

STATE OF NEW YORK

7332--A

2019-2020 Regular Sessions

IN ASSEMBLY

April 24, 2019

Introduced by M. of A. STERN, LAVINE, ENGLEBRIGHT, THIELE, ABBATE, SIMON, D'URSO, CRUZ, DeSTEFANO, RA, BRABENEC, COLTON -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the economic development law and the tax law, in relation to authorizing the creation of small business tax-deferred savings accounts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The economic development law is amended by adding a new
2 section 138-a to read as follows:

3 § 138-a. Small business tax-deferred savings accounts. 1. A "small
4 business taxpayer" or "small business" shall have the same meaning as
5 defined in section one hundred thirty-one of this article and shall meet
6 the requirements of paragraph (f) of subdivision one of section two
7 hundred ten of the tax law.

8 2. Any small business shall be authorized to establish and deposit
9 profits into a small business tax-deferred savings account.

10 3. The monies in such tax-deferred savings accounts may be deposited
11 or withdrawn tax free when they are expended for expansion of such small
12 business for the purpose of creating or preserving full time jobs.

13 4. For the purposes of this act, a qualifying purpose shall include
14 small business taxpayer expenditures that result in the creation or
15 retention of full-time jobs. In addition, working capital used for other
16 activities, deemed appropriate by the department, which will improve the
17 competitiveness and productivity of a small business and results in the
18 creation or retention of full-time jobs shall be considered a qualifying
19 business expenditure. Qualifying small business taxpayer expenditures
20 for the purpose of this section shall include, but not be limited to,

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

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1 new construction, renovation or leasehold improvements, and the acquisi-
2 tion of land, buildings, machinery and equipment.

3 5. The monies on deposit in such tax-deferred savings accounts may not
4 exceed more than five thousand dollars in any taxable year.

5 6. On or before April first, and annually thereafter, the department,
6 in consultation with the department of taxation and finance, shall
7 report on the number of small business taxpayers utilizing this program,
8 the average aggregate amount on deposit, the qualifying expenses
9 claimed, any qualifying expenses deemed inappropriate and any other such
10 data deemed necessary and appropriate by the department.

11 § 2. Section 209 of the tax law is amended by adding a new subdivision
12 13 to read as follows:

13 13. For any taxable year beginning on or after January first, two
14 thousand twenty-one, any small business, as such term is defined pursu-
15 ant to section one hundred thirty-eight-a of the economic development
16 law, shall be exempt from all state income taxes imposed pursuant to
17 this article for any deposit or withdrawal from a small business tax-de-
18 ferred savings account established pursuant to section one hundred thir-
19 ty-eight-a of the economic development law and used for the expansion of
20 such small business for the purpose of creating or preserving full time
21 jobs. If a small business taxpayer files for and receives an exemption
22 from the state income tax imposed under this section pursuant to the
23 provisions of this subdivision and the funds deposited or withdrawn, or
24 any portion thereof, are not expended for a qualifying purpose as set
25 forth in section one hundred thirty-eight-a of the economic development
26 law, then the amount of such exemption claimed by the small business
27 taxpayer shall be added back to the amount of state income liability tax
28 in the next succeeding taxable year or in the year in which the
29 exemption is disallowed.

30 § 3. Subsection (c) of section 612 of the tax law is amended by adding
31 a new paragraph 43 to read as follows:

32 (43) Any deposit or withdrawal from a small business tax-deferred
33 savings account established pursuant to section one hundred thirty-
34 eight-a of the economic development law and used for the expansion of
35 such small business for the purpose of creating or preserving full time
36 jobs. If a small business taxpayer files for and receives an exemption
37 from the state income tax imposed under this section pursuant to the
38 provisions of this paragraph and the funds deposited or withdrawn, or
39 any portion thereof, are not expended for a qualifying purpose as set
40 forth in section one hundred thirty-eight-a of the economic development
41 law, then the amount of such exemption claimed by the small business
42 taxpayer shall be added back to state income tax in the next succeeding
43 taxable year or in the year in which the exemption is disallowed.

44 § 4. The department of taxation and finance, in consultation with the
45 department of economic development, shall review and analyze all statis-
46 tical data available for such purposes of determining the economic and
47 revenue impact associated with this act. Such data shall be included in
48 an annual report that shall also include, but not be limited to, the
49 number of small business taxpayers utilizing this program, the average
50 aggregate amount on deposit, the qualifying expenses claimed, any quali-
51 fying expenses deemed inappropriate and any other such data deemed
52 necessary and appropriate by the department. Such annual report shall be
53 posted on the websites of the department of taxation and finance and the
54 department of economic development, and transmitted to the governor, the
55 temporary president of the senate, the senate minority leader, the
56 speaker of the assembly and the assembly minority leader.

1 § 5. Rules and regulations. The department of taxation and finance in
2 consultation with the department of economic development, is hereby
3 authorized to promulgate rules and regulations in accordance with the
4 state administrative procedure act that are necessary to fulfill the
5 purposes of this act. Such regulations shall include but not be limited
6 to deadlines for establishing a small business tax deferred savings
7 account, standard procedures and forms to be utilized in the program,
8 and any other such regulations deemed necessary to promote the full
9 utilization of this program. Such rules and regulations shall be
10 completed within 180 days after the effective date of this act.
11 § 6. This act shall take effect immediately.