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

6344

2009-2010 Regular Sessions

I N S E N A T E

December 16, 2009

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law and the insurance law, in relation to providing a tax credit for the purchase of health insurance by qualified small employers

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 EMPLOYER HEALTH CARE INSURANCE CREDIT. (A) A TAXPAYER WHO IS A QUALIFIED SMALL EMPLOYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO TWENTY PERCENT OF THE PREMIUM PAID DURING THE TAXABLE YEAR FOR HEALTH INSURANCE BY SUCH EMPLOYER.

(B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY YEAR SHALL NOT 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. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(C) FOR THE PURPOSES OF THIS SUBDIVISION "QUALIFIED SMALL EMPLOYER" SHALL MEAN AN INDIVIDUAL PROPRIETOR WHO IS THE SOLE EMPLOYEE OF THE BUSINESS OR AN EMPLOYER WITH NOT MORE THAN FIFTY EMPLOYEES:

(A) WHO IS A "SMALL BUSINESS TAXPAYER" AS DEFINED IN PARAGRAPH (F) OF SUBDIVISION ONE OF THIS SECTION; AND

(B) WHO IS INELIGIBLE FOR OR NOT PARTICIPATING IN ANY PROGRAM ESTABLISHED PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THE INSURANCE LAW.

(D) FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "HEALTH INSURANCE" MEANS AN ACCIDENT AND HEALTH INSURANCE POLICY SUBJECT TO THE PROVISIONS

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

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OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN, THREE THOUSAND TWO HUNDRED TWENTY-ONE, FOUR THOUSAND THREE HUNDRED THREE OR FOUR THOUSAND EIGHT HUNDRED ONE OF THE INSURANCE LAW, AND ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW.

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) SMALL EMPLOYER HEALTH CARE INSURANCE CREDIT UNDER SUBSECTION (QQ)	CREDIT UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN

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

(QQ) SMALL EMPLOYER HEALTH CARE INSURANCE CREDIT. (1) A TAXPAYER WHO IS A QUALIFIED SMALL EMPLOYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO TWENTY PERCENT OF THE PREMIUM PAID BY SUCH EMPLOYER AND EMPLOYEE FOR HEALTH INSURANCE DURING THE TAXABLE YEAR.

(2) FOR THE PURPOSES OF THIS SUBSECTION "QUALIFIED SMALL EMPLOYER" SHALL MEAN AN INDIVIDUAL PROPRIETOR WHO IS THE SOLE EMPLOYEE OF THE BUSINESS OR AN EMPLOYER WITH NOT MORE THAN FIFTY EMPLOYEES:

(I) WHO IS A "SMALL BUSINESS TAXPAYER" AS DEFINED IN PARAGRAPH (F) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER; AND

(II) WHO IS INELIGIBLE FOR OR NOT PARTICIPATING IN ANY PROGRAM ESTABLISHED PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THE INSURANCE LAW.

(3) FOR THE PURPOSES OF THIS SUBSECTION, THE TERM "HEALTH INSURANCE" MEANS AN ACCIDENT AND HEALTH INSURANCE POLICY SUBJECT TO THE PROVISIONS OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN, THREE THOUSAND TWO HUNDRED TWENTY-ONE, FOUR THOUSAND THREE HUNDRED THREE OR FOUR THOUSAND EIGHT HUNDRED ONE OF THE INSURANCE LAW, AND ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW.

S 4. Section 1456 of the tax law is amended by adding a new subsection (f-1) to read as follows:

(F-1)(1) A TAXPAYER WHO IS A QUALIFIED SMALL EMPLOYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO TWENTY PERCENT OF THE PREMIUM PAID DURING THE TAXABLE YEAR FOR HEALTH INSURANCE BY SUCH EMPLOYER.

(2) IN NO EVENT SHALL THE CREDIT PROVIDED FOR IN THIS SECTION, AND CARRYOVERS OF SUCH CREDIT, BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE DOLLAR AMOUNT FIXED AS A MINIMUM TAX BY SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT, OR BOTH, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, 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 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(3) FOR THE PURPOSES OF THIS SECTION THE TERM "QUALIFIED SMALL EMPLOYER" SHALL MEAN AN INDIVIDUAL PROPRIETOR WHO IS THE SOLE EMPLOYEE OF THE BUSINESS OR AN EMPLOYER WITH NOT MORE THAN FIFTY EMPLOYEES:

(I) WHO IS A "SMALL BUSINESS TAXPAYER" AS DEFINED IN PARAGRAPH (F) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER; AND

(II) WHO IS INELIGIBLE FOR OR NOT PARTICIPATING IN ANY PROGRAM ESTABLISHED PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THE INSURANCE LAW.

(4) FOR THE PURPOSES OF THIS SUBSECTION, THE TERM "HEALTH INSURANCE" MEANS AN ACCIDENT AND HEALTH INSURANCE POLICY SUBJECT TO THE PROVISIONS

OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN, THREE THOUSAND TWO HUNDRED TWENTY-ONE, FOUR THOUSAND THREE HUNDRED THREE OR FOUR THOUSAND EIGHT HUNDRED ONE OF THE INSURANCE LAW, AND ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW.

S 5. Section 1511 of the tax law is amended by adding a new subdivision (y) to read as follows:

(Y) SMALL EMPLOYER HEALTH CARE INSURANCE CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO TWENTY PERCENT OF THE PREMIUM PAID DURING THE TAXABLE YEAR FOR HEALTH INSURANCE BY SUCH EMPLOYER.

(2) IN NO EVENT SHALL THE CREDIT HEREIN PROVIDED FOR BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE MINIMUM FIXED BY SUBDIVISION (A) OF SECTION FIFTEEN HUNDRED TWO OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(3) FOR THE PURPOSES OF THIS SUBDIVISION THE TERM "QUALIFIED SMALL EMPLOYER" SHALL MEAN AN INDIVIDUAL PROPRIETOR WHO IS THE SOLE EMPLOYEE OF THE BUSINESS OR AN EMPLOYER WITH NOT MORE THAN FIFTY EMPLOYEES:

(I) WHO IS A "SMALL BUSINESS TAXPAYER" AS DEFINED IN PARAGRAPH (F) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER; AND

(II) WHO IS INELIGIBLE FOR OR NOT PARTICIPATING IN ANY PROGRAM ESTABLISHED PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THE INSURANCE LAW.

(4) FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "HEALTH INSURANCE" MEANS AN ACCIDENT AND HEALTH INSURANCE POLICY SUBJECT TO THE PROVISIONS OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN, THREE THOUSAND TWO HUNDRED TWENTY-ONE, FOUR THOUSAND THREE HUNDRED THREE OR FOUR THOUSAND EIGHT HUNDRED ONE OF THE INSURANCE LAW, AND ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW.

S 6. The insurance law is amended by adding a new section 215 to read as follows:

S 215. REPORT ON QUALIFIED SMALL EMPLOYER TAX CREDIT. THE SUPERINTENDENT SHALL ORDER A STUDY OF THE IMPACT OF SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THIS CHAPTER, SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN OF THE TAX LAW, SUBSECTION (T) OF SECTION SIX HUNDRED SIX OF THE TAX LAW, AND SUBSECTION (F-1) OF SECTION FOURTEEN HUNDRED FIFTY-SIX OF THE TAX LAW. SUCH STUDY SHALL EXAMINE THE NUMBER OF PERSONS COVERED BY GROUP HEALTH INSURANCE OFFERED BY THEIR EMPLOYER PRIOR TO, AND AFTER, IMPLEMENTATION OF SUCH PROVISIONS OF SUCH SECTIONS, AND SHALL DETERMINE THE EFFECT OF SUCH PROVISIONS OF SUCH SECTIONS ON EMPLOYEE HEALTH INSURANCE COVERAGE. THE STUDY SHALL BE COMPLETED AND A REPORT SUBMITTED BY SEPTEMBER FIRST, TWO THOUSAND THIRTEEN TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY.

S 7. This act shall take effect January 1, 2011.