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

1905

2009-2010 Regular Sessions

I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. THIELE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing a credit against the franchise tax on corporations and the personal income tax to employers who provide housing assistance to eligible employees

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. COMMUNITY HOUSING OPPORTUNITY CREDIT. (A) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO FIFTY PERCENT OF THE QUALIFIED COMMUNITY HOUSING OPPORTUNITY EXPENDITURES MADE BY THE TAXPAYER IN RELATION TO ELIGIBLE EMPLOYEES OF THE TAXPAYER, AS FURTHER PROVIDED BY THIS SUBDIVISION.

(B) FOR THE PURPOSES OF THIS SUBDIVISION: (1) THE TERM "ELIGIBLE EMPLOYEE" MEANS AN ANNUAL OR SEASONAL FULL TIME EMPLOYEE WHO WORKS AT LEAST THIRTY HOURS EACH WEEK. A SEASONAL EMPLOYEE SHALL WORK AT LEAST THIRTEEN WEEKS DURING THE TAX YEAR BUT NOT MORE THAN THIRTY-NINE WEEKS IN ORDER TO BE AN ELIGIBLE EMPLOYEE. AN ANNUAL EMPLOYEE SHALL WORK MORE THAN THIRTY-NINE WEEKS DURING THE TAX YEAR. IN ADDITION, THE GROSS ADJUSTED INCOME OF SUCH ELIGIBLE EMPLOYEE SHALL BE AT OR BELOW THE MEDIAN HOUSEHOLD INCOME FOR THE COUNTY IN WHICH SUCH EMPLOYEE RESIDES. IN THE CASE OF SEASONAL EMPLOYEE, GROSS ADJUSTED INCOME SHALL BE PRORATED OVER THE ENTIRE TAX YEAR IN ORDER TO DETERMINE INCOME ELIGIBILITY.

(2) THE TERM "QUALIFIED COMMUNITY HOUSING OPPORTUNITY EXPENDITURES" MEANS: (I) IN THE CASE OF THE PURCHASE OF A HOUSING UNIT BY AN ELIGIBLE EMPLOYEE, EXPENDITURES BY THE TAXPAYER FOR DOWN PAYMENTS, MORTGAGE INTEREST RATE BUY-DOWNS OR OTHER MORTGAGE SUBSIDIES, AND CLOSING COSTS; (II) IN THE CASE OF THE RENTAL OF A HOUSING UNIT BY AN ELIGIBLE EMPLOY-

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

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EE, EXPENDITURES BY THE TAXPAYER FOR SECURITY DEPOSITS, ADVANCE RENTAL PAYMENTS, OR OTHER RENT SUBSIDIES.

(C) A HOUSING UNIT FOR WHICH QUALIFIED COMMUNITY HOUSING EXPENDITURES ARE MADE BY A TAXPAYER PURSUANT TO THIS SUBDIVISION SHALL BE LOCATED WITHIN THE STATE OF NEW YORK AND SHALL BE THE PRIMARY RESIDENCE OF THE ELIGIBLE EMPLOYEE.

(D) A HOUSING UNIT FOR WHICH QUALIFIED COMMUNITY HOUSING EXPENDITURES HAVE BEEN MADE BY THE TAXPAYER PURSUANT TO THIS SUBDIVISION, SHALL POSSESS A VALID CERTIFICATE OF OCCUPANCY FOR USE AS A RESIDENTIAL HOUSING UNIT, AND SHALL NOT HAVE BEEN THE SUBJECT OF A CONVICTION BY A COURT OF COMPETENT JURISDICTION DURING THE RELEVANT TAX YEAR OF A VIOLATION OF ANY ZONING, BUILDING, FIRE, SANITARY OR OTHER HEALTH OR SAFETY CODE. THE TAXPAYER SHALL CERTIFY COMPLIANCE WITH THIS PARAGRAPH IN ORDER TO BE ELIGIBLE FOR THE CREDIT PROVIDED BY THIS SUBDIVISION.

(E) THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED TEN THOUSAND DOLLARS PER ELIGIBLE ANNUAL EMPLOYEE IN ANY TAX YEAR AND FIVE THOUSAND DOLLARS FOR EACH SEASONAL EMPLOYEE. CUMULATIVELY, SUCH CREDIT SHALL NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS IN ANY TAX YEAR.

(F) IN THE CASE OF QUALIFIED COMMUNITY HOUSING OPPORTUNITY EXPENDITURES MADE BY THE TAXPAYER WITH REGARD TO THE PURCHASE OF A HOUSING UNIT BY AN ELIGIBLE EMPLOYEE, THE PURCHASE PRICE OF SUCH HOUSING UNITS SHALL NOT EXCEED FIVE TIMES THE MEDIAN HOUSEHOLD INCOME OF THE COUNTY IN WHICH THE HOUSING UNIT IS LOCATED. IN THE CASE OF EXPENDITURES MADE IN RELATION TO A HOUSING RENTAL, THE ANNUAL RENT SHALL NOT EXCEED ONE-THIRD OF THE MEDIAN HOUSEHOLD INCOME OF THE COUNTY IN WHICH THE HOUSING UNIT IS LOCATED.

S 2. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) COMMUNITY HOUSING OPPORTUNITY CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO FIFTY PERCENT OF THE QUALIFIED COMMUNITY HOUSING OPPORTUNITY EXPENDITURES MADE BY THE TAXPAYER IN RELATION TO ELIGIBLE EMPLOYEES OF THE TAXPAYER, AS FURTHER PROVIDED BY THIS SUBSECTION.

(2) FOR THE PURPOSES OF THIS SUBSECTION: (A) THE TERM "ELIGIBLE EMPLOYEE" MEANS AN ANNUAL OR SEASONAL FULL TIME EMPLOYEE WHO WORKS AT LEAST THIRTY HOURS EACH WEEK. A SEASONAL EMPLOYEE SHALL WORK AT LEAST THIRTEEN WEEKS DURING THE TAX YEAR BUT NOT MORE THAN THIRTY-NINE WEEKS IN ORDER TO BE AN ELIGIBLE EMPLOYEE. AN ANNUAL EMPLOYEE SHALL WORK MORE THAN THIRTY-NINE WEEKS DURING THE TAX YEAR. IN ADDITION, THE GROSS ADJUSTED INCOME OF SUCH ELIGIBLE EMPLOYEE SHALL BE AT OR BELOW THE MEDIAN HOUSEHOLD INCOME FOR THE COUNTY IN WHICH SUCH EMPLOYEE RESIDES. IN THE CASE OF A SEASONAL EMPLOYEE, GROSS ADJUSTED INCOME SHALL BE PRORATED OVER THE ENTIRE TAX YEAR IN ORDER TO DETERMINE INCOME ELIGIBILITY.

(B) THE TERM "QUALIFIED COMMUNITY HOUSING OPPORTUNITY EXPENDITURES" MEANS: (I) IN THE CASE OF THE PURCHASE OF A HOUSING UNIT BY AN ELIGIBLE EMPLOYEE, EXPENDITURES BY THE TAXPAYER FOR DOWN PAYMENTS, MORTGAGE INTEREST RATE BUY-DOWNS OR OTHER MORTGAGE SUBSIDIES, AND CLOSING COSTS; (II) IN THE CASE OF THE RENTAL OF A HOUSING UNIT BY AN ELIGIBLE EMPLOYEE, EXPENDITURES BY THE TAXPAYER FOR SECURITY DEPOSITS, ADVANCE RENTAL PAYMENTS, OR OTHER RENT SUBSIDIES.

(3) A HOUSING UNIT FOR WHICH QUALIFIED COMMUNITY HOUSING EXPENDITURES ARE MADE BY A TAXPAYER PURSUANT TO THIS SUBSECTION SHALL BE LOCATED WITHIN THE STATE OF NEW YORK AND SHALL BE THE PRIMARY RESIDENCE OF THE ELIGIBLE EMPLOYEE.

(4) A HOUSING UNIT FOR WHICH QUALIFIED COMMUNITY HOUSING EXPENDITURES HAVE BEEN MADE BY THE TAXPAYER PURSUANT TO THIS SUBSECTION, SHALL POSSESS A VALID CERTIFICATE OF OCCUPANCY FOR USE AS A RESIDENTIAL HOUSING UNIT, AND SHALL NOT HAVE BEEN THE SUBJECT OF A CONVICTION BY A COURT OF COMPETENT JURISDICTION DURING THE RELEVANT TAX YEAR OF A VIOLATION OF ANY ZONING, BUILDING, FIRE, SANITARY OR OTHER HEALTH OR SAFETY CODE. THE TAXPAYER SHALL CERTIFY COMPLIANCE WITH THIS PARAGRAPH IN ORDER TO BE ELIGIBLE FOR THE CREDIT PROVIDED BY THIS SUBSECTION.

(5) THE AMOUNT OF THE CREDIT PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED TEN THOUSAND DOLLARS PER ELIGIBLE ANNUAL EMPLOYEE IN ANY TAX YEAR AND FIVE THOUSAND DOLLARS FOR EACH SEASONAL EMPLOYEE. CUMULATIVELY, SUCH CREDIT SHALL NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS IN ANY TAX YEAR.

(6) IN THE CASE OF QUALIFIED COMMUNITY HOUSING OPPORTUNITY EXPENDITURES MADE BY THE TAXPAYER WITH REGARD TO THE PURCHASE OF A HOUSING UNIT BY AN ELIGIBLE EMPLOYEE, THE PURCHASE PRICE OF SUCH HOUSING UNITS SHALL NOT EXCEED FIVE TIMES THE MEDIAN HOUSEHOLD INCOME OF THE COUNTY IN WHICH THE HOUSING UNIT IS LOCATED. IN THE CASE OF EXPENDITURES MADE IN RELATION TO A HOUSING RENTAL, THE ANNUAL RENT SHALL NOT EXCEED ONE-THIRD OF THE MEDIAN HOUSEHOLD INCOME OF THE COUNTY IN WHICH THE HOUSING UNIT IS LOCATED.

S 3. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.