

10445

I N A S S E M B L Y

March 26, 2010

Introduced by M. of A. BRENNAN, CASTRO, BARRON -- Multi-Sponsored by --  
M. of A. CLARK, DenDEKKER, DINOWITZ, GOTTFRIED, LIFTON -- read once  
and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a cap on certain tax credits, to impose a surcharge against certain taxes and to increase the alternative minimum tax on corporations; 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:

1 Section 1. The tax law is amended by adding a new section 210-a to  
2 read as follows:  
3 S 210-A. CAP ON CERTAIN CREDITS. 1. FOR PURPOSES OF THIS SECTION, THE  
4 TERM "COVERED CREDITS" SHALL MEAN AND INCLUDE THE FOLLOWING: THE ALTER-  
5 NATIVE FUELS CREDIT SET FORTH IN SUBDIVISION TWENTY-FOUR OF SECTION TWO  
6 HUNDRED TEN OF THIS ARTICLE, THE AUTOMATED EXTERNAL DEFIBRILLATOR CREDIT  
7 SET FORTH IN SUBDIVISION TWENTY-FIVE OF SECTION TWO HUNDRED TEN OF THIS  
8 ARTICLE, THE BIOFUEL PRODUCTION CREDIT SET FORTH IN SECTION TWENTY-EIGHT  
9 OF THIS CHAPTER AND SUBDIVISION THIRTY-EIGHT OF SECTION TWO HUNDRED TEN  
10 OF THIS ARTICLE, THE BROWNFIELD REDEVELOPMENT TAX CREDIT SET FORTH IN  
11 SECTION TWENTY-ONE OF THIS CHAPTER AND SUBDIVISION THIRTY-THREE OF  
12 SECTION TWO HUNDRED TEN OF THIS ARTICLE, THE TAX CREDIT FOR REMEDIATED  
13 BROWNFIELDS SET FORTH IN SECTION TWENTY-TWO OF THIS CHAPTER AND SUBDIVI-  
14 SION THIRTY-FOUR OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, THE ENVI-  
15 RONMENTAL REMEDIATION INSURANCE CREDIT SET FORTH IN SECTION TWENTY-THREE  
16 OF THIS CHAPTER AND SUBDIVISION THIRTY-FIVE OF SECTION TWO HUNDRED TEN  
17 OF THIS ARTICLE, THE CLEAN HEATING FUEL CREDIT SET FORTH IN SUBDIVISION  
18 THIRTY-NINE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, THE CONSERVATION  
19 EASEMENT CREDIT SET FORTH IN SUBDIVISION THIRTY-EIGHT OF SECTION TWO  
20 HUNDRED TEN OF THIS ARTICLE, THE CREDIT FOR EMPLOYMENT OF PERSONS WITH  
21 DISABILITIES SET FORTH IN SUBDIVISION TWENTY-THREE OF SECTION TWO  
22 HUNDRED TEN OF THIS ARTICLE, THE EMPIRE STATE COMMERCIAL PRODUCTION  
23 CREDIT, SET FORTH IN SECTION TWENTY-EIGHT OF THIS CHAPTER AND SUBDIVI-  
24 SION THIRTY-EIGHT OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, THE EMPIRE  
25 STATE FILM PRODUCTION CREDIT SET FORTH IN SECTION TWENTY-FOUR OF THIS

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

LBD16620-03-0

1 CHAPTER AND SUBDIVISION THIRTY-SIX OF SECTION TWO HUNDRED TEN OF THIS  
2 ARTICLE, THE EMPIRE ZONE CAPITAL TAX CREDIT SET FORTH IN SUBDIVISION  
3 TWENTY OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, THE EMPIRE ZONE  
4 INVESTMENT TAX CREDIT SET FORTH IN SUBDIVISION TWELVE-B OF SECTION TWO  
5 HUNDRED TEN OF THIS ARTICLE, THE EMPIRE ZONE EMPLOYMENT INCENTIVE CREDIT  
6 SET FORTH IN SUBDIVISION TWELVE-C OF SECTION TWO HUNDRED TEN OF THIS  
7 ARTICLE, THE INVESTMENT TAX CREDIT SET FORTH IN SUBDIVISION TWELVE OF  
8 SECTION TWO HUNDRED TEN OF THIS ARTICLE, THE EMPIRE ZONE WAGE TAX CREDIT  
9 SET FORTH IN SUBDIVISION NINETEEN OF SECTION TWO HUNDRED TEN OF THIS  
10 ARTICLE, THE GREEN BUILDING CREDIT SET FORTH IN SECTION NINETEEN OF THIS  
11 CHAPTER AND SUBDIVISION THIRTY-ONE OF SECTION TWO HUNDRED TEN OF THIS  
12 ARTICLE, THE CREDIT FOR COMPANIES WHO PROVIDE TRANSPORTATION TO INDIVID-  
13 UALS WITH DISABILITIES SET FORTH IN SUBDIVISION FORTY OF SECTION TWO  
14 HUNDRED TEN OF THIS ARTICLE, THE LOW INCOME HOUSING CREDIT SET FORTH IN  
15 SECTION EIGHTEEN OF THIS CHAPTER AND SUBDIVISION THIRTY OF SECTION TWO  
16 HUNDRED TEN OF THIS ARTICLE, THE CREDIT FOR THE SPECIAL ADDITIONAL MORT-  
17 GAGE RECORDING TAX SET FORTH IN SUBDIVISION SEVENTEEN OF SECTION TWO  
18 HUNDRED TEN OF THIS ARTICLE, THE CREDIT FOR SERVICING CERTAIN MORTGAGES  
19 SET FORTH IN SUBDIVISION TWENTY-ONE-A OF SECTION TWO HUNDRED TEN OF THIS  
20 ARTICLE, THE QUALIFIED EMERGING TECHNOLOGY COMPANY CAPITAL TAX CREDIT  
21 SET FORTH IN SUBDIVISION TWELVE-F OF SECTION TWO HUNDRED TEN OF THIS  
22 ARTICLE, THE QUALIFIED EMERGING TECHNOLOGY COMPANY EMPLOYMENT CREDIT SET  
23 FORTH IN SUBDIVISION TWELVE-E OF SECTION TWO HUNDRED TEN OF THIS ARTI-  
24 CLE, THE QUALIFIED EMERGING TECHNOLOGY COMPANY FACILITIES, OPERATIONS  
25 AND TRAINING CREDIT SET FORTH IN SUBDIVISION TWELVE-G OF SECTION TWO  
26 HUNDRED TEN OF THIS ARTICLE, THE QEZE CREDIT FOR REAL PROPERTY TAXES SET  
27 FORTH IN SECTION FIFTEEN OF THIS CHAPTER AND SUBDIVISION TWENTY-SEVEN OF  
28 SECTION TWO HUNDRED TEN OF THIS ARTICLE, THE QEZE TAX REDUCTION CREDIT  
29 SET FORTH IN SECTION SIXTEEN OF THIS CHAPTER AND SUBDIVISION  
30 TWENTY-EIGHT OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, THE CREDIT FOR  
31 REHABILITATION OF HISTORIC PROPERTIES SET FORTH IN SUBDIVISION FORTY OF  
32 SECTION TWO HUNDRED TEN OF THIS ARTICLE AND THE SECURITY TRAINING TAX  
33 CREDIT SET FORTH IN SECTION TWENTY-SIX OF THIS CHAPTER AND SUBDIVISION  
34 THIRTY-SEVEN OF SECTION TWO HUNDRED TEN OF THIS ARTICLE.

35 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE TOTAL ALLOWABLE  
36 COVERED CREDITS THAT MAY BE CREDITED OR REFUNDED TO A TAXPAYER IN ANY  
37 TAX YEAR SHALL BE LIMITED TO A TOTAL OF FIFTEEN MILLION DOLLARS. ANY  
38 AMOUNT OF CREDIT EXCEEDING FIFTEEN MILLION DOLLARS NOT CREDITED PURSUANT  
39 TO THIS SECTION IN ANY TAX YEAR MAY BE CARRIED OVER TO THE FOLLOWING TAX  
40 YEAR OR YEARS AND MAY BE CREDITED AGAINST SUCH TAXPAYER'S TAX FOR SUCH  
41 YEAR OR YEARS.

42 S 2. The tax law is amended by adding a new section 210-b to read as  
43 follows:

44 S 210-B. SURCHARGE. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING  
45 TERMS SHALL HAVE THE FOLLOWING MEANINGS:

46 A. "TAXES SUBJECT TO SURCHARGE" SHALL MEAN AND INCLUDE THE FOLLOWING:  
47 THE CORPORATION TAX IMPOSED PURSUANT TO ARTICLE NINE OF THIS CHAPTER,  
48 THE FRANCHISE TAX ON BUSINESS CORPORATIONS IMPOSED PURSUANT TO ARTICLE  
49 NINE-A OF THIS CHAPTER, THE FRANCHISE TAX ON BANKING CORPORATIONS  
50 IMPOSED PURSUANT TO ARTICLE THIRTY-TWO OF THIS CHAPTER AND THE FRANCHISE  
51 TAX ON INSURANCE CORPORATIONS IMPOSED PURSUANT TO ARTICLE THIRTY-THREE  
52 OF THIS CHAPTER; AND

53 B. "FINAL TAX LIABILITY" SHALL MEAN THE TAX LIABILITY OF A TAXPAYER  
54 AFTER ALL DEDUCTIONS AND CREDITS FOR WHICH SUCH TAXPAYER IS ELIGIBLE  
55 HAVE BEEN TAKEN.

1 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THERE IS HEREBY IMPOSED  
2 A SURCHARGE AGAINST TAXES SUBJECT TO SURCHARGE FOR ANY TAXPAYER WHO IS  
3 SUBJECT TO ONE OR MORE OF SUCH TAXES SUBJECT TO SURCHARGE. SUCH  
4 SURCHARGE SHALL BE FIFTEEN PERCENT OF SUCH TAXPAYER'S FINAL TAX LIABIL-  
5 ITY FOR THE TAX YEAR.

6 S 3. Subparagraph (ii) of paragraph (c) of subdivision 1 of section  
7 210 of the tax law, as amended by section 5 of part N of chapter 60 of  
8 the laws of 2007, is amended to read as follows:

9 (ii) For taxable years beginning in nineteen hundred ninety, nineteen  
10 hundred ninety-one, nineteen hundred ninety-two, nineteen hundred nine-  
11 ty-three and nineteen hundred ninety-four the amount prescribed by this  
12 paragraph shall be computed at the rate of five percent of the taxpay-  
13 er's minimum taxable income base. For taxable years beginning after  
14 nineteen hundred ninety-four and before July first, nineteen hundred  
15 ninety-eight, the amount prescribed by this paragraph shall be computed  
16 at the rate of three and one-half percent of the taxpayer's minimum  
17 taxable income base. For taxable years beginning after June thirtieth,  
18 nineteen hundred ninety-eight and before July first, nineteen hundred  
19 ninety-nine, the amount prescribed by this paragraph shall be computed  
20 at the rate of three and one-quarter percent of the taxpayer's minimum  
21 taxable income base. For taxable years beginning after June thirtieth,  
22 nineteen hundred ninety-nine and before July first, two thousand, the  
23 amount prescribed by this paragraph shall be computed at the rate of  
24 three percent of the taxpayer's minimum taxable income base. For taxa-  
25 ble years beginning after June thirtieth, two thousand, the amount  
26 prescribed by this paragraph shall be computed at the rate of two and  
27 one-half percent of the taxpayer's minimum taxable income base. For  
28 taxable years beginning on or after January first, two thousand seven,  
29 amount prescribed by this paragraph shall be computed at the rate of one  
30 and one-half percent of the taxpayer's minimum taxable income base. FOR  
31 TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, THE  
32 AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL BE COMPUTED AT THE RATE OF  
33 THREE AND ONE-HALF PERCENT OF THE TAXPAYER'S MINIMUM TAXABLE INCOME  
34 BASE. The "taxpayer's minimum taxable income base" shall mean the  
35 portion of the taxpayer's minimum taxable income allocated within the  
36 state as hereinafter provided, subject to any modifications required by  
37 paragraphs (d) and (e) of subdivision three of this section.

38 S 4. This act shall take effect immediately and shall apply to taxable  
39 years beginning on or after January 1, 2010, provided that section two  
40 of this act shall expire and be deemed repealed January 1, 2014.