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

3052

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. KOLB, ERRIGO, WALKER, OAKS, McKEVITT, BARCLAY, CORWIN -- Multi-Sponsored by -- M. of A. AMEDORE, BACALLES, CROUCH, DUPREY, GIGLIO, P. LOPEZ, MOLINARO, O'MARA, QUINN, SAYWARD, SPANO, TOBACCO, TOWNSEND, WEISENBERG -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a credit for on-the-job training

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 22-a to read as follows:

22-A. CREDIT FOR ON-THE-JOB TRAINING. (A) GENERAL. A TAXPAYER, WHO HAS ONE HUNDRED EMPLOYEES OR LESS, SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR PROVIDING ON-THE-JOB TRAINING TO AN EMPLOYEE.

(B) ON-THE-JOB TRAINING. ON-THE-JOB TRAINING SHALL MEAN TRAINING WHICH IS SPECIFIED IN AN AGREEMENT BETWEEN THE GRANTEE AND THE EMPLOYER AND INCLUDES BOTH WORK EXPERIENCE AND TRAINING, FORMALIZED IN AN OUTLINE DEFINING EACH TRAINING COMPONENT AND OUTCOMES OF THE TRAINING PROCESS.

(C) ON-THE-JOB TRAINING EXPENDITURES. ON-THE-JOB TRAINING EXPENDITURES SHALL INCLUDE EXPENDITURES FOR THE PURCHASE OF EITHER COMMERCIAL OR CUSTOMIZED INSTRUCTIONAL MATERIALS INCLUDING SOFTWARE, TEXTS, MANUALS OR EQUIPMENT THAT CAN BE USED TO SIMULATE JOB TASKS; PAYMENTS TO CONSULTANTS, TRAINERS, OR INSTRUCTORS WHO ARE NOT EMPLOYEES OF THE FIRM; AND COSTS ASSOCIATED WITH THE USE, RENTAL, OR LEASE OF A CLASSROOM OR OTHER DEDICATED SPACE FOR THE TRAINING.

(D) AMOUNT OF CREDIT. A CREDIT SHALL BE ALLOWED FOR THE AMOUNT OF ON-THE-JOB TRAINING EXPENDITURES INCURRED BY AN EMPLOYER. THE AMOUNT OF CREDIT SHALL NOT EXCEED THREE HUNDRED DOLLARS PER EMPLOYEE FOR WHOM SUCH TRAINING HAS BEEN PROVIDED DURING THE TAXABLE YEAR IN WHICH SUCH EXPENDITURES WERE MADE.

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

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(E) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE 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. PROVIDED, HOWEVER, IF 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.

S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law, as amended by section 2 of part ZZ1 of chapter 57 of the laws of 2008, is amended to read as follows:

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

With respect to the following credit under this section:	The corporation's credit base under section two hundred ten or section fourteen hundred fifty-six of this chapter is:
(I) Investment tax credit under subsection (a)	Investment credit base or qualified rehabilitation expenditures under subdivision twelve of section two hundred ten
(II) Empire zone investment tax credit under subsection (j)	Cost or other basis under subdivision twelve-B of section two hundred ten
(III) Empire zone wage tax credit under subsection (k)	Eligible wages under subdivision nineteen of section two hundred ten or subsection (e) of section fourteen hundred fifty-six
(IV) Empire zone capital tax credit under subsection (l)	Qualified investments and contributions under subdivision twenty of section two hundred ten or subsection (d) of section fourteen hundred fifty-six
(V) Agricultural property tax credit under subsection (n)	Allowable school district property taxes under subdivision twenty-two of section two hundred ten
(VI) Credit for employment of persons with dis-	Qualified first-year wages or qualified second-year wages

abilities under subsection (o)	under subdivision twenty-three of section two hundred ten or subsection (f) of section fourteen hundred fifty-six
(VII) Employment incentive credit under subsection (a-1)	Applicable investment credit base under subdivision twelve-D of section two hundred ten
(VIII) Empire zone employment incentive credit under subsection (j-1)	Applicable investment credit under subdivision twelve-C of section two hundred ten
(IX) Alternative fuels credit under subsection (p)	Cost under subdivision twenty-four of section two hundred ten
(X) Qualified emerging technology company employment credit under subsection (q)	Applicable credit base under subdivision twelve-E of section two hundred ten
(XI) Qualified emerging technology company capital tax credit under subsection (r)	Qualified investments under subdivision twelve-F of section two hundred ten
(XII) Credit for purchase of an automated external defibrillator under subsection (s)	Cost of an automated external defibrillator under subdivision twenty-five of section two hundred ten or subsection (j) of section fourteen hundred fifty-six
(XIII) Low-income housing credit under subsection (x)	Credit amount under subdivision thirty of section two hundred ten or subsection (l) of section fourteen hundred fifty-six
(XIV) Credit for transportation improvement contributions under subsection (z)	Amount of credit under subdivision thirty-two of section two hundred ten or subsection (n) of section fourteen hundred fifty-six
(XV) QEZE credit for real property taxes under subsection (bb)	Amount of credit under subdivision twenty-seven of section two hundred ten or subsection (o) of section fourteen hundred fifty-six

(XVI) QEZE tax reduction credit under subsection (cc)	Amount of benefit period factor, employment increase factor and zone allocation factor (without regard to pro ration) under subdivision twenty-eight of section two hundred ten or subsection (p) of section fourteen hundred fifty-six and amount of tax factor as determined under subdivision (f) of section sixteen
(XVII) Green building credit under subsection (y)	Amount of green building credit under subdivision thirty-one of section two hundred ten or subsection (m) of section fourteen hundred fifty-six
(XVIII) Credit for long-term care insurance premiums under subsection (aa)	Qualified costs under subdivision twenty-five-a of section two hundred ten or subsection (k) of section fourteen hundred fifty-six
(XIX) Brownfield redevelopment credit under subsection (dd)	Amount of credit under subdivision thirty-three of section two hundred ten or subsection (q) of section fourteen hundred fifty-six
(XX) Remediated brownfield credit for real property taxes for qualified sites under subsection (ee)	Amount of credit under subdivision thirty-four of section two hundred ten or subsection (r) of section fourteen hundred fifty-six
(XXI) Environmental remediation insurance credit under subsection (ff)	Amount of credit under subdivision thirty-five of section two hundred ten or subsection (s) of section fourteen hundred fifty-six
(XXII) Empire state film production credit under subsection (gg)	Amount of credit for qualified production costs in production of a qualified film under subdivision thirty-six of section two hundred ten
(XXIII) Qualified emerging technology company facilities,	Qualifying expenditures and development activities under

operations and training credit under subsection (nn)	subdivision twelve-G of section two hundred ten
(XXIV) Security training tax credit under subsection (ii)	Amount of credit under subdivision thirty-seven of section two hundred ten or under subsection (t) of section fourteen hundred fifty-six
(XXV) Credit for qualified fuel cell electric generating equipment expenditures under subsection (g-2)	Amount of credit under subdivision thirty-seven of section two hundred ten or subsection (t) of section fourteen hundred fifty-six
(XXVI) Empire state commercial production credit under subsection (jj)	Amount of credit for qualified production costs in production of a qualified commercial under subdivision thirty-eight of section two hundred ten
(XXVII) Biofuel production tax credit under subsection (jj)	Amount of credit under subdivision thirty-eight of section two hundred ten
(XXVIII) Clean heating fuel credit under subsection (mm)	Amount of credit under subdivision thirty-nine of section two hundred ten
(XXIX) Credit for rehabilitation of historic properties under subsection (oo)	Amount of credit under subdivision forty of [subsection] SECTION two hundred ten
(XXX) Credit for companies who provide transportation to individuals with disabilities under subsection (oo)	Amount of credit under subdivision forty of section two hundred ten
(XXXI) CREDIT FOR ON-THE-JOB TRAINING UNDER SUBSECTION (QQ)	COSTS UNDER SUBDIVISION TWENTY-TWO-A 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) CREDIT FOR ON-THE-JOB TRAINING. (1) GENERAL. A TAXPAYER, WHO HAS ONE HUNDRED EMPLOYEES OR LESS, SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR PROVIDING ON-THE-JOB TRAINING TO AN EMPLOYEE.

(2) ON-THE-JOB TRAINING. ON-THE-JOB TRAINING SHALL MEAN TRAINING WHICH IS SPECIFIED IN AN AGREEMENT BETWEEN THE GRANTEE AND THE EMPLOYER AND INCLUDES BOTH WORK EXPERIENCE AND TRAINING, FORMALIZED IN AN OUTLINE DEFINING EACH TRAINING COMPONENT AND OUTCOMES OF THE TRAINING PROCESS.

(3) ON-THE-JOB TRAINING EXPENDITURES. ON-THE-JOB TRAINING EXPENDITURES SHALL INCLUDE EXPENDITURES FOR THE PURCHASE OF EITHER COMMERCIAL OR CUSTOMIZED INSTRUCTIONAL MATERIALS INCLUDING SOFTWARE, TEXTS, MANUALS OR EQUIPMENT THAT CAN BE USED TO SIMULATE JOB TASKS; PAYMENTS TO CONSULTANTS, TRAINERS, OR INSTRUCTORS WHO ARE NOT EMPLOYEES OF THE FIRM; AND COSTS ASSOCIATED WITH THE USE, RENTAL, OR LEASE OF A CLASSROOM OR OTHER DEDICATED SPACE FOR THE TRAINING.

(4) AMOUNT OF CREDIT. A CREDIT SHALL BE ALLOWED FOR THE AMOUNT OF ON-THE-JOB TRAINING EXPENDITURES INCURRED BY AN EMPLOYER. THE AMOUNT OF CREDIT SHALL NOT EXCEED THREE HUNDRED DOLLARS PER EMPLOYEE FOR WHOM SUCH TRAINING HAS BEEN PROVIDED DURING THE TAXABLE YEAR IN WHICH SUCH EXPENDITURES WERE MADE.

(5) CARRYOVER. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH TAX YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 4. This act shall take effect immediately and shall apply to taxable years beginning on and after the first of January next succeeding the date on which it shall have become a law; 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 two 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.