

2156

2009-2010 Regular Sessions

I N   S E N A T E

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Introduced by Sens. MAZIARZ, DeFRANCISCO, DIAZ, LANZA, MORAHAN, RANZEN-  
HOFER, SALAND, YOUNG -- read twice and ordered printed, and when  
printed to be committed to the Committee on Investigations and Govern-  
ment Operations

AN ACT to amend the tax law, in relation to establishing an elder care  
tax credit

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

1     Section 1. Section 606 of the tax law is amended by adding a new  
2     subsection (qq) to read as follows:  
3     (QQ) ELDER CARE CREDIT. FOR TAXABLE YEARS COMMENCING ON AND AFTER  
4     JANUARY ONE, TWO THOUSAND ELEVEN, A QUALIFIED TAXPAYER SHALL BE ALLOWED  
5     A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE IN AN AMOUNT EQUAL TO  
6     ONE THOUSAND DOLLARS. FOR THE PURPOSES OF THIS SUBSECTION A "QUALIFIED  
7     TAXPAYER" SHALL MEAN A SINGLE PERSON WITH AN INCOME OF FORTY THOUSAND  
8     DOLLARS OR LESS OR MARRIED PERSONS FILING JOINTLY WITH AN INCOME OF  
9     SEVENTY-FIVE THOUSAND DOLLARS OR LESS WHO CARES FOR AN ELDERLY DEPENDENT  
10    WHO IS SIXTY-FIVE YEARS OF AGE OR OLDER, RELATED TO THE TAXPAYER WITHIN  
11    THE THIRD DEGREE OF CONSANGUINITY, WHO RESIDED WITH THE TAXPAYER FOR THE  
12    TWELVE MONTHS IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CRED-  
13    IT IS CLAIMED AND WHOSE INCOME IS THIRTEEN THOUSAND DOLLARS OR LESS FOR  
14    A SINGLE ELDERLY DEPENDENT OR TWENTY THOUSAND DOLLARS OR LESS FOR  
15    MARRIED ELDERLY DEPENDENTS.  
16    S 2. Section 210 of the tax law is amended by adding a new subdivision  
17    14 to read as follows:  
18    14. (A) THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY  
19    THIS ARTICLE FOR ANY TAXABLE YEAR AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT  
20    OF THE AMOUNT EXPENDED BY ANY EMPLOYER PROVIDING ELDER CARE FOR EMPLOY-  
21    EES DURING THE EMPLOYEE'S WORK HOURS. CREDIT SHALL BE APPLIED TO THE  
22    COST OF ANY CONTRACT EXECUTED BY THE EMPLOYER FOR OFF-SITE SERVICES TO  
23    PROVIDE ELDER CARE; OR, IF THE EMPLOYER ELECTS TO PROVIDE ELDER CARE

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

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1 ON-SITE, TO EXPENSES OF ELDER CARE STAFF, LEARNING AND RECREATIONAL  
2 MATERIALS AND EQUIPMENT, AND THE CONSTRUCTION AND MAINTENANCE OF A  
3 FACILITY. A CREDIT PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL  
4 NOT BE ALLOWED FOR ANY EXPENSES WHICH SERVE AS THE BASIS FOR A PERSONAL  
5 INCOME TAX CREDIT PURSUANT TO THE PROVISIONS OF SUBSECTION (QQ) OF  
6 SECTION SIX HUNDRED SIX OF THIS CHAPTER. THE CREDIT ALLOWED UNDER THIS  
7 SUBDIVISION SHALL NOT BE USED BY ANY EMPLOYER OTHER THAN AN ELIGIBLE  
8 EMPLOYER WITH AN OFF-SITE OR ON-SITE ENROLLMENT FOR THE TAXABLE YEAR OF  
9 NO LESS THAN SIX PERSONS SIXTY-FIVE YEARS OF AGE OR OLDER RECEIVING  
10 ELDER CARE. FOR THE PURPOSES OF THIS SUBDIVISION, AN "ELIGIBLE EMPLOYER"  
11 SHALL MEAN AN EMPLOYER PROVIDING ELDER CARE IN ACCORDANCE WITH THE  
12 PROVISIONS OF THIS SUBDIVISION WHICH HAS BEEN LICENSED OR CERTIFIED IN  
13 ACCORDANCE WITH THE APPROPRIATE PROVISIONS OF THE PUBLIC HEALTH LAW AND  
14 SOCIAL SERVICES LAW AND HAS BEEN CERTIFIED BY THE DEPARTMENT OF HEALTH  
15 AS ELIGIBLE TO RECEIVE THE CREDIT PURSUANT TO THIS SUBDIVISION.

16 (B) CREDIT MAY BE CARRIED FORWARD FOR THREE SUCCESSIVE YEARS IF THE  
17 AMOUNT ALLOWABLE AS CREDIT EXCEEDS INCOME TAX LIABILITY IN A TAXABLE  
18 YEAR; HOWEVER, THEREAFTER, IF THE AMOUNT ALLOWABLE AS A CREDIT EXCEEDS  
19 THE TAX LIABILITY, THE AMOUNT OF EXCESS SHALL NOT BE REFUNDABLE OR  
20 CARRIED FORWARD TO ANY OTHER TAXABLE YEAR.

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

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

28 The corporation's credit base under  
29 section two hundred ten or section  
30 With respect to the following fourteen hundred fifty-six of this  
31 credit under this section: chapter is:

32 (I) Investment tax credit Investment credit base  
33 under subsection (a) or qualified  
34 rehabilitation  
35 expenditures under  
36 subdivision twelve of  
37 section two hundred ten

38 (II) Empire zone Cost or other basis  
39 investment tax credit under subdivision  
40 under subsection (j) twelve-B  
41 of section two hundred  
42 ten

43 (III) Empire zone Eligible wages under  
44 wage tax credit subdivision nineteen of  
45 under subsection (k) section two hundred ten  
46 or subsection (e) of  
47 section fourteen hundred  
48 fifty-six

49 (IV) Empire zone Qualified investments  
50 capital tax credit and contributions under  
51 under subsection (l) subdivision twenty of

1		section two hundred ten
2		or subsection (d) of
3		section fourteen hundred
4		fifty-six
5	(V) Agricultural property tax	Allowable school
6	credit under subsection (n)	district property taxes under
7		subdivision twenty-two of
8		section two hundred ten
9	(VI) Credit for employment	Qualified first-year wages or
10	of persons with dis-	qualified second-year wages
11	abilities under	under subdivision
12	subsection (o)	twenty-three of section
13		two hundred ten
14		or subsection (f)
15		of section fourteen
16		hundred fifty-six
17	(VII) Employment incentive	Applicable investment credit
18	credit under subsec-	base under subdivision
19	tion (a-1)	twelve-D of section two
20		hundred ten
21	(VIII) Empire zone	Applicable investment
22	employment	credit under sub-
23	incentive credit under	division twelve-C
24	subsection (j-1)	of section two hundred ten
25	(IX) Alternative fuels credit	Cost under subdivision
26	under subsection (p)	twenty-four of section two
27		hundred ten
28	(X) Qualified emerging	Applicable credit base
29	technology company	under subdivision twelve-E
30	employment credit	of section two hundred ten
31	under subsection (q)	
32	(XI) Qualified emerging	Qualified investments under
33	technology company	subdivision twelve-F of
34	capital tax credit	section two hundred ten
35	under subsection (r)	
36	(XII) Credit for purchase of an	Cost of an automated
37	automated external defibrillator	external defibrillator under
38	under subsection (s)	subdivision twenty-five of
39		section two hundred ten
40		or subsection (j) of section
41		fourteen hundred fifty-six
42	(XIII) Low-income housing	Credit amount under
43	credit under subsection (x)	subdivision thirty
44		of section two hundred ten or
45		subsection (l) of section
46		fourteen hundred fifty-six

1	(XIV) Credit for transportation	Amount of credit under sub-
2	improvement contributions	division thirty-two of section
3	under subsection (z)	two hundred ten or subsection
4		(n) of section fourteen
5		hundred fifty-six
6	(XV) QEZE credit for real property	Amount of credit under
7	taxes under subsection (bb)	subdivision twenty-seven of
8		section two hundred ten or
9		subsection (o) of section
10		fourteen hundred fifty-six
11	(XVI) QEZE tax reduction credit	Amount of benefit period
12	under subsection (cc)	factor, employment increase factor
13		and zone allocation
14		factor (without regard
15		to pro ration) under
16		subdivision twenty-eight of
17		section two hundred ten or
18		subsection (p) of section
19		fourteen hundred fifty-six
20		and amount of tax factor
21		as determined under
22		subdivision (f) of section sixteen
23	(XVII) Green building credit	Amount of green building credit
24	under subsection (y)	under subdivision thirty-one
25		of section two hundred ten
26		or subsection (m) of section
27		fourteen hundred fifty-six
28	(XVIII) Credit for long-term	Qualified costs under
29	care insurance premiums	subdivision twenty-five-a of
30	under subsection (aa)	section two hundred ten
31		or subsection (k) of section
32		fourteen hundred fifty-six
33	(XIX) Brownfield redevelopment	Amount of credit
34	credit under subsection	under subdivision
35	(dd)	thirty-three of section
36		two hundred ten
37		or subsection (q) of
38		section fourteen hundred
39		fifty-six
40	(XX) Remediated brownfield	Amount of credit under
41	credit for real property	subdivision thirty-four
42	taxes for qualified	of section two hundred
43	sites under subsection	ten or subsection (r) of
44	(ee)	section fourteen hundred
45		fifty-six
46	(XXI) Environmental	Amount of credit under
47	remediation	subdivision thirty-five of
48	insurance credit under	section two hundred
49	subsection (ff)	ten or subsection

1		(s) of section
2		fourteen hundred
3		fifty-six
4	(XXII) Empire state film production	Amount of credit for
5	credit under subsection (gg)	qualified production costs in
6		production of a qualified film under
7		subdivision thirty-six of
8		section two hundred ten
9	(XXIII) Qualified emerging	Qualifying expenditures and
10	technology company facilities,	development activities under
11	operations and training credit	subdivision twelve-G of section
12	under subsection (nn)	two hundred ten
13	(XXIV) Security training tax	Amount of credit
14	credit under	under subdivision thirty-seven
15	subsection (ii)	of section two hundred ten or
16		under subsection (t) of
17		section fourteen hundred fifty-six
18	(XXV) Credit for qualified fuel	Amount of credit under
19	cell electric generating equipment	subdivision thirty-seven
20	expenditures under subsection (g-2)	of section two hundred ten
21		or subsection (t) of
22		section fourteen hundred
23		fifty-six
24	(XXVI) Empire state commercial	Amount of credit for
25	production	qualified
26	credit under subsection (jj)	production costs in production
27		of a qualified commercial under
28		subdivision thirty-eight of sec-
29		tion two hundred ten
30	(XXVII) Biofuel production	Amount of credit
31	tax credit under	under subdivision
32	subsection (jj)	thirty-eight of
33		section two hundred ten
34	(XXVIII) Clean heating fuel	Amount of credit under
35	credit under subsection (mm)	subdivision thirty-nine of
36		section two hundred ten
37	(XXIX) Credit for rehabilitation	Amount of credit under
38	of historic properties	subdivision forty of
39	under subsection (oo)	subsection two hundred ten
40	(XXX) Credit for companies who	Amount of credit under
41	provide transportation	subdivision forty of
42	to individuals	section two hundred ten
43	with disabilities	
44	under subsection (oo)	
45	(XXXI) ELDER CARE CREDIT UNDER	AMOUNT OF CREDIT UNDER
46	SUBSECTION (QQ)	SUBDIVISION FOURTEEN OF

## SECTION TWO HUNDRED TEN

S 4. The commissioner of taxation and finance, the commissioner of health and the commissioner of the office of children and family services shall promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date.

S 5. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2011; provided, however 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.