

1495

2009-2010 Regular Sessions

I N S E N A T E

February 2, 2009

Introduced by Sens. DeFRANCISCO, ALESI, GRIFFO, MORAHAN, SAMPSON, SKELOS, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to providing for business tax credits for a portion of the cost of employer sponsored tissue typing programs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The tax law is amended by adding a new section 187-o to
2 read as follows:
3 S 187-O. CREDIT FOR TISSUE TYPING DONOR PROGRAM. 1. FOR PURPOSES OF
4 THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
5 (A) "EMPLOYEE" MEANS A PERSON WHO PERFORMS SERVICES FOR HIRE FOR AN
6 EMPLOYER, FOR AN AVERAGE OF TWENTY OR MORE HOURS PER WEEK, AND INCLUDES
7 ALL INDIVIDUALS EMPLOYED AT ANY SITE OWNED OR OPERATED BY AN EMPLOYER
8 BUT SHALL NOT INCLUDE AN INDEPENDENT CONTRACTOR.
9 (B) "EMPLOYER" MEANS A TAXPAYER THAT EMPLOYS TWENTY OR MORE EMPLOYEES
10 AT AT LEAST ONE SITE AND INCLUDES AN INDIVIDUAL, CORPORATION, PARTNER-
11 SHIP, ASSOCIATION, NONPROFIT ORGANIZATION, GROUP OF PERSONS, STATE,
12 COUNTY, TOWN, CITY, SCHOOL DISTRICT, PUBLIC AUTHORITY OR OTHER GOVERN-
13 MENTAL SUBDIVISION OF ANY KIND.
14 2. A TAXPAYER WHO IS AN EMPLOYER, SHALL BE ALLOWED A CREDIT TO BE
15 CREDITED AGAINST THE TAX IMPOSED BY THIS ARTICLE, AFTER ALLOWANCE OF ANY
16 OTHER THAN THE TAXES AND FEES IMPOSED BY SECTIONS ONE HUNDRED EIGHTY,
17 ONE HUNDRED EIGHTY-ONE AND ONE HUNDRED EIGHTY-SIX-A OF THIS ARTICLE, FOR
18 ANY TAXABLE YEAR IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF EXPENSES
19 PAID OR INCURRED IN PROVIDING A PROGRAM FOR THE TISSUE TYPING OF EMPLOY-
20 EES EMPLOYED IN THIS STATE WHO AGREE TO SERVE AS POTENTIAL BONE MARROW
21 DONORS. PROGRAM EXPENSES ELIGIBLE FOR THE CREDIT INCLUDE PAYMENTS TO

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 HEALTH CARE PROVIDERS AND WAGES PAID TO EMPLOYEES FOR TIME REASONABLY
2 RELATED TO BONE MARROW DONATION.

3 3. IN NO EVENT SHALL THE CREDIT PROVIDED FOR IN THIS SECTION BE
4 ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE
5 MINIMUM FIXED BY SECTION ONE HUNDRED EIGHTY-THREE OR ONE HUNDRED EIGHT-
6 Y-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE
7 UNDER THIS SECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT,
8 ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED
9 OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAY-
10 ER'S TAX FOR SUCH YEAR OR YEARS.

11 S 2. Section 210 of the tax law is amended by adding a new subdivision
12 20-a to read as follows:

13 20-A. CREDIT FOR TISSUE TYPING DONOR PROGRAM. (A) FOR PURPOSES OF
14 THIS SUBDIVISION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

15 (I) "EMPLOYEE" MEANS A PERSON WHO PERFORMS SERVICES FOR HIRE FOR AN
16 EMPLOYER, FOR AN AVERAGE OF TWENTY OR MORE HOURS PER WEEK, AND INCLUDES
17 ALL INDIVIDUALS EMPLOYED AT ANY SITE OWNED OR OPERATED BY AN EMPLOYER
18 BUT SHALL NOT INCLUDE AN INDEPENDENT CONTRACTOR.

19 (II) "EMPLOYER" MEANS A PERSON OR ENTITY THAT EMPLOYS TWENTY OR MORE
20 EMPLOYEES AT AT LEAST ONE SITE AND INCLUDES AN INDIVIDUAL, CORPORATION,
21 PARTNERSHIP, ASSOCIATION, NONPROFIT ORGANIZATION, GROUP OF PERSONS,
22 STATE, COUNTY, TOWN, CITY, SCHOOL DISTRICT, PUBLIC AUTHORITY OR OTHER
23 GOVERNMENTAL SUBDIVISION OF ANY KIND.

24 (B) A TAXPAYER WHO IS AN EMPLOYER, SHALL BE ALLOWED A CREDIT TO BE
25 CREDITED AGAINST THE TAX IMPOSED BY THIS ARTICLE, AFTER ALLOWANCE OF ANY
26 OTHER CREDIT PROVIDED UNDER THIS SECTION, FOR ANY TAXABLE YEAR IN AN
27 AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF EXPENSES PAID OR INCURRED IN
28 PROVIDING A PROGRAM FOR THE TISSUE TYPING OF EMPLOYEES EMPLOYED IN THIS
29 STATE WHO AGREE TO SERVE AS POTENTIAL BONE MARROW DONORS. PROGRAM
30 EXPENSES ELIGIBLE FOR THE CREDIT INCLUDE PAYMENTS TO HEALTH CARE PROVID-
31 ERS AND WAGES PAID TO EMPLOYEES FOR TIME REASONABLY RELATED TO BONE
32 MARROW DONATION.

33 (C) IN NO EVENT SHALL THE CREDIT PROVIDED FOR IN THIS SUBDIVISION BE
34 ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE
35 MINIMUM FIXED BY PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS
36 SECTION. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS PARA-
37 GRAPH FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF
38 CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE
39 FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR
40 SUCH YEAR OR YEARS.

41 S 3. Section 606 of the tax law is amended by adding a new subsection
42 (i-1) to read as follows:

43 (I-1) (1) IN THE CASE OF A SHAREHOLDER OF AN S CORPORATION WHERE THE
44 ELECTION PROVIDED FOR IN SUBSECTION (A) OF SECTION SIX HUNDRED SIXTY OF
45 THIS ARTICLE IS IN EFFECT, THERE SHALL BE ALLOWED A CREDIT AGAINST THE
46 TAX IMPOSED BY THIS ARTICLE AFTER ALLOWANCE OF ANY OTHER CREDIT PROVIDED
47 UNDER THIS SECTION AND ANY CREDITS PERMITTED UNDER SECTIONS SIX HUNDRED
48 TWENTY, SIX HUNDRED TWENTY-ONE AND SIX HUNDRED THIRTY-FIVE OF THIS ARTI-
49 CLE. THE AMOUNT OF THE CREDIT SHALL BE HIS PRO RATA SHARE OF THE CRED-
50 ITS UNDER SUBDIVISION TWENTY-A OF SECTION TWO HUNDRED TEN OF THIS CHAP-
51 TER DETERMINED FOR THE CORPORATION FOR WHICH SUCH ELECTION IS IN EFFECT,
52 FOR THE CORPORATION'S TAXABLE YEAR ENDING WITH OR WITHIN THE SHAREHOLD-
53 ER'S TAXABLE YEAR. SUCH CREDIT SHALL NOT, HOWEVER, INCLUDE ANY CREDIT
54 ARISING FOR A TAXABLE YEAR WHEN SUCH ELECTION WAS NOT IN EFFECT.

55 (2) ANY REDETERMINATION OF CREDIT UPON DISPOSITION OR CESSATION OF
56 QUALIFIED USE OF PROPERTY PURSUANT TO SUBDIVISION TWENTY-A OF SECTION

TWO HUNDRED TEN OF THIS CHAPTER SHALL BE ATTRIBUTED IN PRO RATA SHARES TO THE SHAREHOLDERS WHO WERE ALLOWED CREDIT UNDER THIS SUBSECTION WITH RESPECT TO SUCH PROPERTY, AND THE REDUCTION OF A SHAREHOLDER'S PROPORTIONATE STOCK INTEREST SHALL BE TREATED AS A DISPOSITION OF PROPERTY FOR WHICH A REDETERMINATION OF CREDIT UNDER SUCH SUBDIVISION IS REQUIRED WITH RESPECT TO SUCH SHAREHOLDER.

S 4. Section 606 of the tax law is amended by adding a new subsection (r-1) to read as follows:

(R-1) CREDIT FOR TISSUE TYPING PROGRAM. (1) FOR PURPOSES OF THIS SUBSECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "EMPLOYEE" MEANS A PERSON WHO PERFORMS SERVICES FOR HIRE FOR AN EMPLOYER, FOR AN AVERAGE OF TWENTY OR MORE HOURS PER WEEK, AND INCLUDES ALL INDIVIDUALS EMPLOYED AT ANY SITE OWNED OR OPERATED BY AN EMPLOYER BUT SHALL NOT INCLUDE AN INDEPENDENT CONTRACTOR.

(B) "EMPLOYER" MEANS A PERSON OR ENTITY THAT EMPLOYS TWENTY OR MORE EMPLOYEES AT AT LEAST ONE SITE AND INCLUDES AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, NONPROFIT ORGANIZATION, GROUP OF PERSONS, STATE, COUNTY, TOWN, CITY, SCHOOL DISTRICT, PUBLIC AUTHORITY OR OTHER GOVERNMENTAL SUBDIVISION OF ANY KIND.

(2) A TAXPAYER WHO IS AN EMPLOYER SHALL BE ALLOWED A CREDIT TO BE CREDITED AGAINST THE TAX IMPOSED BY THIS ARTICLE, AFTER ALLOWANCE OF ANY OTHER CREDIT PROVIDED UNDER THIS SECTION, FOR ANY TAXABLE YEAR IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF EXPENSES PAID OR INCURRED IN PROVIDING A PROGRAM FOR THE TISSUE TYPING OF EMPLOYEES EMPLOYED IN THIS STATE WHO AGREE TO SERVE AS POTENTIAL BONE MARROW DONORS. PROGRAM EXPENSES ELIGIBLE FOR THE CREDIT INCLUDE PAYMENTS TO HEALTH CARE PROVIDERS AND WAGES PAID TO EMPLOYEES FOR TIME REASONABLY RELATED TO BONE MARROW DONATION.

(3) IN NO EVENT SHALL THE CREDIT PROVIDED FOR IN THIS SUBSECTION BE ALLOWED IN EXCESS OF THE TAXPAYER'S TAX FOR SUCH YEAR. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 5. Section 1456 of the tax law is amended by adding a new subsection (u) to read as follows:

(U) CREDIT FOR TISSUE TYPING PROGRAM. (1) FOR PURPOSES OF THIS SUBSECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "EMPLOYEE" MEANS A PERSON WHO PERFORMS SERVICES FOR HIRE FOR AN EMPLOYER, FOR AN AVERAGE OF TWENTY OR MORE HOURS PER WEEK, AND INCLUDES ALL INDIVIDUALS EMPLOYED AT ANY SITE OWNED OR OPERATED BY AN EMPLOYER BUT SHALL NOT INCLUDE AN INDEPENDENT CONTRACTOR.

(B) "EMPLOYER" MEANS A PERSON OR ENTITY THAT EMPLOYS TWENTY OR MORE EMPLOYEES AT AT LEAST ONE SITE AND INCLUDES AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, NONPROFIT ORGANIZATION, GROUP OF PERSONS, STATE, COUNTY, TOWN, CITY, SCHOOL DISTRICT, PUBLIC AUTHORITY OR OTHER GOVERNMENTAL SUBDIVISION OF ANY KIND.

(2) A TAXPAYER WHO IS AN EMPLOYER SHALL BE ALLOWED A CREDIT TO BE CREDITED AGAINST THE TAX IMPOSED BY THIS ARTICLE, AFTER ALLOWANCE OF ANY OTHER CREDIT PROVIDED UNDER THIS SECTION, FOR ANY TAXABLE YEAR IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF EXPENSES PAID OR INCURRED IN PROVIDING A PROGRAM FOR THE TISSUE TYPING OF EMPLOYEES EMPLOYED IN THIS STATE WHO AGREE TO SERVE AS POTENTIAL BONE MARROW DONORS. PROGRAM EXPENSES ELIGIBLE FOR THE CREDIT INCLUDE PAYMENTS TO HEALTH CARE PROVIDERS AND WAGES PAID TO EMPLOYEES FOR TIME REASONABLY RELATED TO BONE MARROW DONATION.

(3) IN NO EVENT SHALL THE CREDIT PROVIDED FOR IN THIS SUBSECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE MINIMUM FIXED BY PARAGRAPH ONE OF SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 6. Section 1511 of the tax law is amended by adding a new subdivision (y) to read as follows:

(Y) CREDIT FOR TISSUE TYPING PROGRAM. (1) FOR PURPOSES OF THIS SUBDIVISION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "EMPLOYEE" MEANS A PERSON WHO PERFORMS SERVICES FOR HIRE FOR AN EMPLOYER, FOR AN AVERAGE OF TWENTY OR MORE HOURS PER WEEK, AND INCLUDES ALL INDIVIDUALS EMPLOYED AT ANY SITE OWNED OR OPERATED BY AN EMPLOYER BUT SHALL NOT INCLUDE AN INDEPENDENT CONTRACTOR.

(B) "EMPLOYER" MEANS A PERSON OR ENTITY THAT EMPLOYS TWENTY OR MORE EMPLOYEES AT AT LEAST ONE SITE AND INCLUDES AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, NONPROFIT ORGANIZATION, GROUP OF PERSONS, STATE, COUNTY, TOWN, CITY, SCHOOL DISTRICT, PUBLIC AUTHORITY OR OTHER GOVERNMENTAL SUBDIVISION OF ANY KIND.

(2) A TAXPAYER WHO IS AN EMPLOYER SHALL BE ALLOWED A CREDIT TO BE CREDITED AGAINST THE TAX IMPOSED BY THIS ARTICLE, AFTER ALLOWANCE OF ANY OTHER CREDIT PROVIDED UNDER THIS SECTION, FOR ANY TAXABLE YEAR IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF EXPENSES PAID OR INCURRED IN PROVIDING A PROGRAM FOR THE TISSUE TYPING OF EMPLOYEES EMPLOYED IN THIS STATE WHO AGREE TO SERVE AS POTENTIAL BONE MARROW DONORS. PROGRAM EXPENSES ELIGIBLE FOR THE CREDIT INCLUDE PAYMENTS TO HEALTH CARE PROVIDERS AND WAGES PAID TO EMPLOYEES FOR TIME REASONABLY RELATED TO BONE MARROW DONATION.

(3) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION FIFTEEN HUNDRED TWO OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 7. This act shall take effect immediately and shall apply to taxable years beginning on and after the first of January next succeeding the date on which it shall have become a law.