for this purpose:

(a) Transfers of collateral.

We hereby certify that these shares are being transferred to us as collateral security.

______________________________
Signature of person secured

We hereby certify that these shares are being transferred to our nominee as collateral security.

______________________________
Signature of person secured

We hereby certify that these shares now standing in the name of our nominee as collateral security are being transferred to another nominee of ours to be held as collateral security.

______________________________
Signature of person secured

We hereby certify that these shares were held by us as collateral security and are being retransferred to the depositor.

______________________________
Signature of person secured

(b) Transfer of security pursuant to statutory provisions.

We hereby certify that these shares are being transferred to a trustee or public officer pursuant to a statutory provision, namely __________________________ (cite provision) __________________________ to secure the performance of obligations.

______________________________
Transferer’s Signature

We hereby certify that these shares which were transferred to us by the owner __________________________ pursuant to a statutory provision, namely, __________________________ (cite provision) __________________________ are being retransferred to the owner.

______________________________
Signature of Trustee or Public Officer
(Add identifying description)
(c) **Fiduciary-nominee transfers.**

*We hereby certify that these shares are being transferred to our nominee to be held for the same purpose for which they would be held if retained by us as fiduciary.

__________________________
Fiduciary's signature

We hereby certify that these shares standing in the name of our nominee are being transferred to another nominee of ours to be held for the same purpose for which they were held by such former nominee and for which they would be held if retained by us as fiduciary.

__________________________
Fiduciary's signature

We hereby certify that these shares standing in the name of our nominee are being transferred to us by the nominee for the same purpose for which they would have been held if they had been retained by us as fiduciary.

__________________________
Fiduciary's signature

(d) **Custodian transfers.**

*We hereby certify that the transfer of these shares is a transfer from the name of the owner thereof to us, as custodian, the shares to be held or disposed of subject to the instructions of the owner.

__________________________
Custodian's signature

***We hereby certify that the transfer of these shares is a retransfer from us, as custodian, to the owner thereof.

__________________________
Custodian's signature

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* Exemption is shown by this certificate only if the transfer on the books of the corporation is to be made from the name of the fiduciary who signs the certificate, or if tax has been paid upon transfer of the shares to his name. See Part 443, supra.

** Exemption is shown by this certificate only if the transfer on the books of the corporation is made from the name of the owner for whom the custodian is acting; or if the tax has been paid upon transfer of the shares to the name of such owner. See Part 445, supra.

*** Exemptions are shown by these certificates only if the transfers on the books of the corporation are to be made from the name of the custodian, or if tax has been paid upon transfer of the shares to his name. See Part 443, supra.

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***We hereby certify that the transfer of these shares is a transfer from us, as custodian, to our nominee to be held by such nominee for the same purpose for which they would be held if retained by us.

Custodian's signature

We hereby certify that these shares standing in the name of our nominee are being transferred to another nominee of ours to be held for the same purpose as they would be held if retained by us as custodian.

Custodian's signature

We hereby certify that the transfer of these shares is a retransfer from our nominee to us as custodian.

Custodian's signature

(e) Loans of stock.

We hereby certify that we have no ownership or interest in the within shares, said shares having been merely loaned to us.

Broker's signature

We hereby certify that the transfer of the within shares to the name indicated is made solely to complete the return of stock borrowed.

Broker's signature

(f) Broker-customer transfers.

*We hereby certify that these shares are being transferred by the owner thereof to us merely for the purpose of sale and that we have no ownership or interest therein.

Broker's signature

***Exemptions are shown by these certificates only if the transfers on the books of the corporation are to be made from the name of the custodian, or if tax has been paid upon transfer of the shares to his name. See Part 443, supra.

* Exemptions are shown by this certificate only if the transfer on the books of the corporation is to be made from the name of the owner, or if tax has been paid upon transfer to his name. See Part 443, supra.
**We hereby certify that the transfer of the within shares to the names indicated by the star is made solely to complete the purchase made by us for a customer and that we have no ownership or interest therein.

Broker's signature

We hereby certify that these shares are being transferred by the owner thereof to our registered nominee merely for the purpose of sale and that we have no ownership or interest therein.

Corporate broker

We hereby certify that these shares are being transferred by our registered nominee solely to complete the purchase made by us for a customer and that we have no ownership or interest therein.

Corporate broker

(g) Transfers by and to registered nominees of corporations.

It is hereby certified that the attached shares are being transferred to our registered nominee to be held by such nominee for the same purpose for which they would be held if retained by the undersigned corporation.

Corporation's signature

It is hereby certified that the attached shares, standing in the name of our registered nominee, are being transferred to another registered nominee of ours, to be held for the same purpose for which they would be held if retained by the undersigned corporation.

Corporation's signature

It is hereby certified that the attached shares, standing in the name of our registered nominee, are being transferred to the undersigned corporation, as owner.

Corporation's signature

**Exemption is shown by this certificate only if the transfer on the books of the corporation is to be made from the name of the broker who signs the certificate, or if tax has been paid upon transfer of the shares to his name. See Part 443, supra.**

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The last five of the foregoing forms refer to the registered nominee of a corporation. With respect to collateral, fiduciary and custodian transactions, the exemptions provided by subdivision 5 of section 270 of the Tax Law for transfers to or by a nominee are applicable without any registration of such nominee with the State Tax Commission, whether he is acting for a corporation, an individual, a partnership, or any other entity. However, with reference to transactions of any other type, transfers between a corporation and its nominee are exempt from tax only if the nominee is registered with the State Tax Commission as provided in section 445.1.

444.3 Records to be maintained by out-of-State brokers and dealers in securities. (a) As indicated in section 444.1, brokers and dealers in securities who are members of a registered securities exchange within the State of New York but who do not maintain a regular place of business within the State of New York may use the omnibus waiver as set forth in subdivision (a) of section 444.1 and brokers and dealers in securities who are not members of a registered securities exchange within the State of New York and who do not maintain a regular place of business in the State of New York may use the specific short form certificate as set forth in section 444.2, provided that a certain minimum of records reflecting transactions subject to a New York State stock transfer tax are maintained and held available for inspection by representatives of the New York State Tax Commission.

(b) Such records must include entries on the blotters or other records of original entry containing the itemized record of all transactions in securities by such brokers or dealers in securities, a separate column showing the New York State stock transfer tax paid on those transactions which are subject to a New York State stock transfer tax. The ledgers or other books of account maintained by such brokers must also contain

1. a New York State stock transfer tax account and
2. a special account for securities in transfer with New York transfer agents and the tax paid on each such transfer.

PART 445
REGISTRATION
(Statutory authority: Tax Law, § 171; art. 12)

See. 445.1 Registration of corporate nominees
See. 445.3 Registration of corporations, trustees with transfer offices in New York.
445.2 Registration of brokers, dealers in securities.
446.4 Registration of nominee of broker, bank or trust company

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Section 445.1 Registration of corporate nominees. (a) Any domestic or foreign corporation may appoint a person or partnership to act as its nominee in the holding of shares or certificates on its behalf; provided, however, that no person may act as nominee for more than one corporation, either individually or as a member of any partnership, nor may a partnership act as nominees for more than one corporation. Any such corporation may file in the office of the State Tax Commission, a written statement, setting forth the following:

1. the name of the corporation;
2. the principal place of business of the corporation;
3. the business of the corporation;
4. the function to be performed by the nominee;
5. the name, residence and business address of the proposed nominee, or, in the case of a partnership, of each member thereof.

(b) There shall also be filed a written statement by the nominee containing his name and address, or, in the case of a partnership, of each member thereof. It should also contain a statement as to whether such person or partnership is the registered nominee of any other corporation.

(c) The foregoing statements need not be in any specified form.

(d) If such nominee meets with the approval of the State Tax Commission, it will issue to the corporation, a certificate of registration. Such certificate shall be kept in the principal place of business of the corporation to whom it is issued and must be held available for inspection by representatives of the State Tax Commission.

(e) The State Tax Commission shall be notified of any change in the membership of a partnership nominee, giving the name, residence and business of any new member.

(f) In order to be entitled to exemption under paragraph (b) of subdivision 5 of section 270 of the Tax Law, each delivery or transfer by a corporation to its registered nominee, or by such nominee to the corporation or to another registered nominee of the same corporation, must be accompanied by an exemption certificate substantially in one of the forms set forth in section 444.2 with reference to such deliveries and transfers.

445.2 Registration of brokers and dealers in securities. (a) Section 275-a of the Tax Law requires every person conducting a stock brokerage business or dealing in securities affected by the tax, within 10 days after engaging in such business, to file with the State Tax Commission a certificate setting forth the name under which the business is to be conducted. Such certificate must also show the full names and post office addresses of the persons
conducting the business, or in the case of a corporation, its principal office or place of business and the date when and place where it was incorporated. The certificate must be acknowledged before a notary public or other authorized officer and must be in substantially the form set forth in Appendix 2.

(b) In the event of a change of the persons composing the firm for which such a certificate has been filed, or a change of address of any person, firm or corporation which has filed such a certificate, or termination of such business, a similar certificate setting forth the facts with respect thereto must be filed with the State Tax Commission within 10 days after such change or termination.

445.3 Registration of corporations and trustees maintaining transfer offices in New York. (a) Every corporation or trustee maintaining within the State of New York its principal office or place of business, or an office for the transfer of its stock or other certificate affected by the tax, must file with the State Tax Commission, within 10 days after establishing such office, a certificate setting forth the name under which its business is to be conducted and its principal office or place of business, together with the date when and the place where the corporation or trust was incorporated or organized. Such certificate must be acknowledged before a notary public or other authorized officer. A certificate filed by a corporation should be substantially in the form set forth in Appendix 3, which may be modified as necessary for use by trustees.

(b) In the event of a change of the persons acting as trustees, or a change of address of any such corporation or trustees, or termination of the business thereof, a similar certificate setting forth the facts with respect to such change or termination must be filed with the State Tax Commission within 10 days thereafter.

445.4 Registration of nominee of broker, bank or trust company. (a) Any broker, whether doing business as a corporation, partnership or individually, and any bank or trust company wishing to appoint a nominee to act on its behalf in pursuance of the provisions of paragraph (i) of subdivision 5 of section 270 of the Tax Law shall file in the office of the State Tax Commission a written statement setting forth the following:

1. the name of the broker, bank or trust company;
2. the principal place of business of the broker, bank or trust company;
3. the name, residence and business address of the proposed nominee, or, in the case of a partnership, of each member thereof;
4. a statement that the nominee shall act as such only for the purposes of paragraph (i) of subdivision 5 of section 270 of the Tax Law;
5. the name of the clearing corporation which will act as agent for such broker.

(b) 1. For the purposes of paragraph (i) of subdivision 5 of section 270 of the Tax Law, a person or partnership may act as nominee for more than one corporation, notwithstanding the provisions of section 445.1 of this Part. Brokers who are members of a clearing corporation affiliated with a securities exchange within the State of New York may designate one or more nominees to act for all of them for the purposes of the said paragraph (i) and may file either jointly or severally the statement required in subdivision (a) of this section, provided it contains all of the information called for in such subdivision as to each participant covered thereby.

2. A nominee registered under this section shall act as nominee solely for the purposes of paragraph (i) of subdivision 5 of section 270 of the Tax Law, and for no other purpose. Hence, broker corporations which already have nominees registered under section 445.1 of this Part, pursuant to paragraph (b) of the above subdivision and section of the Tax Law, cannot register the same nominees under this section.

(c) There shall also be filed a written statement by the nominee containing his name and address, or, in the case of a partnership, of each member thereof. It should also contain a statement that the person or partnership shall act as nominee solely for the purposes of paragraph (i) of subdivision 5 of section 270 of the Tax Law.

(d) The foregoing statements need not be in any specified form.

(e) If such nominee meets with the approval of the State Tax Commission, it will issue to the broker, or to the bank or trust company, a certificate of registration. Such certificate shall be kept in the principal place of business of the broker or the bank or trust company to whom it is issued and must be held available for inspection by representatives of the State Tax Commission.

(f) The State Tax Commission shall be notified of any change in the membership of a partnership nominee, giving the name, residence and business address of any new member.

Historical Note
See, added, filed May 17, 1960 to be eff. immediately.
PART 446

RECORDS

(Statutory authority: Tax Law, § 171; art. 12)

Sec. 446.1 Records of brokers, dealers in securities
Sec. 446.2 Records of corporations, trustees, transfer agents
Sec. 446.3 Preservation of records, certificates, memoranda

Section 446.1 Records of brokers and dealers in securities.
(a) Section 276 of the Tax Law requires every broker and every person dealing in securities affected by the tax to keep at some accessible place within the State of New York an accurate record of his transactions, in which there must be recorded in separate columns:

1. The date of making every sale, agreement to sell, delivery or transfer of shares or certificates taxable under the Act.
2. The name, class and number of shares thereof, except that if such information may be obtained by reference to other records kept by such broker, it need not be recorded in a separate column in the record herein prescribed.
3. The selling price thereof.
4. The name and address of the seller or transferee and his resident or nonresident status, except that if his name and address are obtainable by reference to other records kept by such broker, it need not be recorded in a separate column in the record herein prescribed.
5. The name of the purchaser or transferee, except that if such information may be obtained by reference to other records kept by such broker, it need not be recorded in a separate column in the record herein prescribed.
6. The value of the stamps affixed in payment of the tax or payment of the tax otherwise than by the use of stamps.
7. The date and the amount of each purchase of stock transfer stamps and from whom purchased.

(b) Such record must be substantially in the form set forth in Appendix 4.

(c) Every broker and every person dealing in securities shall also keep all memoranda including telegrams, teletypes and other communications relating to the sale or transfer of shares or certificates taxable under the Stock Transfer Tax Law.

Historical Note
Sec. amd. filed June 4, 1989 eff.
July 1, 1989. New (a) substituted.
446.2 Records of corporations, trustees and transfer agents. (a) Section 276 of the Tax Law also requires every corporation or business conducted by a trustee or trustees, or its transfer agent, to keep at some accessible place within the State of New York a stock certificate book and a transfer ledger or register, in which there must be recorded in separate columns:

1. The date of making every transfer.
2. The name and number of shares thereof.
3. The serial number of each surrendered certificate.
4. The name of the party surrendering each certificate.
5. The serial number of the certificate issued in exchange therefor.
6. The number of shares represented by said certificate.
7. The name of the party to whom said certificate was issued.
8. The value of the stock transfer stamps affixed in payment of the tax on the transfer.

(b) Such record must be substantially in the form set forth in Appendix 5.

446.3 Preservation of records, certificates and memoranda. (a) The records mentioned in sections 446.1 and 446.2 must be kept for a period of at least four years from the date of the last entry made therein. Every broker, dealer in securities, corporation or other entity required to keep any such records must also preserve for at least four years all surrendered or cancelled certificates and all memoranda including telegrams, teletypes and other communications relating to the sale or transfer of shares or certificates thereof. Severe penalties are attached to a failure to comply with these requirements.

(b) All such books, records, memoranda and surrendered or cancelled certificates must be kept open and available for examination by any duly authorized representative of the State Tax Commission during reasonable business hours.

PART 447

EXAMPLES OF TRANSACTIONS

(Statutory authority: Tax Law, § 171; art. 12)

Sec. 447.1 Examples of taxable transactions
Sec. 447.2 Examples of nontaxable transactions

Section 447.1 Examples of taxable transactions. (a) For convenient reference, various examples of taxable transactions given in the preceding sections of this Subchapter are collected here.
Transactions such as those illustrated are discussed in sections 440.1 and 443.1.

1. The transfer of shares of stock, whether or not represented by certificates, including shares subscribed for by an accommodation incorporator, although not represented by a certificate.

2. The transfer of temporary or interim certificates.

3. The transfer of certificates representing the interest of a subscriber for stock, although further payment must be made.

4. The transfer of voting trust certificates.

5. The transfer of certificates of stock in a dissolved corporation.

6. The transfer of stock on the books of the corporation within the State, regardless of where the other acts in connection with the sale or transfer of the stock were done.

7. The transfer of stock by gift.

8. The transfer of stock from a partnership to a member thereof, or from a member to a partnership.

9. The acquisition by a corporation of its own stock (except where the stock is acquired for retirement and is in fact retired by amendment to the certificate of incorporation), and also retransfers thereof by the corporation.

10. The distribution by a corporation to its stockholders of stock in another corporation.

11. The transfer of stock of a corporation to be merged, to the merging corporation, prior to the actual merger and as a condition precedent to the merger.

12. The transfer of stock to or by trustees, including the transfer of stock into or out of a voting trust, investment trust or other trust.

13. The transfer of stock from an individual to himself as trustee.

14. The transfer of stock by an executor or administrator, whether to trustees, legatees or other persons.

15. The transfer of stock from tenants in common to themselves as individuals, or to one of them.

16. The transfer of stock standing in the name of two individuals to themselves as joint tenants with right of survivorship.

17. The transfer of stock held by joint tenants to either one or the other of the parties while both are alive.

18. The delivery of a certificate by the transferor, or his agent, to the transferee, or his agent.

19. The transfer of stock by or to an ambassador or consul representing a foreign country.
20. The transfer by a fiduciary, of certificates issued in the name of any one other than himself, to his nominee.

21. The transfer by an owner, of certificates issued in the name of any one other than himself, to his custodian.

22. The transfer by a broker, of certificates issued in the name of any one other than himself, to a customer for whom and upon whose order he has purchased them.

23. The transfer of stock of a customer, held by a broker for sale, to the broker as owner.

24. The transfer of stock by or to a broker made, directly or indirectly, for his own account.

25. The transfer of stock by a broker at a price different from that at which he accounts to his selling customer.

26. The transfer by a broker to a customer of stock issued as a dividend on stock purchased for the customer by the broker and held by the broker in his own name.

27. The transfer of stock from a nominee of a fiduciary to a nominee of a different fiduciary, except in special cases, as, for example, the case of a substituted trustee under the same trust.

447.2 Examples of non taxable transactions. (a) The following are examples of nontaxable transactions given in the preceding sections of this Subchapter. Transactions such as those illustrated are discussed in sections 440.1 and 443.1.

1. A transfer on the books of the corporation into a new name, made merely because the stockholder has changed his or its name, where no actual change of ownership occurs.

2. The surrender of a single certificate for reissuance to the same stockholder of several certificates representing, in the aggregate, the same number of shares.

3. The surrender of a number of certificates for reissuance, to the same stockholder, of a single certificate for the same number of shares.

4. The transfer of a fraction of a share of stock or a certificate representing the right to receive less than one share of stock.

5. The surrender of preferred stock certificates in exchange for common stock certificates issued to the same stockholder, and vice versa, when made necessary by a change in capital structure.

6. The mere registration in the State of New York, by a registrar, of a transfer already made by the corporation or its transfer agent outside this State.

7. The mere execution of an assignment within the State (whether by endorsing the certificate in blank or other-
wise) where all other acts connected with the transfer are done outside the State.

8. The transfer of stock from a trustee of a continuing trust to a successor trustee appointed under power reserved in the deed of trust.

9. The transfer of stock by a trustee to a successor trustee in a case where the first trustee acting under a deed of trust which empowers him to appoint a cotrustee, appoints such cotrustee and then resigns leaving the cotrustee as the sole trustee.

10. The transfer of stock held in a testamentary trust from the original trustees to a substitute trustee appointed by the court and the surviving member of the original trustees.

11. The surrender of stock of a merged corporation in exchange for stock of a merging corporation at the time and as part of a statutory merger.

12. The surrender of stock of consolidating corporation in exchange for stock in the resulting corporation in the case of the consolidation of two or more corporations.

13. The transfer of stock in the names of two joint tenants with right of survivorship to the name of the survivor after the death of the other joint tenant.

14. The transfer of stock from the name of a decedent to his executor or administrator.

15. The transfer by an ancillary executor to a domiciliary executor of the same decedent.

16. The transfer by an ancillary guardian to himself as domiciliary guardian of the same ward.

17. The transfer by trustees to surviving, substitute, succeeding or additional trustees of the same trust.

18. The transfer from the name of the owner to the nominee of his custodian.

19. The transfer from a custodian or his nominee to a new custodian for the same owner or a nominee of a new custodian.

20. The transfer of stock held by a nominee of one bank as collateral for a loan, to a nominee of another bank, to be held as collateral for a loan made by the second bank to the same borrower.

21. The transfer of stock by a custodian for the owner to a broker, for sale for the account of such owner.


APPENDIX 2.

<table>
<thead>
<tr>
<th>Name</th>
<th>Individual</th>
<th>Partnership</th>
<th>Corporation</th>
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</table>

Address ______________________________________

I hereby certify that the following named persons:

(Here set forth full names and address)

(is) (are) engaged in business as Stock Brokers and/or Dealers under the trade name or style of ____________________________

at No. ____________, in the City of ____________, New York.

Dated ________________, 19____

(Signature with title)

STATE OF NEW YORK } ss.,
County of __________ } ss.,

On this ____________ day of __________________, 19____, before me, the subscriber, personally came ____________ to me known to be the person named in and who executed the foregoing certificate, and he duly acknowledged that he executed the same.

__________________________ Notary Public
APPENDIX 3.

Name ___________________________ No. of Shares Authorized

(Name of association, corporation or trustee)

Pref. 1st _____________

Pref. 2nd _____________

Address ___________________________ Common... _____________

__________________________

President Secretary of the Trustee

(Name of association, corporation or trustee)

do hereby certify that the said corporation keeps a place for the trustee

sale, transfer, or delivery of its stock at No. ________________

in the city of __________________________ New York.

Incorporated ____________, Laws of the State of ______
or organized (Date)

__________________________

President Secretary Trustee

SPRING OF NEW YORK ss.

City of ____________________________

County of ____________________________

On this ____________ day of ____________, 19__,

before me the subscriber, personally came ________________

to me known, and who being by me duly sworn, did depose and say

a Trustee trust

that he is the President of the corporation above named and that

Secretary association

he executed the foregoing certificate on behalf of said corporation

trustee

pursuant to authority vested in him by a vote of the board of said corporation

association.

trustee.

__________________________ Notary Public.

Commissioner of Deeds.

69
(Name of Firm or Individual Keeping This Record)

**SALES RECORD**

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<th>Name of purchaser or transferee</th>
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**PURCHASES RECORD**

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(Name of Stock Recorded on This Sheet)

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<th>By whom surrendered</th>
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MEMORANDUM filed with Assembly Bill Number 6394-A, Senate Reprint Number 7061, entitled:

"AN ACT to amend article twelve of the tax law, in relation to rates of the stock transfer tax imposed thereby, their reduction for certain nonresidents, the fixing of maximum taxes on certain transactions subject to tax thereunder, the providing of penalties for violation of certain provisions thereof, and the repeal of subdivision two of section two hundred seventy of such law, as amended by section one of chapter seven hundred seventy-one of the laws of nineteen hundred sixty-six, relating to rates of tax"

APPROVED

The bill amends the Tax Law to continue the present rates of the stock transfer tax (which would have otherwise lapsed) until July 1, 1969 and thereafter to provide for a reduction in the rates of stock transfer tax imposed on non-resident individuals and a ceiling on the tax imposed on any single transaction.

The measure is the product of more than two years' study, discussion and negotiation between representatives of the New York Stock Exchange and the City of New York and provides a long-needed reform of the stock transfer tax, consistent with the growing revenue needs of the City.

Since the stock transfer tax was enacted in 1905, there have been far reaching changes in the securities industry, but the stock transfer tax has not been revised to keep pace with those changes. The securities industry has grown from an essentially New York industry to one of national and international scope. While the bulk of stock transfers still funnels through New York, only twelve percent of the Nation's investors are located in the State. At the same time, competition for the New York markets has been heightened by the rise of regional stock exchanges located outside the State where more than 90 percent of trading is in securities listed on the New York Stock Exchange. The development of modern telecommunications and electronic computer systems has, of course, greatly expanded the capacity of the regional exchanges to challenge the New York exchanges for business.

The bill recognizes the changing character of the securities industry and the importance of its continued presence and strength for the future economic prosperity of the State and will provide long-term relief from some of the competitive pressures from outside the State.
As a result of adoption of the revisions of the stock transfer tax contained in this bill, the New York Stock Exchange has announced that it intends to remain and expand in New York and is now studying sites for a new exchange building in downtown Manhattan. The Exchange's action augurs well for the future growth of New York as the Nation's financial center and acknowledges the confidence of the industry in the ability of city government and the Legislature to recognize the industry's problems and to commit themselves to a long-term course for the benefit of all.

The bill is approved.

(Signed) Nelson A. Rockefeller
Assembly Bill No. 6394-A introduced by COMMITTEE ON RULES--read twice and referred to the committee on TAXATION--reported favorably from said committee, committed to the committee of the whole, ordered to a third reading, amended and ordered reprinted, retaining its place in order of third reading.

AN ACT

To amend article twelve of the tax law, in relation to rates of the stock transfer tax imposed thereby, their reduction for certain nonresidents, the fixing of maximum taxes on certain transactions subject to tax thereunder, the providing of penalties for violation of certain provisions thereof, and the repeal of subdivision two of section two hundred seventy of such law, as amended by section one of chapter seven hundred seventy-one of the laws of nineteen hundred sixty-six, relating to rates of tax.
Multiple memorandum received from the State Comptroller dated 6-5-62 stating the following bill is of "No Interest" to the Department of Audit and Control.

Intro. No. 17-6371
Print No.

The original memorandum filed with: 17-1218-62
June 10, 1968

Hon. Michael Whiteman
First Assistant and Acting Counsel to the Governor
Executive Chamber
The Capitol
Albany, New York

Re: Assembly 6394, Committee on Rules

Dear Mr. Whiteman:

A 6394 provides for changes in the stock transfer tax rates. Special, lower stock transfer tax rates would apply to sales by non-resident individuals executed within the State. Groups of individuals, including investment groups, would qualify as non-resident individuals but partnerships would not. Security dealers required to be registered with the Attorney General and certain other brokers and agents would be considered residents. A maximum tax would apply to single transactions in a class of stock. The increased tax rates in effect for the July 1, 1966 to June 30, 1968 period would be continued. The effective date of the act as to non-residents would be July 1, 1969.

It is our understanding that this bill represents New York City's commitment to the New York Stock Exchange and that published reports indicate that because of this bill the New York Stock Exchange has abandoned any thoughts that it would move the Exchange from New York City to another state.

As set forth in the legislative findings, this bill will improve the business climate of this State by providing lower stock transfer rates for non-residents. The direct effect of this, of course, is that non-residents will transact their business in New York City instead of outside of the State.
Concern has been expressed that the bookkeeping required by the bill, i.e., the designation of residents versus non-residents may be burdensome. The bill is discriminatory in that it discriminates against residents of the State. However, on balance, these factors are outweighed by the business climate aspects of the bill. In addition, the effective date of July 1, 1969 makes it possible for the Legislature next year to consider these questions. Accordingly, the Department of Commerce recommends approval of this bill.

Sincerely,

[Signature]

[Date]
June 17, 1968

The Honorable Nelson A. Rockefeller
Governor of New York
State Capitol
Albany, New York 12224

Dear Governor Rockefeller:

Re: Senate Bill No. 7061

The above bill is before you for action; enclosed is a copy for convenient reference.

This bill amends section 270 of the Tax Law to continue in effect after June 30, 1968 the rates of stock transfer tax presently in effect, which otherwise would revert after that date to the lower rates in effect prior to July 1, 1966.

It also adds a new section 270-a, to become effective July 1, 1969, which would make two basic changes in the Stock Transfer Tax Law. First, on sales made in New York by a nonresident as defined in the bill (the definition excludes brokers, dealers and persons maintaining a place of business or employed in New York), it would make the tax rates less than on any other sales or transfers. Second, on any single sale, either by a resident or a nonresident, the bill would fix a maximum limitation on the amount of tax regardless of the number of shares sold.

Both these changes would be progressive, over a 5-year period, beginning in the period from July 1969 through June 1970 and reaching their full effect after July 1, 1973. Thus, in the 1969-70 period the nonresident tax rates would be 95% of the regular rates, but after July 1973 they would be only 50% of the regular rates. Likewise, during the 1969-70 period the maximum tax on a single sale would be $2500, equal to tax at the regular rates on 50,000 shares sold for more than $20 per share. This maximum would decline until after...
July 1973 when it would be only $350, equal to tax at the regular rate on 7,000 shares sold for more than $20 per share, or at the reduced rate on 14,000 shares sold by a nonresident.

From an administrative point of view, the portions of the bill to become effective July 1, 1969 may and probably will cause various difficulties in enforcement and particularly in compliance. However, there have been eliminated from the present bill various administrative provisions of an earlier bill to the same general effect (Senate 5150) which would have been much more objectionable, and so far as the administrative duties of this Department are concerned, I believe we can "live with" the present bill.

The constitutionality of imposing a higher tax on residents than on nonresidents is by no means free from doubt although substantial support for the validity of this provision may be found in Allied Stores v. Bowers, 358 U. S. 522. The bill recognizes the existence of this constitutional question, for section 4 provides that if this part of the bill shall be held unconstitutional, the higher rates of tax applicable to residents shall apply to nonresidents also. As a practical matter, collection of such higher taxes on sales of stock which might have been made long prior to the ultimate decision as to unconstitutionality would pose serious problems.

Regardless of the administrative and constitutional questions mentioned above, I believe this bill should receive executive approval. All revenues from the stock transfer tax are payable to the City of New York, and unless this bill is approved, these revenues will be reduced by 20% beginning July 1, 1968. The bill was prepared and sponsored jointly by the City of New York and the New York Stock Exchange.

Sincerely,

JOSEPH H. MURPHY
Commissioner

Enc.
INSTITUTIONAL FACTORS AND VOLUNTARY PRACTICES OF THE NEW YORK STOCK EXCHANGE WHICH IMPAIR ITS COMPETITIVE POSITION MORE THAN THE STOCK TRANSFER TAX
(Appendix to Budget Division Bill Memorandum on A.I. 6394-A, S.P. 7061, 1968)*

Introduction

Many factors, most of which are more important than the stock transfer tax, contribute to the New York Stock Exchange's inability to compete on all transactions with regional exchanges and the "third market" (trades of listed securities outside of any institutional market). These causal factors, which were mentioned briefly in the bill memorandum proper are amply documented in this appendix. This documentation also indicates that the New York Stock Exchange could, by its own action, mitigate the effect of most of these competitive disadvantages by altering its own trading rules and practices.

The highlights of these arguments, and their relevance to the proposed tax relief, was succinctly stated in an editorial that appeared in The New York Times in 1967 following the "accord" between the NYSE and the City of New York. Under the caption "Expensive Olive Branch", the Times emphasized that the City could not afford the substantial tax loss that would result from the agreement, and asserted that the reasons given for the action were really a sham to cloak the unwillingness of the NYSE to set its own house in order:

"...Nor does the alleged burden of the transfer tax really threaten the existence of the Exchange, as its officials have claimed. Since the imposition of the tax by the City the Exchange has enjoyed the best year in its history and has easily maintained its supremacy as the nation's chief market place. Naturally, it faces competition; but as the Securities and Exchange Commission has pointed out, other markets have attracted business mainly because of the Exchange's rigid trading rules and high fixed commissions, not the transfer tax." (Reference 1)

In contrast to the stodginess of the NYSE, the fledgling regional exchanges are increasingly making themselves more attractive both to brokers and to institutional traders. The stark contrast was underlined in a 1967 article in Barron's, which drew attention to the innovations undertaken by regionals to make trading more convenient for brokers and more economical for institutions:

* All underscoring was added for emphasis. All references are listed at the end of the appendix.
"...Not in the least awed by the monolithic NYSE, [the regional exchanges] compete handily, utilizing more flexible rules and devising conveniences and trading economies unknown to the Big Board itself. Among them: intercity wire and phone hookups between trading floors; centralized "back-office" bookkeeping and billing subsidiaries, to which dozens of NYSE members subscribe (the Big Board does not yet offer equivalent aid to its cost-burdened brokers); crosses executed at half-price..."

***

"...three mutual fund management companies -- Investors Diversified Services, Waddell & Reed, and Imperial Services, Ltd. -- have taken Pacific Coast seats. That commission-saving strategy is impossible on NYSE, which forbids memberships by publicly held companies."

***

"In sum, the effect of the regionals on equity trading has been salutary.... Indeed, the Big Board itself has been prodded into following some of the regionals' innovations. Not least among them is the computerized back-room bookkeeping-and-billing service the NYSE will offer brokers starting next summer [1967]." (Reference 2).

Despite the fact that it has undertaken some minor reforms, the NYSE has balked at major reforms in procedures that have been followed since 1792, even though these changes would enhance its ability to compete effectively for large-block transactions by institutional investors, the most rapidly-growing segment of the securities industry. This is crucial, considering that, by 1967, institutions accounted for "...about a third of NYSE volume, against a fifth a decade ago", according to The Wall Street Journal (Reference 3).

In one sense, the NYSE may be falling victim to its own size and an inability to react quickly to change or to service the varied needs of securities traders. Nevertheless, the NYSE is apparently suffering more from its failure to revise its commission structure, particularly in the areas that are of greatest interest to institutional traders -- discounts from normal commission schedules for large-block transactions and/or permitting members to split commissions with nonmembers. These two factors were highlighted in a Newsweek commentary which, in referring to the increase in the stock transfer tax proposed in 1966, asserted that such

"...a tax rise would have some impact" and that it would be "...an added bit of pressure on the Big Board to change some basic rules in an effort to hold on to its institutional business."
The article concludes that:

"... while its institutional business is at the heart of the Big Board's dispute with Mayor Lindsay, the issue involves more than the transfer tax. It involves the exchange's commission structure. There's a very good chance that the exchange will change its rules -- allowing commission splitting or discounts for large transactions -- to accommodate big investors and combat the regionals and the third market. This could soften the impact of any increase in the transfer tax...." (Reference 4).

Inherent Limitations of an "Auction" Market in Handling Big Block Trades

At least two commentaries have focused attention on the inherent limitations of an "auction" market in handling large-block transactions. Obviously, if a large block of stock were suddenly "dumped" on the market, it could disrupt the market and depress the price of the stock significantly. To avoid this problem, institutional sellers attempt to find a counterpart buyer with whom they can, in effect, reach a "negotiated" sale. Because of its size and the breadth of stock issues traded, the NYSE is apparently losing its ability to arrange these sales at a price that would be most advantageous to the seller.

A Wall Street Journal article emphasized the shortcomings of NYSE procedures in consummating such a transaction, under a caption which included the query, "Will Computers Make the NYSE Obsolete?":

"... big-block deals ... severely strain NYSE trading procedures that evolved largely to handle 'retail' transactions by individual investors dealing in relatively small numbers of shares, and institutions and brokers increasingly are turning to ways of handling big-block trades that either relegate the exchange's role to a peripheral one or bypass the Big Board altogether.

***

"Such big-block orders place a strain on the specialist system -- the heart of the auction system of trading on the exchange floor. The specialist is responsible for maintaining an orderly market in an assigned list of stocks, buying and selling for his own account when necessary to minimize violent price swings. That's a lot harder to do when the orders come in 5,000-share blocks than when they come in 100-share lots.

"Consequently, some big brokerage houses now are relegate the specialist to a secondary role through techniques known as 'positioning' and 'cross' trading.***
"Positioning and cross trading, however, reduce the auction market on the floor to near irrelevance — indeed, to a nuisance." (Reference 3)

A Barron's article explained why the regional exchanges may be able to handle large-block trades more effectively than the NYSE:

"... Big block business, which often is price-negotiated beforehand and crossed on exchange tapes as a formality, often is facilitated on a regional exchange. Regional specialists, less harrassed by continuing streams of small orders, sometimes are better able to search out the opposite side of a large single transaction."

***

"Similarly, Midwest's President Day insists that his exchange, for all its diminutive size and shallow liquidity when compared to the NYSE's bulk and depth, often makes better trades — if only by concentrating on issues other than the 400-odd wherein NYSE liquidity is deepest."

***

"... And on big block crosses -- those trades executed on both sides within a single brokerage firm -- Midwest charges only a single commission, in contrast to the standard double fee levied elsewhere" (Reference 2).

The savings in commissions alluded to in the article referred to above is another important reason why the NYSE may be losing business not only to the regional exchanges, but to the "third market".

Volume Discounts on Large-Block Transactions

The Wall Street Journal points out that trading in the "third market" may offer the institutional trader the dual attraction of obtaining a better price on a large-block trade and of minimizing the trading commission:

"Institutional orders also may go to the 'third market'. This is a term for private, off-the-floor trading in stocks that are listed on the exchange. (The other two markets are the auction market on the exchanges and 'over-the-counter' trading in stocks not listed on any exchange.)"

***

"Prices in third-market trades usually are more favorable for both buyers and sellers than prices on the Big Board. Also, a client ends up paying less on a big-block third-market trade to the broker (in the form of a profit; third-market brokers buy and sell for their own account) than
the client of an NYSE member firm would surrender in commissions to have an equivalent trade executed on the Big Board. There are no volume discounts in the NYSE commission scale; the commission on a 5,000-share order is 50 times the commission on a 100-share order in the same stock" (Reference 3).

An April, 1966 article in Newsweek called attention to a NYSE rule that put its members at a disadvantage in handling large-block transactions:

"Another Big Board rule forbids any member to charge less than the minimum commission to a nonmember. And this has helped brokers and dealers who make the 'third market!' (Reference 4).

Action by the Securities and Exchange Commission later that year gave NYSE member firms more latitude, but this freedom was achieved at the expense of the New York Stock Exchange's "monopoly" power with respect to its members' rights in handling listed securities:

"Last summer [i.e., 1966] the SEC flatly ordered the NYSE to let members trade listed stocks off the floor if they could thereby get better prices for customers. Earlier, third-market trading had been conducted by nonmember firms.

"The NYSE, which since 1792 has cherished the principle that its members trade listed stocks only on the floor with other members, bowed to the order but said officially that it did so 'reluctantly!'" (Reference 3).

Commission Splitting ("Give-ups")

While institutions would obviously be attracted by volume discounts from normal commission schedules, they are often satisfied if they can arrange to have the commission "split" between various brokerage houses. This approach can achieve the same purpose as receiving a volume discount and using the "savings" to directly compensate other brokerage firms to whom the institution is indebted. The phenomenon of commission-splitting, referred to in the vernacular as "give-ups", has been cited by Barron's as the most important single factor underlying the recent phenomenal growth in volume of transactions handled by regional exchanges:

"... most importantly (and also very much in the news of late, thanks to recent Securities and Exchange Commission objections to the practice), the regionals' relaxed rules which permit big institutional traders to split commissions among favored non-members, have sharply enlarged their trading."

* * * *
"The regionals' growth, by and large, chiefly reflects the increasing use of their facilities by big institutional traders. For the regionals offer such traders inducements that the Big Board cannot match. To be sure, commission rates and payment regulations are nearly identical with those on the Big Board, but there is one major exception: most regionals permit cash give-ups, or fee splitting, not only among exchange members, but with outsiders as well. By contrast, the NYSE permits such sharing only among its members."

***

"The practice of fee-splitting became important with the expansion of mutual fund trading. Today mutual funds are believed to account for as much as one-half of New York Stock Exchange round-lot business. Customarily, they trade in large blocks. Since it costs no more, but pays a broker 100 times as much, to execute an order for 50,000 shares as for 500, the funds soon found dealers willing to execute their big trades while giving up part of the regular commission to whomever the mutuals designated. By that means, the funds were able to reward other brokers who provide them with selling and research services, yet still have their highly confidential, often unwieldy orders executed quietly, by a few skilled hands" (Reference 2).

The Wall Street Journal offers a similar explanation for the attractiveness of commission-splitting:

"A brokerage house executing an order for an institution -- most often a mutual fund -- will, at the client's direction, give up part of its commission to another house. This house has previously performed services -- probably, selling the mutual fund's own shares to the public -- for which the fund wants to compensate it" (Reference 3).

Commission-splitting was initiated by the regional exchanges as a means of attracting institutional traders, according to Barron's:

"... Detroit, with its 40% giveup rule, started the contemporary trend.... The rest, as the saying goes, is financial history. Detroit, having stolen a march on the others, enjoyed a threefold volume increase in the years 1960-65, triple the others' rate of gain.... Last year [1966], however, Detroit's precipitate growth was curbed by its imitators. Boston, in particular, took the play away. Its loosening of giveup rules stimulated an 85% volume jump in a single year...." (Reference 2).
The New York Stock Exchange rapidly followed suit, but it did so in such a limited way that it actually may have weakened its position further, according to The Wall Street Journal:

"Exchange efforts to deal with [the threat of block trades that bypass the floor] have been ineffective. To win business back from the third market, the NYSE in the 1980's promoted give-ups, but just among members. Give-ups, it thought, would allow an institution to give a big order to a single 'lead broker,' rather than parcel it out among several brokerage houses that would have to compete against each other in the market, thus aggravating price trends.

"The idea boomeranged. The third market has continued strong; the give-up system itself now results in siphoning off some further business to regional exchanges" (Reference 3).

In fact, the limited nature of the NYSE response reportedly drove some of its own members to take advantage of the more liberal rules of the regional exchanges:

"Many stocks are 'dually listed' on the NYSE and one or more regional exchanges. NYSE members are permitted to trade them on a regional exchange, rather than on the Big Board, if that's what the customer wants. Though there are no figures on the number of trades being thus deflected to regional exchanges, it seems to be increasing.

"An NYSE member trading stock on the Big Board is forbidden by the exchange from giving up any of his commission to anyone except another member. But if a member fund executes an order on a regional exchange, the fund can order it to make a give-up to a brokerage house that is a member of the regional exchange but not of the NYSE. Many NYSE members go along to please important institutional clients" (Reference 3).

According to Barron's:

"The regionals' crucial contribution to these complex arrangements lies in providing avenues to a far wider group of potential recipients -- typically, any member of the National Association of Securities Dealers. On the Big Board, by contrast, emoluments to deserving nonmembers can be handed out only by fragmentation of the actual trading, or by clumsier non-cash rewards."

* * * *

Although the NYSE decision to go part-way on give-ups apparently worsened its competitive situation, it got "locked into" the new arrangement because of pressure from member firms. In fact, The Wall Street Journal claimed that:
"... The NYSE is so committed to give-ups that it is in trouble with the SEC, which wants give-ups abolished. The SEC fears, for one thing, that give-ups encourage brokers to push the public to buy the shares of whatever mutual fund offers the fattest give-up income -- not whatever fund seems best" (Reference 3).

At first glance, there would seem to be no reason for the NYSE to fight a ban on commission-splitting, especially considering that Barron's felt in 1967 that such a prohibition would signal the decline of regional exchanges:

"... The regionals now face a grave regulatory threat. Last December 2 [1966], the SEC recommended the revision of mutual fund sale and management rates, the reduction of stock brokerage commissions on volume transactions; and the prohibition of cash giveups. So far, the regionals' attention has been riveted on the proposed giveup ban. Such a prohibition -- and the SEC has the power to enforce it without further legislation -- could halve Boston's trading volume and reduce Detroit to a fraction of its current size."

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"... At the same time, the destruction of giveup conduits would be likely to induce some brokers to relinquish their regional seats; a goodly number first joined the regionals primarily for that reason. Finally, the snowballing effect of all these developments would shrink regional trade further still."

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"Other SEC proposals may prove equally harmful. Since the Midwest already forbids giveups, any SEC ban wouldn't hurt it. In common with other regionals, however, Midwest specializes in trading big blocks. Enforced discounts on big block trading, therefore, would do disproportionate injury" (Reference 2).

Initially, the NYSE supported the SEC enthusiastically. While this encouraged those who feel that security trading must be regulated to assure greater competition, the extent and nature of the NYSE endorsement prompted a caustic comment by Barron's:

"...last week's [January 1967] NYSE-SEC agreement to ban giveups, as publicized by President Punston February 1, lends additional weight to forecasts that the practice indeed will be outlawed. Some of the supporting reasons Mr. Punston cites for his views make curious reading -- among them is the clear implication that the regionals just compete too successfully, but the aid he has rendered to the SEC's giveup cause plainly is substantial" (Reference 2).
But the NYSE support for a ban on commission-splitting was short-lived. Although this was apparently due primarily to pressure by smaller member firms that faced financial disaster, the NYSE may have felt that concurrence with this type of regulation would hasten the day when volume discounts are also forced on the industry.

The respective positions of the Exchange and the SEC were outlined in detail by The Wall Street Journal:

"The exchange tried earlier this year (1967) to meet the SEC objections. It advanced a proposal to limit give-ups to brokerage houses that play some role in the processing of an order. But the proposal had to be withdrawn because of screams from NYSE member firms, mainly smaller ones located outside New York. For many of these brokerage houses, give-up income makes the difference between profit and loss.

"The SEC also is pressing the exchange to adopt volume discounts on commissions. It believes such discounts would discourage give-ups. Its reasoning: If a mutual fund could pay smaller commissions, it wouldn't feel compelled to make its commissions do double duty by compensating two brokers rather than one.

"NYSE officials would go along with a volume-discount plan if the SEC would permit a general boost in commission rates. Many member firms insist such an increase is necessary if they are to get the money to expand their network of offices and computer systems to keep up with the growth in stock trading; they say a commission rate increase is particularly essential if they are going to lose income from give-ups.

"But the SEC won't permit a general commission boost. Agency officials argue that present NYSE commissions can't be too low, since member firms give up as much as 70% of their commissions on some fund orders -- and yet find those orders worth competing furiously for. Some NYSE officials concede privately that this is a telling argument" (Reference 3).

The current status of the controversy has been clouded even more by the threatened intervention of the Anti-Trust Division of the Justice Department. According to The Wall Street Journal, the Justice Department's position, including a challenge to the Big Board's right to establish minimum fees unilaterally, are even less palatable than the SEC proposals.

Perhaps the only encouraging note in the article, a copy of which is attached, is the comment that:

"Initially, the exchange balked at almost all change. Now, it concedes there are problems, but has yet to propose specific solutions" (Reference 5).
References


Big Board, a Tax Compromise

In Hand, Stays Home Officially

By VARTAN G. VARTAN

The New York Stock Exchange will remain in New York. That was the official word yesterday from the Big Board, following the passage Saturday night of a transfer-tax compromise by the State Leg.

isature in Albany.

The new bill, backed by the exchange, has been sent to Governor Rockefeller for his approval. Its key elements provide for an eventual 50 per cent cut in the tax for non-residents of the state, as well as a maximum tax for large block transactions.

Enactment of this legislation promises to speed up construction of a new home for The Big Board, which moved into its present quarters at the corner of Broad and Wall Streets in 1968.

Robert W. Haack, president of the exchange, said in a letter to the membership that studies of possible locations for a new headquarters would now be "expedited in order to make a definite site selection at the earliest possible date."

The exchange would say only that it expected its new home, made necessary by predicted gains in trading volume, to be located "in downtown Manhattan."

Air of Satisfaction

But other Wall Street sources speculated yesterday that the timetable for a move is four to five years away, that the exchange has not decided whether to be an owner or a tenant and, finally, that the Big Board would probably occupy space in some building project yet to be finalized.

The present air of calm and satisfaction is in marked contrast to the fever that gripped the exchange community in the spring of 1968, when the transfer tax was raised 25 per cent.

The Big Board, countering that the tax discriminated against out-of-state investors, cancelled plans at that time for a new $80-million building complex at nearby Battery Park and began studying the possibility of moving all or part of its facilities out of New York state.

But last July city officials and the exchange agreed tentatively to a plan that would isolate the impact of the stock-transfer tax and thereby keep the Big Board in New York City. This compromise, in essence, was the bill passed Saturday by the Legislature.

In the section affecting non-residents of the state, the present tax will continue until July 1, 1969, when its rate will decline annually for five years and then level out at one-half of the present rates.

Meanwhile, the maximum tax on large sales, including both residents and nonresidents will be reduced ultimately to $350 for any transaction over the same period. It would make 7,000 shares of a stock priced at $20 a share or higher the maximum number of taxable shares.

The present transfer tax ranges from $5 cents a share on stocks priced at less than $5, to 5 cents a share on stocks of $20 or more. The tax applies only to sellers and New York State acts as a collection agency, turning over all proceeds to the city.

It is estimated that, reflecting the recent record volume at the Big Board, the tax will produce $242-million in revenues for the city in the fiscal year ending June 30, 1968. This would compare with revenues of $166-million from the tax in the previous year.

At present, the exchange is embarked upon a $4-million program to expand its trading floor next door into 20 Broad Street and thereby achieve a 20 per cent increase in space.
Public Hearings Loom as U.S. Agencies Fight Wall Street Over Brokerage Fees

By WAYNE E. GREEN
Staff Reporter of THE WALL STREET JOURNAL
WASHINGTON--Under pressure from the Senate, the Securities and Exchange Commission is likely to give the public a close look at the SEC's long-merging dispute with Wall Street over brokerage fees.

While a formal decision hasn't been made, the SEC is expected to order public hearings as a means to the department's surprising entry into the controversy—an entry that suddenly has reshaped the dispute and may hasten its resolution.

For more than five years, the SEC and the securities industry have been mired through closed-door talks on proposed changes, including the key issue of commissions. New York Stock Exchange members charge their customers benefits, and the SEC contends these fees—which are set by the Big Board—are too high in many cases. Not surprisingly, the brokerage industry disagrees.

The SEC finally issued a proposed rule last January, but both sides took it as simply something now to argue about, not as a proposal intended to solicit counterproposals.

The SEC's report includes one source who has been involved in the talks.

Then, suddenly this month the Justice Department's Antitrust Division intruded into these lengthy negotiations, filing with the SEC a 48-page brief that asks the question: Is it illegal? It boldly challenges the Big Board's right to set minimum fees unilaterally.

The Justice Department further suggests abandoning minimum fees in favor of some sort of competitive bargaining over commission levels. To appropriate the significance of this proposal, one must understand that the Big Board has been setting these rates on its own for 175 years. "I am sure that people at the exchange are going around with their mouths hanging open," observes an SEC official.

Next Steps Uncertain

While nobody at the SEC is ready to say what will happen next, it's safe to predict that the commission won't go along with the Justice Department's suggestion to sweep away the minimum-rate structure. Conversely, it appears apparent that the department's position statement, coupled with several other factors, will make it almost impossible to adopt the SEC's proposed rule if it is put into effect in January, which would restrict a department's freedom of action.

Beyond that, the department's brief will:

--Permit the SEC to hold its first public hearings ever on the issues involved in its talks with the Big Board. Earlier tests, those involving the matter of volume discounts for bids, led to some questions and rejoinders in the brokerage industry.

--Give the SEC a bigger bite at the exchange, in the form of a recently drawn argument for refining modifications of the rate structure.

At the heart of the controversy is the Big Board's system for calculating the minimum fees its members may charge customers. Rates have been computed based on the basis of the price of the stock in round-lot transactions (a 10-share multiple), and there isn't any discount for larger blocks of shares; a 1,000-share trade is 10 times the amount for one of 100 shares.

The SEC contends this produces fees for large trades that aren't related to cost. This has become a significant worry in recent years because of the growing influence of institutional investors who trade large blocks of shares. Because exchange members can't offer the same discounts to these big-block traders, many have resisted reciprocal services to keep from losing the business.

A give-up is one of the most frequently used reciprocal services. This is where a big customer, such as a mutual fund, directs brokerage firm executing a transaction to yield part of its commission to other brokers who have performed other transactions for the customer, such as selling fund shares.

Curb on Give-Ups Sought

The SEC doesn't oppose give-makes by the Big Board, but believes the current scale should be revised to eliminate the need for such reciprocal practices, which it believes are costly to the public. In January, the SEC moved to curb give-ups by proposing to bar investment company managers from ordering them unless the benefits are returned to the company and its shareholders.

The SEC asked "interested parties" to comment on its proposal, plus a number of modifications suggested by the Big Board. Among other things, the exchange had proposed retaining give-ups with an unspecified limit on the amount, and instituting volume discounts (again unspecified) for large transactions. The SEC's request brought 299 comments, many unfavorable from the securities industry, plus the Justice Department's bombshell.

While the SEC has the statutory authority to force rate-structure reforms, it has been reluctant to do so, believing that any sudden impact on Wall Street might produce severe economic repercussions. Moreover, the SEC is facing a showdown in New York Stock Exchange.

Initially, the exchange balked at almost all change. Now, it has conceded there are problems, but has yet to propose specific solutions: the Big Board is concerned that changes might undermine the minimum-fee structure and reduce the incentive for brokers-dealers to join or remain on the exchange. This, in turn, could damage the self-regulatory system, the exchange argues, and eliminate the central marketplace which it believes is essential to an effective auction market.

The Justice Department's brief forces both sides to concentrate on a new and fundamental issue: the justification for rate-making by the Big Board. The department says this is a clear conflict of competition by exempt from antitrust law only if it's necessary to protect investors, or to maintain an effective auction market. And the current rate structure does neither, the brief concludes.

The department contends that instead of maintaining an effective market, the current system drives institutional investors into other markets to escape high rates. The department advocates rate competition as a "feasible alternative," arguing that mutual funds have proved this by effectively bargaining for give-ups to produce a reasonable commission rate.

The Justice Department's dissatisfaction with the current system puts considerable pressure on both the SEC and the exchange. Unless they produce some tangible change, the Antitrust Division might decide to challenge the rate-setting process in court. The department understands that influence on this possibility, but an SEC official concedes the commission "has a lot of work to do." He notes that the Antitrust Division recently has shown little reluctance to challenge regulated industries—banking, railroads and utilities, for example—and that the Supreme Court has given a "generous interpretation" to antitrust laws.

"The important thing you need to understand is that the securities industry isn't that unique," says an SEC official.

Warning Sounded Earlier

Even before the department's comment was filed, the SEC had expressed concern about the antitrust issue. For example, SEC chairman Samuel F. Cohen warned an investment-banking group last fall that "it would be a mistake to think the exchanges are free to set prices without worrying about antitrust implications. Moreover, in proposing its give-up rule last January, the SEC emphasized that "antitrust considerations should receive the closest scrutiny."

Still, many SEC officials didn't expect the Justice Department's brief; and they certainly weren't anticipating such far-reaching proposals. One commission attorney, for example, said he had assumed, since the Kaplan case last July, that the department accepted the SEC's position that a rate structure is legally authorized, although it might be unfair at times. "But this brief seems a little inconsistent with that idea," he notes.

In the Kaplan case, the Supreme Court refused to review a lower court's decision holding the Big Board immune from antitrust challenge in setting uniform fees. The Justice Department didn't participate in that case, but saw the SEC's brief and didn't object to it, the SEC lawyer recalls.

The department had been mulling its strategy ever since the 1963 Silver case. That case arose after exchanges exercised the option of 16 of its members to end their exclusive ties with connections with a national stock exchange; those connections provided instant co
None of this means the SEC is likely to accept the department's suggestion to restrict rate-making. The commission supports the idea of a rate structure set by the Big Board and it believes Congress contemplated such a system when it passed the 1934 Securities Exchange Act.

Still, the SEC is expected to reevaluate its position. It probably won't adopt its proposed give-up rule, for example—at least not in its current form. Many observers believe that proposal was merely a trial balloon and the SEC, itself, said it could only be a limited solution.

Even before the Justice Department intervened, the SEC was concerned about comments from the regional exchanges, which argue that the rule would put them out of business because transactions generating give-ups often are executed on those exchanges. The department increased this concern by charging that the proposal fails to deal with "problems inherent in the system."

The commission probably will propose several additional rules to replace the current one, insiders say. At this stage of the commission isn't sure what the new proposals will contain, but they're expected to combine elements of the give-up rule, the Big Board's suggestions, and some other things.

Surely proposals are almost certain to be more far-reaching than the current one.

"Along Wall Street, industry leaders regard the Justice Department as being deadly serious in advancing its brief, although some brokers don't rule out the possibility that the brief eventually could prove to be a smokescreen behind which the SEC could press home any commission-rate changes of its own."

Meanwile, brokers can't help but speculate on the possible effects of the Justice Department proposal if it should be put into effect. What they see is a vastly changed industry where the large houses would get richer and where the small firms, by and large, either would be merged or driven out of existence by price competition.

The initial effects of the proposal, they say, would be a convulsive period of price warfare that would measurably thin the ranks of the 600-odd Big Board member firms. Ironically, small firms whose only hopes of survival would lie in offering extra services to customers, could find these bids too expensive to maintain during a period of intense price competition.

Eventually, brokers predict, the warfare would subside into a period of stabilization wherein industry giants would set general price levels. Meanwhile, it's expected that trading volume on the central auction market—the New York Stock Exchange—would dry up, with member firms dealing with customers almost exclusively from their own inventories, instead of acting as brokers.

Stock issues then could become the province of particular houses, so that there would be much less dilution of meaningful prices across the Big Board tape, the industry argument runs.
May 27, 1968

TO: Members and Allied Members

SUBJECT: Amendments to the New York Stock Transfer Tax Passed by the New York State Legislature

An Exchange-backed bill to amend the New York Stock Transfer Tax has been passed by the New York State Legislature and sent to the Governor for his approval.

The passage of this legislation marks the first time in the 63-year history of the New York Stock Transfer Tax that there has been an overall reduction in the tax rates.

The step-by-step reduction of the transfer tax over a five-year period that is provided in the new law recognizes the financial needs of New York City as well as the competitive problems of the New York securities markets.

The Board of Governors of the New York Stock Exchange has decided that the Exchange will remain in New York. Studies of possible sites for a new headquarters building in downtown Manhattan, being conducted for the past several months by the Exchange's staff and consultants, will now be expedited in order to make a definite site selection at the earliest possible date.

The present stock transfer tax rates will continue in effect until July 1, 1969 when the tax rate on sales by non-residents will decline annually for five years and then level out at 50% of the present rates.

Beginning on July 1, 1969, the maximum tax on all sales made on the same day in the same stock by the same customer will decline annually for five years when the maximum tax will level out at $350 for any transaction. The $350 tax maximum will apply to sales made by any person, including residents and non-residents, member firms, specialists, institutions, etc.
Since the effective date of the first of the five-step reductions does not take effect until July 1, 1969, member organizations will have ample time to effect the operational changes necessary to enable member firm customers to avail themselves of the lower tax rates. The bill confers broad authority on the State Tax Commission to adopt rules and regulations which may be needed to solve or at the least minimize operational problems which may arise.

The Exchange plans to suggest appropriate procedures to be followed by member organizations well in advance of the effective date of the tax reductions.

[Signature]

[Date]
Division of the Budget recommendation on the above bill:

Approved X  Vote:  No Objection:  No Recommendation:  
(but see recommendation)

1. Subject and Purpose: This bill would: (a) make permanent the 25 per cent stock transfer tax surcharge as it applies to New York State residents; (b) gradually reduce the stock transfer tax for nonresidents, in five stages beginning July 1, 1969, so that nonresidents would eventually pay only 50 per cent of the tax paid by residents; and (c) impose a dollar ceiling on the tax due from large "block" transactions usually made by institutional investors and wealthy individuals.

2. Summary of provisions of bill: The bill, which would take effect July 1, 1969, would:

(a) repeal subdivision 2 of section 270 of the Tax Law. This subdivision provided for a 25 per cent increase in the rates of tax prevailing before July 1, 1966. This across-the-board increase was to remain in effect until June 30, 1968. Section three of this bill (see (b) below) would make permanent this 25 per cent surcharge.

(b) Amend section 270 of the Tax Law to continue the present stock transfer tax, including the 25 per cent surcharge, for State residents according to the following schedule:

1. on certificates transferred -- 2 1/2 cents per share
2. on certificates sold

<table>
<thead>
<tr>
<th>Tax rate per share</th>
<th>Selling price per share</th>
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</thead>
<tbody>
<tr>
<td>1 1/4 cents</td>
<td>less than $5.00</td>
</tr>
<tr>
<td>2 1/2 cents</td>
<td>$5.00 to less than $10.00</td>
</tr>
<tr>
<td>3 3/4 cents</td>
<td>$10.00 to less than $20.00</td>
</tr>
<tr>
<td>5 cents</td>
<td>$20.00 or more</td>
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(c) add a new section 270-a to the Tax Law, to establish preferential stock transfer tax rates applicable to nonresidents of the State. It would reduce the stock transfer tax rates for nonresidents as follows:

<table>
<thead>
<tr>
<th>Per cent of rate in (b) above</th>
<th>Dates in effect</th>
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<tbody>
<tr>
<td>95%</td>
<td>7/1/69 - 6/30/70</td>
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<tr>
<td>90%</td>
<td>7/1/70 - 6/30/71</td>
</tr>
<tr>
<td>80%</td>
<td>7/1/71 - 6/30/72</td>
</tr>
<tr>
<td>65%</td>
<td>7/1/72 - 6/30/73</td>
</tr>
<tr>
<td>50%</td>
<td>7/1/73 and thereafter</td>
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</tbody>
</table>
This new section would also define:

(1) "nonresident" as "an individual or a group of individuals jointly owning securities (but including partnerships only if organized and operating solely for the purpose of investing in securities) selling or trading on his or their own account, who is not, or no one of whom is, a resident."

(2) "resident" as an individual who "on the day upon which the tax is imposed" meets one of the following conditions:

(1) Is domiciled in this State;
(2) Is not domiciled in the State, but maintained permanent residence in the State on the day the tax was imposed;
(3) Maintains a permanent place of business in the State; or
(4) Regardless of where he is domiciled;

a. is a member of a securities exchange in the State registered with the Securities Exchange Commission,
b. is a dealer in securities required to be registered with the New York State Attorney General,
c. acts as a dealer, or
d. is employed by a member organization of a securities exchange.

This new section also imposes a dollar ceiling on the amount of tax due on any single taxable transaction, so that the tax liability would in no event exceed the following dollar amounts:

<table>
<thead>
<tr>
<th>Maximum amount of tax due</th>
<th>Dates in effect</th>
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<tbody>
<tr>
<td>$2,500</td>
<td>7/1/69 - 6/30/70</td>
</tr>
<tr>
<td>$1,250</td>
<td>7/1/70 - 6/30/71</td>
</tr>
<tr>
<td>$750</td>
<td>7/1/71 - 6/30/72</td>
</tr>
<tr>
<td>$500</td>
<td>7/1/72 - 6/30/73</td>
</tr>
<tr>
<td>$350</td>
<td>7/1/73 and thereafter</td>
</tr>
</tbody>
</table>

(d) amend section 272 of the Tax Law by adding two new subdivision, 2 and 3. Subdivision 2 provides that an agent or a broker for a person liable to pay the tax imposed by this article shall be liable for the payment of the tax even if such broker is acquitted of any criminal liability. Subdivision 3 provides that an agent or broker cannot be penalized if he acts in good faith and relies on a declaration furnished by the principal party to the transaction.

(e) amend section 276 of the Tax Law to allow the Tax Commission to require that additional information be included in the recording of separate transactions by agents and brokers.
3. Prior legislative history: The 25 per cent stock transfer tax surcharge was enacted at New York City's request in 1966, and is due to expire on June 30, 1968. The provisions for reduction of the stock transfer tax for nonresidents and imposition of tax ceilings on large-block transactions resulted from proposals of the Mayor's Committee to Keep the New York Stock Exchange in New York City (also known as the Clay Committee).

4. Arguments in support of bill:

(a) It is argued that the New York stock transfer tax places the New York Stock Exchange at a competitive disadvantage with other exchanges throughout the country, while the results of this cannot be measured, it is undeniable that an increasing proportion of the stock transfer tax liability is borne by out-of-state residents and institutional purchasers. 2/ Both of these groups are able to utilize the regional stock exchanges and the "third market" (transactions consummated outside the regular market). Advertising by the Boston, Cincinnati, Pacific Coast and Midwest regional exchanges has increasingly stressed their tax advantages.

(b) The New York Stock Exchange has publicly announced that, if no tax relief were provided, the exchange would be forced to move outside New York State, thereby weakening New York's standing as the number one financial center of the United States.

(c) Some proponents of this bill argue that securities firms in New York City pay higher taxes than in any other jurisdiction, above and beyond the stock transfer tax.

(d) Out-of-State residents contend that they receive virtually no benefit from the services provided by New York State and New York City governments, and therefore should not have to pay as high a tax rate as residents.

2/ The percentage of shareowners residing outside of New York State reportedly increased from 80.3 per cent in 1956 to 88.0 per cent in 1965. The number of institutional investors, as evidenced by the percentage distribution of shares bought and sold by institutions and intermediaries on the Exchange, increased from 20.1 per cent in 1956 to 31.4 per cent in 1965.
Possible objections to bill:

(a) A lower stock transfer tax rate for nonresidents threatens the long-accepted principle that income should be taxed where it is earned regardless of the taxpayer's residence. This preferential tax treatment of nonresidents could serve as a landmark precedent for granting tax relief to nonresidents under other State and City taxes, such as personal income, unincorporated business, and sales taxes.

(b) Moreover, since 100 per cent of the proceeds of the stock transfer tax go to New York City, preferential treatment for out-of-state residents would create an inequity for State residents who live outside of New York City. If the preferential tax treatment for nonresidents provided under this bill is permitted to take effect, residents of suburban New York and upstate New York would undoubtedly demand tax relief as well. For example, a resident of Westchester County could claim that he deserves the same tax treatment under a tax that solely benefits New York City as a resident of Fairfield County, Connecticut.

(c) There would eventually be a $350 tax ceiling on large-block transactions. Thus, at the maximum tax rate of 5 cents per share, tax relief would result for any single transaction exceeding 7,000 shares. The potential revenue loss from this feature is substantial considering that institutional holdings accounted for an estimated 21 per cent of total NYSE-listed stocks in 1966, and this percentage is growing.

Large-block transactions are growing not only in volume but in size of individual transactions. For example, on June 13, 1968, a block of 730,3/2 shares of American Standard Preferred was traded on the NYSE at a price of 104 1/4. Under present law, that transaction would incur a tax of $36,515 (number of shares x $.05 per share).

If a transaction of this size were to take place when the large-block tax relief is fully taxable, the transaction would incur a tax of only $350, a tax savings of more than 99 per cent. Tax relief on this scale is surely inequitable and cannot be justified on any grounds.

(d) This bill will result in a sizeable loss of potential revenue at a time when the City is in desperate need of additional revenues to support vital programs. In an April 5, 1968 editorial entitled "Transfer Tax Compromise", the New York Times asserted that:

"The City needs all the revenue it can get - and needs it desperately. And the Exchange cannot really be hurt by the transfer tax when it is obviously unable to deal with all the trading that is now taking place."

(e) The two rate schedules for residents and nonresidents would be administratively unsound and costly, both for brokers and for the State. Although the terms "resident" and "nonresident" are defined in the bill, there will inevitably be a "grey area" in between that will have to be reconciled by administrative adjudication and court cases. Furthermore, the cost of enforcement will increase, as time-consuming special audits will be necessary to examine pertinent records of stock exchange member firms to assure compliance.

(f) We believe that the New York Stock Exchange has not really proven its case that tax relief is necessary. The following evidence tends to support this conclusion:
(1) While the New York Stock Exchange has contended that the stock transfer tax has hurt its business, their own statistics (from the 1967 Annual Report of the New York Stock Exchange) tend to contradict this assertion.

In fact, during 1967, the New York exchanges experienced their greatest year of business; volume on the New York Stock Exchange soared to 2.89 billion shares, an increase of 31.4% over 1966. "Block" transactions doubled in number, accounting for 6.7% of total volume on the New York Stock Exchange, and average daily trading exceeded 10 million shares, a level that the exchanges had estimated would not be reached until the mid-1970's.

Experience thus far during 1968 has confirmed this trend. Volume records, both on a daily and weekly basis, have been broken repeatedly. On June 13, 1968, the volume of trading reached a new pinnacle of 21.35 million shares on the New York Stock Exchange and 10.81 million shares on the American Stock Exchange.

Moreover, institutions, such as mutual funds, which account for a majority of large-block transactions, represent an increasing proportion of total trading activity. There is no evidence that these organizations are deterred by the stock transfer tax from making their trades on the New York exchanges, and it is extremely unlikely that the tax is a significant factor particularly when it is realized that the New York Stock Exchange offers no discount on commission rates for large-block transactions. In fact, what little evidence is available attests to the fact that the tax is not a significant deterrent, despite the advertising pitch of the regional exchanges.

For example, John R. Haire, chairman of Anchor Corp., sponsors of a group of mutual funds with assets of $1.5 billion, says:

"The transfer tax is not a conscious factor in our decision on where to trade. Our basic decision is determined by where we can get the best execution in terms of promptness and a good price. Nine times out of ten, the best execution can be gotten in New York." b/

The effect of the tax was also discounted by the New York Herald Tribune, which observed that

"... since the Big Board is able to make closer markets in terms of bid and offer, than other exchanges, it is often worthwhile to transact business there even though the tax must be paid. Selling a stock for 1/8 of a point less on a regional exchange costs more than three times as much as the present New York tax [i.e., prior to the 25 per cent surtax] and more than double the proposed higher tax [i.e., including the 25 per cent surtax]..." c/

b/ "Wall Street: Behind the Transfer-Tax Spat", Newsweek, April 11, 1966, p. 84.
[NOTE: The import of the above comments merely indicates that traders can usually obtain better prices by trading in New York City than by trading on regional exchanges. This does not mean that the trader will necessarily get the best price by dealing through an organized exchange; he may actually do better by avoiding all exchanges and arranging a "third-market" trade, which is explained in the appendix to this bill memorandum.]

Similarly, The New York Herald Tribune, while not completely discounting the effects of the tax, has helped to put this matter in better perspective:

"Institutional block trading on regional exchanges, none of which has a tax, has also been increasing. But this has been at least as much due to fee-splitting arrangements as to the transfer tax..." d/

The origin and significance of fee-splitting is explained in detail in the appendix to this bill memorandum.

(2) The New York Stock Exchange has repeatedly contended that the primary, if not the sole, cause of the more rapid growth of regional exchanges is the New York Stock Transfer Tax. This contention ignores the operation of several other causal factors which we believe are more significant determinants of the more rapid growth of the regional stock exchanges relative to the New York exchanges. All of these factors have received more prominent coverage than the effects of the tax, both in general news media and in investment publications such as Barron's and The Wall Street Journal. Thus, the thrust of the NYSE argument unfairly makes the stock transfer tax the "scapegoat" for the more serious competitive disadvantages of the New York Stock Exchange, most of which could be remedied by the exchange itself and some of which cannot be remedied in any case.

In the first place, the regional exchanges were founded quite recently, considering that the New York Stock Exchange has been in operation for 176 years, and their volume is building up from a very significant base. There is no question but that the activity on the regional exchanges has grown faster than on the NYSE in recent years. Starting from a very small base, it was to be expected that the regional exchanges would undergo a rate of growth at least comparable to that of the NYSE, especially with the shift westward of both population and wealth.

Actually, trading within New York has held up remarkably well. When the activity on the American Stock Exchange and over-the-counter trading in New York City are coupled with that on the NYSE, it is apparent that the New York exchanges have held their own, accounting for about 92% of total share volume. The stock transfer tax has obviously had little effect on the growth of the AMEX, and it would appear that it has not had a major impact on the NYSE trading. Another special factor, that cannot be offset, is the fact that the Pacific Exchange closes three hours later than the New York exchanges, which permits trading late in the day on the basis of information that has become available after the eastern exchanges have closed.

In addition to these causal factors, which the New York exchanges are powerless to combat, there are several others which are vastly more significant in the long-run. Some of these, too, may be beyond the power of the exchanges because of the nature of the auction-market function that they perform. In some cases, a trader can do better by avoiding the auction-market, much as a bond issuer can sometimes obtain a more favorable price by seeking a negotiated bid rather than competitive bids.

Nevertheless, these "institutional" weaknesses are exacerbated by the New York Stock Exchange's sins of omission -- its inability or unwillingness to modify traditional practices that have become venerated "sacred cows". Most of the exchange's increasing difficulty can be attributed to this posture of inflexibility, which has seriously impaired the exchange's capacity to adequately service new and emerging needs of securities traders, particularly institutional investors, and to meet unacustomed, sharp competition. Furthermore, the New York Stock Exchange has unrealistically resisted efforts by the SEC to tighten regulation of security transactions, and is thereby losing its opportunity to help shape workable standards that it can live with.

In a nutshell, the New York Stock Exchange often suffers a competitive disadvantage because of its refusal to allow members to share commissions with nonmembers and because of its reluctance to allow discounts from the established commission structure for large-block transactions. It may also be losing some business due to its refusal to sell seats to institutional investors, a practice that is increasingly commonplace on regional exchanges.

The SEC, for reasons explained in the appendix to this bill memorandum favors (1) volume discounts on commissions; and (2) a general prohibition on commission-splitting (a practice which now tends to favor regional exchanges because of the NYSE restrictions on its members). While it appears that the NYSE would go along with a volume-discount plan if the SEC would permit a general boost in commission rates, the SEC has indicated its opposition to a general commission boost. Last year, the NYSE was reportedly so committed to fee-splitting among members that it was "in trouble with the SEC." It is reprehensible that the New York Stock Exchange has not candidly admitted the significance of these causal factors, any one of which is more important than the impact of the stock transfer tax, at least in the case of large-block transactions. Moreover, in the unlikely event that NYSE leadership did not comprehend the true nature of their competitive problems, they only had to look to the opinions expressed by informed financial commentators throughout the nation, as is amply documented in the appendix that is appended to this bill memorandum.
6. Other State agencies interested and position if known: The Department of Taxation and Finance, the Department of Commerce and, possibly, the Office for Local Government would be interested in this bill.

7. Position of other organizations: The New York State Exchange strongly favors this bill. The Mayor of the City of New York favors the bill, but the City Comptroller opposes it.

8. Budget implications: Published comments by the New York Stock Exchange and by New York City officials have implied that this bill would have a minimal effect on City revenues. The 1967 Annual Report of the New York Stock Exchange disarmingly referred to the Exchange's proposal as a "... program of tax reform which would preserve the tax revenues for the city ...", an assertion which is presumably based on the assumption that growth in volume over the five-year period of tapered tax reduction would offset the effect of the rate changes.

Nevertheless, the fact remains that the bill would result in a sizeable revenue "loss" in the sense that the City would forego much of the increased tax yield that could otherwise be expected from normal growth in the volume of transactions. In our judgment, the potential loss over the long term is extremely significant, since the bulk of the tax is collected on transactions by nonresidents, and because large-block transactions will increase in importance as insurance companies and banks establish their own mutual funds, as appears to be the trend of the future.

In fact, the tax relief provided under this bill could be more costly in the long term than would expiration of the surtax. In other words, a veto of this bill might actually save more money than would be lost by loss of the 25 per cent surtax. For example, nonresidents -- who reportedly account for substantially more than one-half of the volume of transactions -- would eventually qualify for 50 per cent tax relief. Obviously, a tax collected at the rate of 100 per cent (old "normal" rates) is more lucrative than a tax collected at one-half of 125 per cent (new rate, including surtax, offset by 50 per cent tax relief).

If the tax relief for nonresidents and large-block transactions provided in this bill is allowed to take effect as scheduled (beginning July 1, 1969), it will "cost" (in revenue growth foregone or offset) the City of New York about $12 million in its fiscal year 1969-70, and increasing amounts in each successive fiscal year until the "loss" amounts to about $120 million annually, beginning in 1973-74. While the tax relief will then be fully in effect, the tax relief will continue to inhibit the growth that would otherwise occur in this revenue source, thereby impairing the City's ability to carry out vital public services in the years ahead. This will undoubtedly heighten existing pressure for expanded State financial assistance in the years to come.
9. Budget recommendation: The Division of the Budget reluctantly recommends approval of this bill, solely because it assures confirmation of needed revenues for New York City from the surtax on the stock transfer tax which would otherwise automatically expire on June 30, 1968. The Budget Division firmly recommends that corrective action be taken during the next session of the Legislature to eliminate the provisions of this bill providing tax relief, which we feel is unwarranted and unwise, for nonresidents and large-block transactions, for the following reasons:

(1) The New York Stock Exchange has never been able to document its assertion that it is at a competitive disadvantage or, if this is the case, that this disadvantage could be significantly reduced by stock transfer tax relief;

(2) It is obvious that there are several causal factors, many of which could be ameliorated by the voluntary action of the stock exchanges, which have a more significant impact on the competitive position of the New York exchanges than does the stock transfer tax. Although the New York Stock Exchange has appeared reluctant to initiate reforms, it now appears that the SEC and the Anti-trust Division of the United States Treasury Department will insist that changes be made, and it is anticipated that these reforms would significantly reduce the alleged competitive disadvantage of the NYSE;

(3) Preferential tax treatment for nonresidents could jeopardize the State's taxing jurisdiction over nonresidents who earn income in the State, would lead to claims of discriminatory treatment by State residents who live outside of New York City, and would be a costly administrative nightmare, which brokers can ill-afford at a time when they are already unable to cope with the increasing volume of paperwork;

(4) Preferential tax treatment for large-block transactions would be a travesty at a time when the New York Stock Exchange stoutly refuses to adopt the same principle of commission discounts on large-block transactions, and when it is commonly known that the tax accounts for a miniscule proportion of the entire cost of a stock transaction;

(5) The City of New York cannot afford the erosion of its tax base that would result from this tax relief, nor can the State of New York afford to make commensurate tax resources or State aid available to help the City meet its urgent and pressing needs.
TRANSFER Tax CUT
Called 'ouTRAGE'

Procaccino Fights Measure
Now Before State Senate

By MAURICE CARROLL
Controller Mario A. Procaccino charged yesterday that reducing the stock transfer tax while the state and the city are raising taxes paid by "the poor guy on the street" is an "outrage" and a "sellout."

The reduction, approved last week by the Assembly at the request of the Lindsay administration, is now before the State Senate. Mr. Procaccino said that his law secretary, Robert J. Malang, would go to Albany today to distribute statements to each Senator urging rejection of the reduction.

"The state is balancing its budget by increasing taxes on income, cigarettes and gasoline," Mr.Procaccino said. "Mayor Lindsay, on top of these, is seeking to increase the real estate tax, to extend the general sales tax and to restore the auto use tax."

"It is thus clear that while there is little or no concern shown for the plain people of our city whose tax burdens are reaching the breaking point, great care is being exercised so that both the sensibilities and the pocketbooks of Wall Street remain protected."

Passed Along to City

The stock transfer tax—collected by the state but passed along to the city—was increased 25 percent in 1966. The reduction plan cuts by about 50 percent the amount paid by nonresidents of New York State and sets a $350 tax maximum on any single trade. The tax for residents would remain the same.

Mr. Procaccino said the annual income to the city at the current rate would be about $240 million. The reduction would cost the city $10 million to $15 million in the first year, he said.

A press spokesman for Mayor Lindsay said that Mr. Procaccino was "playing politics." He noted that the Controller had suggested, early in the Lindsay administration, that the entire $500 million "budget gap" then thought to prevail he made up by an increase in the tax. Tapping the one source for that much money would have been impossible, the spokesman suggested.

Cites Soaring Sales

"Hogwash," said Mr. Procaccino. "All of us know that the daily average of sales has been skyrocketing to the point where the exchange has more than it can do to handle, the volume while the present stock transfer tax has been in effect."

The current "budget gap" is the difference between what the Lindsay administration is expected to propose to spend in the fiscal year starting July 1 and the revenues projected based upon current taxes, Federal aid and the aid level in the state budget—thought to be about $260 million.

Mayor Lindsay's plans to fill part of that through three tax changes drew a series of attacks.

City Councilman Theodore Weiss said that, rather than the auto use tax, "I will gladly support an increase in the city income tax or in the commuter tax, which is now unconscionably low."

Edmund J. McRill, president of the Real Estate Board of New York, called the proposed real estate tax change "outrageous."

The Citizens Budget Commission urged Mayor Lindsay yesterday to oppose bills before the Legislature that would let the city borrow money in the next fiscal year to pay some current operating expenses.

budget Director Frederick O'R. Hayes said that the Mayor would not use the power even if the Legislature granted it. But the commission said that the city's credit rating would be endangered simply by having the law on the books, even if the Mayor did not use it.

State Senate Minority Leader Joseph Zaretzki said that there would be no need for Mayor Lindsay to ask for higher sales or income taxes—requests that the Mayor had expressed no intention of making.

"We won't give him any increase in a personal income tax," Mr. Zaretzki said on the WCBN "Let's Find Out" radio show. As in a sales tax, he said: "I am dead set against an increase."

"The last thing we need is a tax hike," Mr. Zaretzki said, pointing out that the City Council had already voted against raising the personal income tax. The Mayor, however, was expected to ask for a $2 a-cubic foot increase in the gas tax.
Transfer Tax Compromise

Both the Lindsay Administration and the New York Stock Exchange appear satisfied with the deal they have worked out to reduce the transfer tax on purchases and sales of stock. The 25 per cent increase in the tax, passed in 1966, expires on June 30. Rather than see it ended altogether or extended as is, the city and the Exchange are hoping that the Legislature will approve their compromise proposal under which the tax will be reduced without significant loss in revenue to the city.

The compromise calls for a decrease of about 50 per cent in the amount of tax paid by nonresidents of New York State, who are estimated to account for 80 per cent of total Stock Exchange transactions. At the same time, a maximum tax of $350 would be imposed on any single trade, so that large transactions by institutional investors would not be diverted to regional exchanges or to the "third market"—over-the-counter houses dealing in Exchange-listed securities.

If these proposals are approved, the Exchange maintains that the city will continue to get as much revenue as it has been getting, or even more, as trading volume increases. The Exchange has dropped its threat to abandon the city; indeed, it has given hints of erecting an expensive new headquarters in the heart of Wall Street once the tax compromise is approved.

On the surface, the compromise seems an acceptable way to reduce the impact of the transfer tax without creating greater financial hardship for the city. However, the tax has not been the onerous burden that the Exchange had predicted. Since its enactment member firms have enjoyed the greatest boom in trading volume in their history, and has hit new records this very week.

With the Exchange's membership unable to handle the existing volume of business, and with the city continuing to suffer financial distress, there is no reason for haste in approving the proposed reduction for nonresident investors. There is more justification for placing a ceiling on the amount of tax collected on block transactions. In our view, the tax could be extended for another year without harm, while the Exchange's complaints about the effects of the tax were being further evaluated.

The city needs all the revenue it can get—and needs it desperately. And the Exchange cannot really be hurt by the transfer tax when it is obviously unable to deal with all the trading that is now taking place.
Legislature Soon to Get a Plan To Modify Stock Transfer Tax

2/22/57

By CHARLES G. BENNET

A plan for modifying the stock transfer tax is soon to be introduced in the Legislature with the support of the Lindsay administration and the governors of the New York Stock Exchange.

The change calls broadly for cutting in half, over a five-year period, the taxes paid by individuals trading on the New York Stock Exchange who are not residents of New York. It also puts a limit of $150 on the tax paid on any sale of a block of stock.

The arrangement would lead to an overall reduction of about 20 per cent in the transfer tax. A 25 per cent increase in the tax in 1956 led the Big Board to cancel plans for a new home at Broad and Water Streets and to threaten to move to New Jersey.

The tax is a state tax, but it revenues—$400-million in the fiscal year ended last June 30—go to the city. The levy ranges from 1½ cents a share on stocks priced at less than $5 to 6 cents a share on stocks of $20 or more.

Home Rule Issue

Because it is a state tax, top Lindsay administration officials hope the Legislature will deal with the proposed legislation without requiring a City Council home rule message. But these officials privately concede that the Legislature may well call for such a message.

In the case of state legislation applying to a particular city, the Legislature does not approve it until the city’s legislative body—the City Council in this case—adopts a home rule request for approval.

A home rule request is requested by the Legislature in this case, the tax-modification plan faces an uncertain future, in the City Council.

The broad outlines of the stock transfer tax change were negotiated last summer by city and Stock Exchange representatives. The details have been worked out and the legislation prepared over the months since then.
June 4, 1968

Honorable Nelson A. Rockefeller
Governor of New York State
Executive Chamber
Albany, New York 12224

Re: A. 6394-A

Dear Governor Rockefeller:

The American Stock Exchange strongly urges your support of A. 6394-A to amend Article 12 of the Tax Law.

We recognize the difficulty and the importance of developing a properly balanced revenue-producing program for New York City and the problems faced by those responsible.

As in the past, our attention is focused on the inequity of having investors located throughout the nation contribute to the support of New York City. As a national stock exchange, we represent the interest of member firms and investors located in all the states and we have consistently taken the position that these individuals should not be required to subsidize New York City.

A. 6394-A represents a major forward step in this area by substantially reducing the burden on out-of-town investors who choose to trade on New York's national markets.

We also support the fixing of maximum taxes on block transactions as a salutary move designed to maintain New York City's preeminence in the financial life of the nation.
For these reasons we urge you to take favorable action on A. 6394-A. We know you will weigh the points touched upon in this letter and we appreciate your willingness to do so.

Respectfully submitted,

James W. Walker Jr.
May 28, 1968

Mr. Lewis B. Stone  
Assistant Counsel to the Governor  
Capitol Building  
Albany, New York

Dear Lew:

I appreciated having an opportunity to talk with you last Saturday evening as you must have had a terribly busy and hectic day.

As per our telephone conversation, a draft of a statement the Governor might issue on approval of Assembly Intro. 6394-A is enclosed.

Thanks again for all your help and please call if you have any suggestions, questions or comments for us.

Very truly yours,

[Signature]

Attachment

OWN YOUR SHARE OF AMERICAN BUSINESS
This bill amends the tax law to provide for a reduction in the rates of stock transfer tax imposed on non-resident individuals and to establish a maximum tax to be imposed on large block transactions. These reductions are implemented on a step-by-step basis over a five-year period, beginning on July 1, 1969.

This bill is the product of more than two years' study and discussion between government officials and representatives of the New York Stock Exchange and is intended to provide a needed reform of stock transfer tax law without lessening the revenues from the tax.

Since the stock transfer tax was enacted in 1905, there have been far-reaching changes in the securities industry but the stock transfer tax has not been revised to recognize these changes. The securities industry has grown from essentially a New York industry to national and international scope both in terms of location of firms' branch offices, and investors. While the bulk of the business still funnels through New York, only 12% of the Nation's investors are located in the State. At the same time, competition for the New York markets has been heightened by the stock exchanges located in other parts of the Nation where more than 90% of the trading on these exchanges is in securities listed on the New York Stock Exchange.

It is time that the changing character of the securities industry be recognized. Failure to do so may mean a decline of this important industry in the State and the concomitant loss of jobs and revenues.

This bill provides a long-term solution to the problem. Future administrations and future legislatures should respect the study that has produced this legislation.

As a result of the legislature's passage of this bill, the New York Stock Exchange has announced that it intends to stay in New York and is studying possible sites for a new Exchange building in downtown Manhattan. This action not only augurs well for the future growth of New York as the Nation's financial center, but it also acknowledges that this important industry has confidence in its State government. Accordingly, we may expect that New York will continue as the Nation's financial center.
June 4, 1968

Hon. Michael Whiteman
First Assistant and Acting
Counsel to the Governor
The Executive Chamber
Capitol
Albany, New York 12224

Re: Assembly Intro. No. 6394-A

Dear Mr. Whiteman:

Thank you very much for requesting our comments and recommendations concerning Assembly Intro. 6394-A providing for a reduction in the rate of the Stock Transfer Tax.

The New York Stock Exchange supports this legislation and recommends that the Governor approve the bill.

Sincerely,

Robert W. Haack

OWN YOUR SHARE OF AMERICAN BUSINESS
MEMORANDUM

TO: HONORABLE MICHAEL WHITEMAN, Acting Counsel to the Governor
FROM: ANTHONY P. SAVARESE, Legislative Representative to the Mayor
DATE: June 1, 1968
RE: Assembly No. 6394-A, Senate No. 7061 - by Committee on Rules

AN ACT To amend article twelve of the tax law, in relation to rates of the stock transfer tax imposed thereby, their reduction for certain nonresidents, the fixing of maximum taxes on certain transactions subject to tax thereunder, the providing of penalties for violation of certain provisions thereof, and the repeal of subdivision two of section two hundred seventy of such law, as amended by etc.

Your office has asked for the Mayor's recommendations with respect to the above bill, which is before the Governor for executive action. Please be advised that the Mayor has no recommendation.
June 7, 1968

Re: A.6394, S.Pr.7061 - No Report

Dear Mr. Douglass:

We have received your request for our views on the above bill, which would amend Article 12 of the Tax Law.

Please be advised that we have decided not to submit any report on the bill. The Association's Committee on Taxation joins in this decision.

Sincerely,

Charles R. Bergoffen
Chairman

Hon. Robert R. Douglass
Executive Chamber
State Capitol
Albany, New York 12224