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

5247--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. MORELLE, SCHIMMINGER, DESTITO, TOWNS -- 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 tax law, in relation to establishing a small business tax credit for SBA guaranty fees paid

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. SMALL BUSINESS TAX CREDIT. (A) GENERAL. A TAXPAYER WHO HAS ONE HUNDRED EMPLOYEES OR LESS, SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR ANY AMOUNT PAID TO THE UNITED STATES SMALL BUSINESS ADMINISTRATION (SBA) AS A GUARANTY FEE PURSUANT TO THE OBTAINING OF A SBA 7(A) GUARANTEED LOAN.

(B) AMOUNT OF CREDIT. A CREDIT AUTHORIZED BY THIS SECTION MAY BE CLAIMED FOR GUARANTY FEES PAID ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN.

(C) NO CREDIT MAY BE CLAIMED PURSUANT TO THIS SUBDIVISION IF, PURSUANT TO THE AGREEMENT BETWEEN THE BANKING ASSOCIATION OR CREDIT UNION AND THE ENTITY TO WHICH PROCEEDS ARE MADE AVAILABLE, THE BANKING ASSOCIATION OR CREDIT UNION ADDS THE AMOUNT OF THE SBA 7(A) LOAN GUARANTY FEE TO THE AMOUNT FINANCED BY THE BORROWER OR IN ANY OTHER WAY RECOVERS THE GUARANTY FEE AMOUNT FROM THE BORROWER.

(D) CARRYOVERS. THE CREDIT ALLOWED UNDER THIS SUBDIVISION MAY BE CLAIMED AND IF NOT FULLY USED IN THE INITIAL YEAR FOR WHICH THE CREDIT IS CLAIMED MAY BE CARRIED OVER, IN ORDER, TO EACH OF THE FIVE SUCCEEDING TAXABLE YEARS. THE CREDIT AUTHORIZED BY THIS SUBDIVISION MAY NOT BE USED TO REDUCE THE TAX LIABILITY OF THE CREDIT CLAIMANT BELOW ZERO.

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

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

(XXXI) SBA GUARANTY FEE CREDIT UNDER SUBSECTION (R-1)	COSTS UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN

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

(R-1) SMALL BUSINESS GUARANTY FEE TAX CREDIT. (1) GENERAL. A TAXPAYER WHO HAS ONE HUNDRED EMPLOYEES OR LESS, SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBSECTION, AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR ANY AMOUNT PAID TO THE UNITED STATES SMALL BUSINESS ADMINISTRATION (SBA) AS A GUARANTY FEE PURSUANT TO THE OBTAINING OF SBA GUARANTEED FINANCING.

(2) AMOUNT OF CREDIT. A CREDIT AUTHORIZED BY THIS SECTION MAY BE CLAIMED FOR GUARANTY FEES PAID ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN.

(3) NO CREDIT MAY BE CLAIMED PURSUANT TO THIS SUBSECTION IF, PURSUANT TO THE AGREEMENT BETWEEN THE BANKING ASSOCIATION OR CREDIT UNION AND THE ENTITY TO WHICH PROCEEDS ARE MADE AVAILABLE, THE BANKING ASSOCIATION OR CREDIT UNION ADDS THE AMOUNT OF THE SBA 7(A) LOAN GUARANTY FEE TO THE AMOUNT FINANCED BY THE BORROWER OR IN ANY OTHER WAY RECOVERS THE GUARANTY FEE AMOUNT FROM THE BORROWER.

(4) CARRYOVERS. THE CREDIT ALLOWED UNDER THIS SUBSECTION MAY BE CLAIMED AND IF NOT FULLY USED IN THE INITIAL YEAR FOR WHICH THE CREDIT IS CLAIMED MAY BE CARRIED OVER, IN ORDER, TO EACH OF THE FIVE SUCCEEDING TAXABLE YEARS. THE CREDIT AUTHORIZED BY THIS SUBSECTION MAY NOT BE USED TO REDUCE THE TAX LIABILITY OF THE CREDIT CLAIMANT BELOW ZERO.

S 4. This act shall take effect immediately.