

8131

2009-2010 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. WEPRIN, BING, CASTRO, CHRISTENSEN, KELLNER, MAISEL, ROSENTHAL, TITONE, WRIGHT -- Multi-Sponsored by -- M. of A. ABBATE, BRENNAN, CLARK, COOK, EDDINGTON, GREENE, JAFFEE, SCHIMEL -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to authorizing any city having a population of one million or more to provide a biotechnology credit against the general corporation tax, unincorporated business tax and banking corporation tax of such city

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

1 Section 1. Section 1201-a of the tax law is amended by adding a new  
2 subdivision (d) to read as follows:  
3 (D) BIOTECHNOLOGY CREDIT. 1. ANY CITY IN THIS STATE HAVING A POPU-  
4 LATION OF ONE MILLION OR MORE, ACTING THROUGH ITS LOCAL LEGISLATIVE  
5 BODY, IS HEREBY AUTHORIZED TO ADOPT AND AMEND LOCAL LAWS TO ALLOW A  
6 CREDIT AGAINST THE GENERAL CORPORATION TAX, UNINCORPORATED BUSINESS TAX  
7 AND THE BANKING CORPORATION TAX IMPOSED PURSUANT TO THE AUTHORITY OF  
8 CHAPTER SEVEN HUNDRED SEVENTY-TWO OF THE LAWS OF NINETEEN HUNDRED  
9 SIXTY-SIX WHICH SHALL BE SUBSTANTIALLY IDENTICAL TO THE CREDIT ALLOWED  
10 UNDER SUBDIVISION TWELVE-G OF SECTION TWO HUNDRED TEN OF THIS CHAPTER,  
11 EXCEPT THAT (A) WHENEVER SUBDIVISION TWELVE-G OF SECTION TWO HUNDRED TEN  
12 OF THIS CHAPTER REFERENCES THE STATE, SUCH WORDS SHALL BE READ AS REFER-  
13 ENCING THE CITY, (B) SUCH CREDIT SHALL BE ALLOWED ONLY TO A TAXPAYER  
14 THAT (1) IS A QUALIFIED EMERGING TECHNOLOGY COMPANY PURSUANT TO THE  
15 PROVISIONS OF PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-ONE  
16 HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, EXCEPT THAT SUCH COMPANY  
17 SHALL MEAN A COMPANY LOCATED IN SUCH CITY, (2) ENGAGES IN ACTIVITIES  
18 REFERENCED IN SUBPARAGRAPH FIVE OF PARAGRAPH (B) OF SUBDIVISION ONE OF  
19 SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, AND (3)  
20 MEETS THE ELIGIBILITY REQUIREMENTS IN PARAGRAPH (B) OF SUBDIVISION  
21 TWELVE-G OF SECTION TWO HUNDRED TEN OF THIS CHAPTER, AND (C) THE EFFEC-

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

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1 TIVE DATE OF SUCH CREDIT SHALL BE AS PROVIDED IN LOCAL LAWS. SUBJECT TO  
2 THE LIMITATIONS SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION, SUCH  
3 CREDIT SHALL BE APPLIED IN A MANNER CONSISTENT WITH THE CREDIT ALLOWED  
4 UNDER SUBDIVISION TWELVE-G OF SECTION TWO HUNDRED TEN OF THIS CHAPTER  
5 EXCEPT AS MAY BE NECESSARY TO TAKE INTO ACCOUNT DIFFERENCES BETWEEN  
6 ARTICLE NINE-A OF THIS CHAPTER AND THE GENERAL CORPORATION TAX, THE  
7 UNINCORPORATED BUSINESS TAX OR THE BANKING CORPORATION TAX.

8 2. (A) THE PERCENTAGE OF THE CREDIT ALLOWED TO A TAXPAYER UNDER THIS  
9 SUBDIVISION IN ANY CALENDAR YEAR SHALL BE:

10 (1) IF THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY A  
11 TAXPAYER IN THE CITY DURING THE CALENDAR YEAR IN WHICH THE CREDIT IS  
12 CLAIMED IS AT LEAST ONE HUNDRED FIVE PERCENT OF THE TAXPAYER'S BASE YEAR  
13 EMPLOYMENT, ONE HUNDRED PERCENT, EXCEPT THAT IN NO CASE SHALL THE CREDIT  
14 ALLOWED UNDER THIS CLAUSE EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS PER  
15 CALENDAR YEAR. PROVIDED, HOWEVER, THE INCREASE IN BASE YEAR EMPLOYMENT  
16 SHALL NOT APPLY TO A TAXPAYER ALLOWED A CREDIT UNDER THIS SUBDIVISION  
17 THAT WAS, (I) LOCATED OUTSIDE OF THE CITY, (II) NOT DOING BUSINESS, OR  
18 (III) DID NOT HAVE ANY EMPLOYEES, IN THE YEAR PRECEDING THE FIRST YEAR  
19 THAT THE CREDIT WAS CLAIMED.

20 (2) IF THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY A  
21 TAXPAYER IN THE CITY DURING THE CALENDAR YEAR IN WHICH THE CREDIT IS  
22 CLAIMED IS LESS THAN ONE HUNDRED FIVE PERCENT OF THE TAXPAYER'S BASE  
23 YEAR EMPLOYMENT, FIFTY PERCENT, EXCEPT THAT IN NO CASE SHALL THE CREDIT  
24 ALLOWED UNDER THIS CLAUSE EXCEED ONE HUNDRED TWENTY-FIVE THOUSAND  
25 DOLLARS PER CALENDAR YEAR. IN THE CASE OF AN ENTITY LOCATED IN THE CITY  
26 OF NEW YORK RECEIVING SPACE AND BUSINESS SUPPORT SERVICES BY AN ACADEMIC  
27 INCUBATOR FACILITY, AS DEFINED IN SUBPARAGRAPH (VI) OF PARAGRAPH (E) OF  
28 SUBDIVISION TWELVE-G OF SECTION TWO HUNDRED TEN OF THIS CHAPTER, IF THE  
29 AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY SUCH FACILITY IN THE  
30 CITY DURING THE CALENDAR YEAR IN WHICH THE CREDIT ALLOWED UNDER THIS  
31 SUBDIVISION IS CLAIMED IS LESS THAN ONE HUNDRED FIVE PERCENT OF THE  
32 TAXPAYER'S BASE YEAR EMPLOYMENT, THE CREDIT SHALL BE ZERO.

33 (B) FOR THE PURPOSES OF THIS SUBDIVISION, "BASE YEAR EMPLOYMENT" MEANS  
34 THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY THE TAXPAYER IN  
35 THE CITY IN THE YEAR PRECEDING THE FIRST CALENDAR YEAR IN WHICH THE  
36 CREDIT IS CLAIMED.

37 (C) FOR THE PURPOSES OF THIS SUBDIVISION, AVERAGE NUMBER OF INDIVID-  
38 UALS EMPLOYED FULL-TIME SHALL BE COMPUTED BY ADDING THE NUMBER OF SUCH  
39 INDIVIDUALS EMPLOYED BY THE TAXPAYER AT THE END OF EACH QUARTER DURING  
40 EACH CALENDAR YEAR OR OTHER APPLICABLE PERIOD AND DIVIDING THE SUM SO  
41 OBTAINED BY THE NUMBER OF SUCH QUARTERS OCCURRING WITHIN SUCH CALENDAR  
42 YEAR OR OTHER APPLICABLE PERIOD.

43 3. THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED UNDER THIS SUBDIVISION  
44 IN ANY CALENDAR YEAR SHALL BE UP TO THREE MILLION DOLLARS. SUCH AGGRE-  
45 GATE AMOUNT OF CREDITS SHALL BE ALLOCATED BY THE NEW YORK CITY DEPART-  
46 MENT OF FINANCE AMONG ELIGIBLE TAXPAYERS ON A PRO RATA BASIS. TAXPAYERS  
47 ELIGIBLE FOR SUCH PRO RATA ALLOCATION SHALL BE DETERMINED BY THE NEW  
48 YORK CITY DEPARTMENT OF FINANCE NO LATER THAN FEBRUARY TWENTY-EIGHTH OF  
49 THE SUCCEEDING CALENDAR YEAR IN WHICH THE CREDIT PROVIDED IN THIS SUBDI-  
50 VISION IS APPLIED.

51 4. THE NEW YORK CITY DEPARTMENT OF FINANCE SHALL ESTABLISH BY RULE BY  
52 OCTOBER THIRTY-FIRST, TWO THOUSAND NINE, PROCEDURES FOR THE ALLOCATION  
53 OF TAX CREDITS AS REQUIRED BY PARAGRAPH TWO OF THIS SUBDIVISION. SUCH  
54 RULES SHALL INCLUDE PROVISIONS DESCRIBING THE APPLICATION PROCESS, THE  
55 DUE DATES FOR SUCH APPLICATIONS, THE STANDARDS THAT SHALL BE USED TO  
56 EVALUATE THE APPLICATIONS, THE DOCUMENTATION THAT WILL BE PROVIDED TO

1 TAXPAYERS TO SUBSTANTIATE THE AMOUNT OF TAX CREDITS ALLOCATED TO SUCH  
2 TAXPAYERS, AND SUCH OTHER PROVISIONS AS DEEMED NECESSARY AND APPROPRI-  
3 ATE.

4 5. ANY LOCAL LAW ADOPTED PURSUANT TO THIS SUBDIVISION MAY PROVIDE FOR  
5 A CREDIT AS AUTHORIZED BY THIS SUBDIVISION FOR A MAXIMUM OF THREE  
6 CONSECUTIVE CALENDAR YEARS, PROVIDED, HOWEVER, THAT ANY SUCH CREDIT MAY  
7 NOT APPLY TO TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND  
8 TEN OR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN.

9 S 2. This act shall take effect immediately.