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I N S E N A T E

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Introduced by Sens. SEWARD, BONACIC, DeFRANCISCO, GOLDEN, GRISANTI, HANNON, JOHNSON, LANZA, LARKIN, O'MARA, RANZENHOFER -- 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 a tax credit for the purchase of certain health insurance

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

1 Section 1. Section 210 of the tax law is amended by adding a new
2 subdivision 43 to read as follows:
3 43. (A) A TAXPAYER WHO IS A QUALIFIED SMALL EMPLOYER SHALL BE ALLOWED
4 A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO THE APPLICABLE
5 PERCENTAGE OF PREMIUMS PAID DURING THE TAXABLE YEAR FOR HEALTH INSURANCE
6 BY SUCH EMPLOYER. THE APPLICABLE PERCENTAGE SHALL BE (I) FIVE PERCENT
7 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
8 ELEVEN AND (II) TEN PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER
9 JANUARY FIRST, TWO THOUSAND TWELVE.
10 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY YEAR SHALL NOT
11 REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS
12 PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION.
13 IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR
14 ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT
15 NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING
16 YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR
17 OR YEARS.
18 (C) FOR THE PURPOSES OF THIS SUBDIVISION "QUALIFIED SMALL EMPLOYER"
19 SHALL MEAN AN INDIVIDUAL PROPRIETOR WHO IS THE SOLE EMPLOYEE OF THE
20 BUSINESS OR AN EMPLOYER WITH NOT MORE THAN FIFTY EMPLOYEES WHO IS A
21 "SMALL BUSINESS TAXPAYER" AS DEFINED IN PARAGRAPH (F) OF SUBDIVISION ONE
22 OF THIS SECTION.

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

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(D) FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "HEALTH INSURANCE" MEANS AN ACCIDENT AND HEALTH INSURANCE POLICY SUBJECT TO THE PROVISIONS OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN, THREE THOUSAND TWO HUNDRED TWENTY-ONE, FOUR THOUSAND THREE HUNDRED THREE OR FOUR THOUSAND EIGHT HUNDRED ONE OF THE INSURANCE LAW, AND ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW AND SHALL INCLUDE A POLICY INTENDED TO QUALIFY FOR USE IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL MEDICARE PRESCRIPTION DRUG, IMPROVEMENT AND MODERNIZATION ACT OF 2003.

S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxii) to read as follows:

(XXXII) SMALL EMPLOYER HEALTH	CREDIT UNDER SUBDIVISION
CARE INSURANCE CREDIT	FORTY-THREE OF SECTION TWO
UNDER SUBSECTION (SS)	HUNDRED TEN

S 3. Section 606 of the tax law is amended by adding a new subsection (ss) to read as follows:

(SS) SMALL EMPLOYER HEALTH CARE INSURANCE CREDIT. (1) A TAXPAYER WHO IS A QUALIFIED SMALL EMPLOYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO THE APPLICABLE PERCENTAGE OF THE PREMIUMS PAID DURING THE TAXABLE YEAR FOR HEALTH INSURANCE BY SUCH EMPLOYER. THE APPLICABLE PERCENTAGE SHALL BE (A) FIVE PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN AND (B) TEN PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE. IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(2) FOR THE PURPOSES OF THIS SUBSECTION "QUALIFIED SMALL EMPLOYER" SHALL MEAN AN INDIVIDUAL PROPRIETOR WHO IS THE SOLE EMPLOYEE OF THE BUSINESS OR AN EMPLOYER WITH NOT MORE THAN FIFTY EMPLOYEES WHO IS A "SMALL BUSINESS TAXPAYER" AS DEFINED IN PARAGRAPH (F) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER.

(3) FOR THE PURPOSES OF THIS SUBSECTION, THE TERM "HEALTH INSURANCE" MEANS AN ACCIDENT AND HEALTH INSURANCE POLICY SUBJECT TO THE PROVISIONS OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN, THREE THOUSAND TWO HUNDRED TWENTY-ONE, FOUR THOUSAND THREE HUNDRED THREE OR FOUR THOUSAND EIGHT HUNDRED ONE OF THE INSURANCE LAW, AND ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW AND SHALL INCLUDE A POLICY INTENDED TO QUALIFY FOR USE IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL MEDICARE PRESCRIPTION DRUG, IMPROVEMENT AND MODERNIZATION ACT OF 2003.

S 4. Section 1456 of the tax law is amended by adding a new subsection (f-1) to read as follows:

(F-1) SMALL EMPLOYER TAX CREDIT. (1) A TAXPAYER WHO IS A QUALIFIED SMALL EMPLOYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO THE APPLICABLE PERCENTAGE OF THE PREMIUMS PAID DURING THE TAXABLE YEAR FOR HEALTH INSURANCE BY SUCH EMPLOYER. THE APPLICABLE PERCENTAGE SHALL BE (A) FIVE PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN AND (B) TEN PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE.

(2) IN NO EVENT SHALL THE CREDIT HEREIN PROVIDED FOR, AND CARRYOVERS OF SUCH CREDIT, BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE DOLLAR AMOUNT FIXED AS A MINIMUM TAX BY SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT, OR BOTH, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT

1 DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING
2 YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR
3 OR YEARS.

4 (3) FOR THE PURPOSES OF THIS SECTION THE TERM "QUALIFIED SMALL EMPLOY-
5 ER" SHALL MEAN AN INDIVIDUAL PROPRIETOR WHO IS THE SOLE EMPLOYEE OF THE
6 BUSINESS OR AN EMPLOYER WITH NOT MORE THAN FIFTY EMPLOYEES WHO IS A
7 "SMALL BUSINESS TAXPAYER" AS DEFINED IN PARAGRAPH (F) OF SUBDIVISION ONE
8 OF SECTION TWO HUNDRED TEN OF THIS CHAPTER.

9 (4) FOR THE PURPOSES OF THIS SUBSECTION, THE TERM "HEALTH INSURANCE"
10 MEANS AN ACCIDENT AND HEALTH INSURANCE POLICY SUBJECT TO THE PROVISIONS
11 OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN, THREE THOUSAND TWO
12 HUNDRED TWENTY-ONE, FOUR THOUSAND THREE HUNDRED THREE OR FOUR THOUSAND
13 EIGHT HUNDRED ONE OF THE INSURANCE LAW, AND ARTICLE FORTY-FOUR OF THE
14 PUBLIC HEALTH LAW AND SHALL INCLUDE A POLICY INTENDED TO QUALIFY FOR USE
15 IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL
16 MEDICARE PRESCRIPTION DRUG, IMPROVEMENT AND MODERNIZATION ACT OF 2003.

17 S 5. Section 1511 of the tax law is amended by adding a new subdivi-
18 sion (aa) to read as follows:

19 (AA) SMALL EMPLOYER HEALTH CARE INSURANCE CREDIT. (1) A TAXPAYER SHALL
20 BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO THE
21 APPLICABLE PERCENTAGE OF THE PREMIUMS PAID DURING THE TAXABLE YEAR FOR
22 HEALTH INSURANCE BY SUCH EMPLOYER. THE APPLICABLE PERCENTAGE SHALL BE
23 (A) FIVE PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST,
24 TWO THOUSAND ELEVEN AND (B) TEN PERCENT FOR TAXABLE YEARS BEGINNING ON
25 OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE.

26 (2) IN NO EVENT SHALL THE CREDIT HEREIN PROVIDED FOR BE ALLOWED IN AN
27 AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE MINIMUM FIXED
28 BY SUBDIVISION (A) OF SECTION FIFTEEN HUNDRED TWO OF THIS ARTICLE. IF,
29 HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY
30 TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT
31 DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING
32 YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR
33 OR YEARS.

34 (3) FOR THE PURPOSES OF THIS SUBDIVISION THE TERM "QUALIFIED SMALL
35 EMPLOYER" SHALL MEAN AN INDIVIDUAL PROPRIETOR WHO IS THE SOLE EMPLOYEE
36 OF THE BUSINESS OR AN EMPLOYER WITH NOT MORE THAN FIFTY EMPLOYEES WHO IS
37 A "SMALL BUSINESS TAXPAYER" AS DEFINED IN PARAGRAPH (F) OF SUBDIVISION
38 ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER.

39 (4) FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "HEALTH INSURANCE"
40 MEANS AN ACCIDENT AND HEALTH INSURANCE POLICY SUBJECT TO THE PROVISIONS
41 OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN, THREE THOUSAND TWO
42 HUNDRED TWENTY-ONE, FOUR THOUSAND THREE HUNDRED THREE OR FOUR THOUSAND
43 EIGHT HUNDRED ONE OF THE INSURANCE LAW, AND ARTICLE FORTY-FOUR OF THE
44 PUBLIC HEALTH LAW AND SHALL INCLUDE A POLICY INTENDED TO QUALIFY FOR USE
45 IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL
46 MEDICARE PRESCRIPTION DRUG, IMPROVEMENT AND MODERNIZATION ACT OF 2003.

47 S 6. Section 606 of the tax law is amended by adding a new subsection
48 (h-1) to read as follows:

49 (H-1) INDIVIDUAL ENROLLEE HEALTH INSURANCE CREDIT. A TAXPAYER SHALL BE
50 ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO THE
51 APPLICABLE PERCENTAGE OF THE PREMIUM PAID DURING THE TAXABLE YEAR FOR
52 HEALTH INSURANCE PURCHASED PURSUANT TO SECTION FOUR THOUSAND THREE
53 HUNDRED TWENTY-ONE OR FOUR THOUSAND THREE HUNDRED TWENTY-TWO OF THE
54 INSURANCE LAW, INCLUDING POLICIES INTENDED TO QUALIFY FOR USE IN A
55 HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL MEDICARE
56 PRESCRIPTION DRUG, IMPROVEMENT AND MODERNIZATION ACT OF 2003. THE APPLI-

1 CABLE PERCENTAGE SHALL BE (1) FIVE PERCENT FOR TAXABLE YEARS BEGINNING
2 ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN AND (2) TEN PERCENT FOR
3 TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE.
4 S 7. This act shall take effect January 1, 2012.