S T A T E   O F   N E W   Y O R K

S. 243 A. 330

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 7, 2009

IN SENATE -- Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

IN ASSEMBLY -- Introduced by M. of A. JEFFRIES -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing a re-entry employment incentive tax credit; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Section 210 of the tax law is amended by adding a new subdivision 41 to read as follows:

41. RE-ENTRY EMPLOYMENT INCENTIVE TAX CREDIT. (A) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE IN THE AMOUNT PRESCRIBED BY THIS SUBDIVISION WHERE SUCH TAXPAYER EMPLOYS ONE OR MORE QUALIFYING INDIVIDUALS DESIGNATED PURSUANT TO SUBDIVISION (A) OF SECTION FOUR OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS SUBDIVISION.

(B) THE AMOUNT OF THE CREDIT SHALL BE AS FOLLOWS FOR EACH QUALIFYING INDIVIDUAL EMPLOYED BY THE TAXPAYER:

(I) FIFTY PERCENT OF THE QUALIFIED WAGES IN THE FIRST YEAR OF EMPLOYMENT;

(II) FORTY PERCENT OF QUALIFIED WAGES IN THE SECOND YEAR OF EMPLOYMENT; AND

(III) THIRTY PERCENT OF QUALIFIED WAGES IN THE THIRD YEAR OF EMPLOYMENT.

(C) FOR THE PURPOSES OF THIS SUBDIVISION, "QUALIFYING INDIVIDUAL" SHALL MEAN AN INDIVIDUAL HIRED BY A TAXPAYER ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN WHO:

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

(I) HAS BEEN CONVICTED OF A FELONY IN THIS STATE IN THE LAST FIVE YEARS, HAS BEEN RELEASED FROM A CORRECTIONAL FACILITY AS DEFINED IN SUBDIVISION FOUR OF SECTION TWO OF THE CORRECTION LAW IN THE LAST FIVE YEARS OR IS SERVING A PERIOD OF POST-RELEASE SUPERVISION, PAROLE OR PROBATION FOR THE CONVICTION OF A FELONY, PROVIDED THAT AN INDIVIDUAL SHALL BE CONSIDERED A QUALIFIED INDIVIDUAL FOR EACH OF THE FIRST FOUR YEARS OF EMPLOYMENT IF HIRED BY THE TAXPAYER WITHIN THE TIME PERIOD SPECIFIED IN THIS SUBPARAGRAPH;

(II) RESIDES IN THIS STATE;

(III) RECEIVES WAGES WHICH ARE AT LEAST ONE HUNDRED FORTY PERCENT OF THE NEW YORK STATE MINIMUM WAGE; AND

(IV) RECEIVES QUALIFIED WAGES FOR AT LEAST THREE CONTINUOUS MONTHS FROM THE TAXPAYER DURING THE TAXABLE YEAR.

(D) FOR THE PURPOSES OF THIS SUBDIVISION, "QUALIFIED WAGES" SHALL MEAN WAGES PAID OR INCURRED BY THE TAXPAYER DURING THE TAXABLE YEAR TO THE QUALIFIED INDIVIDUAL, PROVIDED THAT THE AMOUNT OF QUALIFIED WAGES WHICH MAY BE TAKEN INTO ACCOUNT WHEN CALCULATING THE CREDIT PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED TEN THOUSAND DOLLARS PER YEAR.

(E) NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY, THE CREDIT AND CARRYOVER OF SUCH CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEARS SHALL NOT, IN THE AGGREGATE, REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION, ANY AMOUNT OF CREDIT OR CARRYOVER OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS. IN ADDITION, THE AMOUNT OF SUCH CREDIT, AND CARRYOVERS OF SUCH CREDIT TO THE TAXABLE YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE MAY NOT, IN THE AGGREGATE, EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER SECTION TWO HUNDRED NINE OF THIS ARTICLE COMPUTED WITHOUT REGARD TO ANY CREDIT PROVIDED BY THIS SECTION.

S 2. Section 606 of the tax law is amended by adding a new subsection (k-1) to read as follows:

(K-1) RE-ENTRY EMPLOYMENT INCENTIVE TAX CREDIT. (A) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE IN THE AMOUNT PRESCRIBED BY THIS SUBSECTION WHERE SUCH TAXPAYER EMPLOYS ONE OR MORE QUALIFYING INDIVIDUALS DESIGNATED PURSUANT TO SUBDIVISION (A) OF SECTION FOUR OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS SUBSECTION.

(B) THE AMOUNT OF THE CREDIT SHALL BE AS FOLLOWS FOR EACH QUALIFYING INDIVIDUAL EMPLOYED BY THE TAXPAYER:

(I) FIFTY PERCENT OF THE QUALIFIED WAGES IN THE FIRST YEAR OF EMPLOYMENT;

(II) FORTY PERCENT OF QUALIFIED WAGES IN THE SECOND YEAR OF EMPLOYMENT; AND

(III) THIRTY PERCENT OF QUALIFIED WAGES IN THE THIRD YEAR OF EMPLOYMENT.

(C) FOR THE PURPOSES OF THIS SUBSECTION, "QUALIFYING INDIVIDUAL" SHALL MEAN AN INDIVIDUAL HIRED BY A TAXPAYER ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN WHO:

(I) HAS BEEN CONVICTED OF A FELONY IN THIS STATE IN THE LAST FIVE YEARS, HAS BEEN RELEASED FROM A CORRECTIONAL FACILITY AS DEFINED IN SUBDIVISION FOUR OF SECTION TWO OF THE CORRECTION LAW IN THE LAST FIVE YEARS OR IS SERVING A PERIOD OF POST-RELEASE SUPERVISION, PAROLE OR PROBATION FOR THE CONVICTION OF A FELONY, PROVIDED THAT AN INDIVIDUAL SHALL BE CONSIDERED A QUALIFIED INDIVIDUAL FOR EACH OF THE FIRST FOUR

YEARS OF EMPLOYMENT IF HIRED BY THE TAXPAYER WITHIN THE TIME PERIOD SPECIFIED IN THIS SUBPARAGRAPH;

(II) RESIDES IN THIS STATE;

(III) RECEIVES WAGES WHICH ARE AT LEAST ONE HUNDRED FORTY PERCENT OF THE NEW YORK STATE MINIMUM WAGE; AND

(IV) RECEIVES QUALIFIED WAGES FOR AT LEAST THREE CONTINUOUS MONTHS FROM THE TAXPAYER DURING THE TAXABLE YEAR.

(D) FOR THE PURPOSES OF THIS SUBSECTION, "QUALIFIED WAGES" SHALL MEAN WAGES PAID OR INCURRED BY THE TAXPAYER DURING THE TAXABLE YEAR TO THE QUALIFIED INDIVIDUAL, PROVIDED THAT THE AMOUNT OF QUALIFIED WAGES WHICH MAY BE TAKEN INTO ACCOUNT WHEN CALCULATING THE CREDIT PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED TEN THOUSAND DOLLARS PER YEAR.

(E) NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY, IF THE AMOUNT OF THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, ANY AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS. IN ADDITION, THE AMOUNT OF SUCH CREDIT, AND CARRYOVERS OF SUCH CREDIT TO THE TAXABLE YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE MAY NOT, IN THE AGGREGATE, EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER SECTION SIX HUNDRED ONE OF THIS PART COMPUTED WITHOUT REGARD TO ANY CREDIT PROVIDED FOR BY THIS SECTION.

S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law, as amended by section 2 of part ZZ-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(B) shall be treated as the owner of a new business with respect to such share if the corporation qualifies as a new business pursuant to paragraph (j) of subdivision twelve of section two hundred ten of this chapter.

With respect to the following credit under this section:	The corporation's credit base under section two hundred ten or section fourteen hundred fifty-six of this chapter is:
Investment tax credit under subsection (a)	Investment credit base or qualified rehabilitation expenditures under subdivision twelve of section two hundred ten
Empire zone investment tax credit under subsection (j)	Cost or other basis under subdivision twelve-B of section two hundred ten
Empire zone wage tax credit under subsection (k)	Eligible wages under subdivision nineteen of section two hundred ten or subsection (e) of section fourteen hundred fifty-six

Empire zone capital tax credit under subsection (l)	Qualified investments and contributions under subdivision twenty of section two hundred ten or subsection (d) of section fourteen hundred fifty-six
Agricultural property tax credit under subsection (n)	Allowable school district property taxes under subdivision twenty-two of section two hundred ten
Credit for employment of persons with disabilities under subsection (o)	Qualified first-year wages or qualified second-year wages under subdivision twenty-three of section two hundred ten or subsection (f) of section fourteen hundred fifty-six
Employment incentive credit under subsection (a-1)	Applicable investment credit base under subdivision twelve-D of section two hundred ten
Empire zone employment incentive credit under subsection (j-1)	Applicable investment credit under subdivision twelve-C of section two hundred ten
Alternative fuels credit under subsection (p)	Cost under subdivision twenty-four of section two hundred ten
Qualified emerging technology company employment credit under subsection (q)	Applicable credit base under subdivision twelve-E of section two hundred ten
Qualified emerging technology company capital tax credit under subsection (r)	Qualified investments under subdivision twelve-F of section two hundred ten
Credit for purchase of an automated external defibrillator under subsection (s)	Cost of an automated external defibrillator under subdivision twenty-five of section two hundred ten or subsection (j) of section fourteen hundred fifty-six
Low-income housing credit under subsection (x)	Credit amount under subdivision thirty of section two hundred ten or

	subsection (l) of section fourteen hundred fifty-six
Credit for transportation improvement contributions under subsection (z)	Amount of credit under sub-division thirty-two of section two hundred ten or subsection (n) of section fourteen hundred fifty-six
QEZE credit for real property taxes under subsection (bb)	Amount of credit under subdivision twenty-seven of section two hundred ten or subsection (o) of section fourteen hundred fifty-six
QEZE tax reduction credit under subsection (cc)	Amount of benefit period factor, employment increase factor and zone allocation factor (without regard to pro ration) under subdivision twenty-eight of section two hundred ten or subsection (p) of section fourteen hundred fifty-six and amount of tax factor as determined under subdivision (f) of section sixteen
Green building credit under subsection (y)	Amount of green building credit under subdivision thirty-one of section two hundred ten or subsection (m) of section fourteen hundred fifty-six
Credit for long-term care insurance premiums under subsection (aa)	Qualified costs under subdivision twenty-five-a of section two hundred ten or subsection (k) of section fourteen hundred fifty-six
Brownfield redevelopment credit under subsection (dd)	Amount of credit under subdivision thirty-three of section two hundred ten or subsection (q) of section fourteen hundred fifty-six
Remediated brownfield credit for real property taxes for qualified sites under subsection (ee)	Amount of credit under subdivision thirty-four of section two hundred ten or subsection (r) of section fourteen hundred fifty-six

Environmental remediation insurance credit under subsection (ff)	Amount of credit under subdivision thirty-five of section two hundred ten or subsection (s) of section fourteen hundred fifty-six
Empire state film production credit under subsection (gg)	Amount of credit for qualified production costs in production of a qualified film under subdivision thirty-six of section two hundred ten
Qualified emerging technology company facilities, operations and training credit under subsection (nn)	Qualifying expenditures and development activities under subdivision twelve-G of section two hundred ten
Security training tax credit under subsection (ii)	Amount of credit under subdivision thirty-seven of section two hundred ten or under subsection (t) of section fourteen hundred fifty-six
Credit for qualified fuel cell electric generating equipment expenditures under subsection (g-2)	Amount of credit under subdivision thirty-seven of section two hundred ten or subsection (t) of section fourteen hundred fifty-six
Empire state commercial production credit under subsection (jj)	Amount of credit for qualified production costs in production of a qualified commercial under subdivision thirty-eight of section two hundred ten
Biofuel production tax credit under subsection (jj)	Amount of credit under subdivision thirty-eight of section two hundred ten
RE-ENTRY EMPLOYMENT INCENTIVE TAX CREDIT UNDER SUBSECTION (K-1)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN
Clean heating fuel credit under subsection (mm)	Amount of credit under subdivision thirty-nine of section two hundred ten
Credit for rehabilitation of historic properties under subsection (oo)	Amount of credit under subdivision forty of subsection two hundred ten

Credit for companies who provide transportation to individuals with disabilities under subsection (oo)	Amount of credit under subdivision forty of section two hundred ten

S 4. Re-entry employment incentive tax credit pilot project. (a) Notwithstanding any inconsistent provision of law, the commissioner of labor, or his or her designee, shall, before January 1, 2010, consult with The Fortune Society to identify and designate 100 formerly incarcerated qualified individuals, as such term is defined in paragraph (c) of subdivision 41 of section 210 of the tax law, to participate in the pilot project established by this section for a period of three years beginning on January 1, 2010. A taxpayer that employs one or more such designated qualified individuals on or after January 1, 2010 shall be allowed a credit, against the tax imposed by article 9-A or article 22 of the tax law in the amount prescribed by subdivision 41 of section 210 of the tax law or subsection (k-1) of section 606 of the tax law as applicable. The commissioner of labor and the commissioner of taxation and finance shall promulgate all necessary rules and regulations to implement the re-entry employment incentive tax credit pilot project established by this section.

(b) Further, the commissioner of labor, in consultation with the Center for NuLeadership on Urban Solutions at Medgar Evers College at the City University of New York, shall produce a report on the effectiveness of the pilot project established by this act in creating employment opportunities for persons with criminal convictions. Such report shall be submitted to the governor, temporary president of the senate, speaker of the assembly and the chairpersons of the senate crime victims, crime and correction committee, assembly correction committee, senate codes committee, assembly codes committee, senate finance committee and assembly ways and means committee on or before March 31, 2013.

S 5. This act shall take effect immediately; provided, however, that the credits established by sections one, two and three of this act shall apply to the taxable years beginning on or after January 1, 2010 and ending not later than December 31, 2012; provided further that sections one, two and three of this act shall expire, and subdivision (a) of section four of this act shall expire and be deemed repealed December 31, 2012, provided, further, that subdivision (b) of section four of this act shall expire and be deemed repealed March 31, 2013; provided, further, that the empire state film production credit under subsection (gg), the empire state commercial production credit under subsection (jj) and the credit for companies who provide transportation to individuals with disabilities under subsection (oo) of section 606 of the tax law contained in section three of this act shall expire on the same date as provided in section 9 of part P of chapter 60 of the laws of 2004, as amended, section 10 of part V of chapter 62 of the laws of 2006, as amended and section 5 of chapter 522 of the laws of 2006, as amended, respectively.