

3983

2009-2010 Regular Sessions

I N A S S E M B L Y

January 29, 2009

Introduced by M. of A. CROUCH -- Multi-Sponsored by -- M. of A. BACALLES
-- 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
developing a college to work program

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

1 Section 1. Section 210 of the tax law is amended by adding a new
2 subdivision 22-a to read as follows:
3 22-A. CREDIT FOR COLLEGE TO WORK PROGRAM. (A) ALLOWANCE OF CREDIT. A
4 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER
5 PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, BASED UPON ITS
6 PAYMENT OF TUITION TO AN INSTITUTION OF HIGHER EDUCATION ON BEHALF OF AN
7 INDIVIDUAL IN EXCHANGE FOR THE INDIVIDUAL AGREEING TO WORK FOR THE
8 TAXPAYER FOR A NUMBER OF YEARS, AS SET FORTH IN A WRITTEN AGREEMENT
9 BETWEEN THE TAXPAYER AND THE INDIVIDUAL.
10 (B) TUITION. FOR THE PURPOSES OF THIS CREDIT, THE TERM "TUITION" SHALL
11 MEAN THE TUITION AND FEES PAID FOR THE ENROLLMENT AND ATTENDANCE OF AN
12 INDIVIDUAL AT AN INSTITUTION OF HIGHER EDUCATION, AS WELL AS MONIES PAID
13 FOR TEXTBOOKS IN CONNECTION WITH ATTENDANCE AT AN INSTITUTION OF HIGHER
14 EDUCATION. PROVIDED, HOWEVER, ANY AMOUNTS WHICH HAVE BEEN PAID FOR OR
15 REIMBURSED BY ANY OTHER SCHOLARSHIPS OR FINANCIAL AID, OR TUITION
16 REQUIRED FOR ENROLLMENT OR ATTENDANCE IN A COURSE OF STUDY LEADING TO
17 THE GRANTING OF A POST BACCALAUREATE OR OTHER GRADUATE DEGREE, SHALL BE
18 EXCLUDED FROM THE DEFINITION OF "TUITION".
19 (C) INSTITUTION OF HIGHER EDUCATION. FOR THE PURPOSES OF THIS CREDIT,
20 THE TERM "INSTITUTION OF HIGHER EDUCATION" SHALL MEAN ANY INSTITUTION OF
21 HIGHER EDUCATION, RECOGNIZED AND APPROVED BY THE REGENTS, OR ANY SUCCESSOR
22 ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK OR ACCREDITED
23 BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY OR ASSOCIATION
24 ACCEPTED AS SUCH BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE
25 UNIVERSITY OF THE STATE OF NEW YORK, WHICH PROVIDES A COURSE OF STUDY

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

LBD07022-01-9

1 LEADING TO THE GRANTING OF A POST-SECONDARY DEGREE, CERTIFICATE OR
2 DIPLOMA.

3 (D) QUALIFIED INDIVIDUAL. FOR PURPOSES OF THIS CREDIT, THE TERM "QUAL-
4 IFIED INDIVIDUAL" SHALL MEAN ANY INDIVIDUAL WHO IS NOT A SPOUSE, CHILD
5 OR DEPENDENT OF THE TAXPAYER OR ANY INDIVIDUAL WHO IS NOT A SPOUSE,
6 CHILD OR DEPENDENT OF ANY OFFICER OR EMPLOYEE OF THE TAXPAYER.

7 (E) WRITTEN AGREEMENT. FOR PURPOSES OF THIS CREDIT, THE TERM "WRITTEN
8 AGREEMENT" SHALL MEAN A DOCUMENT SIGNED AND DATED BY BOTH THE TAXPAYER
9 AND THE QUALIFIED INDIVIDUAL WHICH CONTAINS PROVISIONS INCLUDING BUT NOT
10 LIMITED TO THE MINIMUM SALARY WHICH THE TAXPAYER WILL PAY TO THE QUALI-
11 FIED INDIVIDUAL UPON COMPLETION OF THE INDIVIDUAL'S DEGREE; THE REQUIRED
12 DURATION OF EMPLOYMENT UPON COMPLETION OF THE INDIVIDUAL'S DEGREE; AND
13 THE PARTIES' RESPECTIVE RESPONSIBILITIES IN THE EVENT THAT THE TAXPAYER
14 CEASES OPERATIONS OR LATER DECIDES NOT TO OFFER EMPLOYMENT TO THE INDI-
15 VIDUAL UPON COMPLETION OF HIS/HER DEGREE OR IN THE EVENT THAT THE QUALI-
16 FIED INDIVIDUAL FAILS TO COMPLETE THE DEGREE OR TO WORK FOR THE TAXPAYER
17 FOR THE AGREED UPON TERM.

18 (F) AMOUNT OF CREDIT. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW,
19 A TAXPAYER WHICH PROVIDES FOR THE PAYMENT OF AN INDIVIDUAL'S TUITION
20 UNDER THE COLLEGE TO WORK PROGRAM ESTABLISHED BY THIS SUBDIVISION, SHALL
21 BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE, TO THE
22 EXTENT OF TWENTY-FIVE PERCENT OF MONIES PAID FOR EACH INDIVIDUAL'S
23 TUITION, BUT SUCH CREDIT SHALL NOT EXCEED FIVE THOUSAND DOLLARS FOR ONE
24 YEAR FOR EACH SUCH QUALIFIED INDIVIDUAL.

25 (G) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA-
26 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
27 HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVI-
28 SION ONE OF THIS SECTION. PROVIDED, HOWEVER, IF THE AMOUNT OF CREDIT
29 ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
30 SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR
31 MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED
32 FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

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

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

40		The corporation's credit base under
41		section two hundred ten or section
42	With respect to the following	fourteen hundred fifty-six of this
43	credit under this section:	chapter is:

44	(I) Investment tax credit	Investment credit base
45	under subsection (a)	or qualified
46		rehabilitation
47		expenditures under
48		subdivision twelve of
49		section two hundred ten

50	(II) Empire zone	Cost or other basis
51	investment tax credit	under subdivision
52	under subsection (j)	twelve-B
53		of section two hundred

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

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

1		fifty-six
2	(XX) Remediated brownfield	Amount of credit under
3	credit for real property	subdivision thirty-four
4	taxes for qualified	of section two hundred
5	sites under subsection	ten or subsection (r) of
6	(ee)	section fourteen hundred
7		fifty-six
8	(XXI) Environmental	Amount of credit under
9	remediation	subdivision thirty-five of
10	insurance credit under	section two hundred
11	subsection (ff)	ten or subsection
12		(s) of section
13		fourteen hundred
14		fifty-six
15	(XXII) Empire state film production	Amount of credit for
16	credit under subsection (gg)	qualified
17		production costs in production
18		of a qualified film under
19		subdivision thirty-six of
20		section two hundred ten
21	(XXIII) Qualified emerging	Qualifying expenditures
22	technology company facilities,	and development activities under
23	operations and training credit	subdivision twelve-G of section
24	under subsection (nn)	two hundred ten
25	(XXIV) Security training tax	Amount of credit
26	credit under	under subdivision thirty-seven
27	subsection (ii)	of section two hundred ten or
28		under subsection (t) of
29		section fourteen hundred fifty-six
30	(XXV) Credit for qualified fuel	Amount of credit
31	cell electric generating equipment	under subdivision thirty-seven
32	expenditures under subsection (g-2)	of section two hundred ten
33		or subsection (t) of
34		section fourteen hundred
35		fifty-six
36	(XXVI) Empire state commercial	Amount
37	production credit under subsection	of credit for qualified
38	(jj)	production costs in production
39		of a qualified commercial under
40		subdivision thirty-eight of sec-
41		tion two hundred ten
42	(XXVII) Biofuel production	Amount of credit
43	tax credit under	under subdivision
44	subsection (jj)	thirty-eight of
45		section two hundred ten
46	(XXVIII) Clean heating fuel credit	Amount of credit under
47	under subsection (mm)	subdivision thirty-nine of

1 section two hundred ten

2 (XXIX) Credit for rehabilitation Amount of credit under
3 of historic properties subdivision forty of
4 under subsection (oo) [subsection] SECTION
5 two hundred ten

6 (XXX) Credit for companies who Amount of credit under
7 provide transportation subdivision forty of
8 to individuals section two hundred ten
9 with disabilities
10 under subsection (oo)

11 (XXXI) COLLEGE TO WORK PROGRAM AMOUNT OF CREDIT UNDER
12 CREDIT UNDER SUBSECTION (S-1) SUBDIVISION TWENTY-TWO-A
13 OF SECTION TWO HUNDRED TEN

14 S 3. Section 606 of the tax law is amended by adding a new subsection
15 (s-1) to read as follows:
16 (S-1) CREDIT FOR COLLEGE TO WORK PROGRAM. (1) ALLOWANCE OF CREDIT. A
17 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER
18 PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, BASED UPON SUCH
19 TAXPAYER'S PAYMENT OF TUITION TO AN INSTITUTION OF HIGHER EDUCATION ON
20 BEHALF OF AN INDIVIDUAL IN EXCHANGE FOR THE INDIVIDUAL AGREEING TO WORK
21 FOR THE TAXPAYER FOR A NUMBER OF YEARS, AS SET FORTH IN A WRITTEN AGREE-
22 MENT BETWEEN THE TAXPAYER AND THE INDIVIDUAL.

23 (2) TUITION. FOR THE PURPOSES OF THIS CREDIT, THE TERM "TUITION" SHALL
24 MEAN THE TUITION AND FEES PAID FOR THE ENROLLMENT AND ATTENDANCE OF AN
25 INDIVIDUAL AT AN INSTITUTION OF HIGHER EDUCATION, AS WELL AS MONIES PAID
26 FOR TEXTBOOKS IN CONNECTION WITH ATTENDANCE AT AN INSTITUTION OF HIGHER
27 EDUCATION. PROVIDED, HOWEVER, ANY AMOUNTS WHICH HAVE BEEN PAID FOR OR
28 REIMBURSED BY ANY OTHER SCHOLARSHIPS OR FINANCIAL AID, OR TUITION
29 REQUIRED FOR ENROLLMENT OR ATTENDANCE IN A COURSE OF STUDY LEADING TO
30 THE GRANTING OF A POST BACCALAUREATE OR OTHER GRADUATE DEGREE, SHALL BE
31 EXCLUDED FROM THE DEFINITION OF "TUITION".

32 (3) INSTITUTION OF HIGHER EDUCATION. FOR THE PURPOSES OF THIS CREDIT,
33 THE TERM "INSTITUTION OF HIGHER EDUCATION" SHALL MEAN ANY INSTITUTION OF
34 HIGHER EDUCATION, RECOGNIZED AND APPROVED BY THE REGENTS, OR ANY SUCCE-
35 SSOR ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK OR ACCRED-
36 ITED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY OR ASSOCIATION
37 ACCEPTED AS SUCH BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE
38 UNIVERSITY OF THE STATE OF NEW YORK, WHICH PROVIDES A COURSE OF STUDY
39 LEADING TO THE GRANTING OF A POST-SECONDARY DEGREE, CERTIFICATE OR
40 DIPLOMA.

41 (4) QUALIFIED INDIVIDUAL. FOR PURPOSES OF THIS CREDIT, THE TERM "QUAL-
42 IFIED INDIVIDUAL" SHALL MEAN ANY INDIVIDUAL WHO IS NOT A SPOUSE, CHILD
43 OR DEPENDENT OF THE TAXPAYER OR ANY INDIVIDUAL WHO IS NOT A SPOUSE,
44 CHILD OR DEPENDENT OF ANY OFFICER OR EMPLOYEE OF THE TAXPAYER.

45 (5) WRITTEN AGREEMENT. FOR PURPOSES OF THIS CREDIT, THE TERM "WRITTEN
46 AGREEMENT" SHALL MEAN A DOCUMENT SIGNED AND DATED BY BOTH THE TAXPAYER
47 AND THE QUALIFIED INDIVIDUAL WHICH CONTAINS PROVISIONS INCLUDING BUT NOT
48 LIMITED TO THE MINIMUM SALARY WHICH THE TAXPAYER WILL PAY TO THE QUALI-
49 FIED INDIVIDUAL UPON COMPLETION OF THE INDIVIDUAL'S DEGREE; THE REQUIRED
50 DURATION OF EMPLOYMENT UPON COMPLETION OF THE INDIVIDUAL'S DEGREE; AND
51 THE PARTIES' RESPECTIVE RESPONSIBILITIES IN THE EVENT THAT THE TAXPAYER
52 CEASES OPERATIONS OR LATER DECIDES NOT TO OFFER EMPLOYMENT TO THE INDI-

1 VIDUAL UPON COMPLETION OF HIS/HER DEGREE OR IN THE EVENT THAT THE QUALI-
2 FIED INDIVIDUAL FAILS TO COMPLETE THE DEGREE OR TO WORK FOR THE TAXPAYER
3 FOR THE AGREED UPON TERM.

4 (6) AMOUNT OF CREDIT. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW,
5 A TAXPAYER WHO PROVIDES FOR THE PAYMENT OF AN INDIVIDUAL'S TUITION UNDER
6 THE COLLEGE TO WORK PROGRAM ESTABLISHED BY THIS SUBSECTION, SHALL BE
7 ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE, TO THE EXTENT
8 OF TWENTY-FIVE PERCENT OF MONIES PAID FOR EACH INDIVIDUAL'S TUITION, BUT
9 SUCH CREDIT SHALL NOT EXCEED FIVE THOUSAND DOLLARS FOR ONE YEAR FOR EACH
10 SUCH QUALIFIED INDIVIDUAL.

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

15 S 4. This act shall take effect immediately and shall apply to all
16 taxable years commencing after January 1, 2008; provided, however that
17 the empire state film production credit under subsection (gg), the
18 empire state commercial production credit under subsection (jj) and the
19 credit for companies who provide transportation to individuals with
20 disabilities under subsection (oo) of section 606 of the tax law
21 contained in section two of this act shall expire on the same date as
22 provided in section 9 of part P of chapter 60 of the laws of 2004, as
23 amended, section 10 of part V of chapter 62 of the laws of 2006, as
24 amended, and section 5 of chapter 522 of the laws of 2006, as amended,
25 respectively.