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

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:

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 COLLEGE TO WORK PROGRAM. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, BASED UPON ITS PAYMENT OF TUITION TO AN INSTITUTION OF HIGHER EDUCATION ON BEHALF OF AN INDIVIDUAL IN EXCHANGE FOR THE INDIVIDUAL AGREEING TO WORK FOR THE TAXPAYER FOR A NUMBER OF YEARS, AS SET FORTH IN A WRITTEN AGREEMENT BETWEEN THE TAXPAYER AND THE INDIVIDUAL.

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

(C) INSTITUTION OF HIGHER EDUCATION. FOR THE PURPOSES OF THIS CREDIT, THE TERM "INSTITUTION OF HIGHER EDUCATION" SHALL MEAN ANY INSTITUTION OF HIGHER EDUCATION, RECOGNIZED AND APPROVED BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK OR ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY OR ASSOCIATION ACCEPTED AS SUCH BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE 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.

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

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

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

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

(G) 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 ZZ-l 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 disabilities under subsection (o)	Qualified first-year wages or qualified second-year wages 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, operations and training credit under subsection (nn)	Qualifying expenditures and development activities under 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) COLLEGE TO WORK PROGRAM CREDIT UNDER SUBSECTION (S-1)		AMOUNT OF CREDIT 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 (s-1) to read as follows:

(S-1) CREDIT FOR COLLEGE TO WORK PROGRAM. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, BASED UPON SUCH TAXPAYER'S PAYMENT OF TUITION TO AN INSTITUTION OF HIGHER EDUCATION ON BEHALF OF AN INDIVIDUAL IN EXCHANGE FOR THE INDIVIDUAL AGREEING TO WORK FOR THE TAXPAYER FOR A NUMBER OF YEARS, AS SET FORTH IN A WRITTEN AGREEMENT BETWEEN THE TAXPAYER AND THE INDIVIDUAL.

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

(3) INSTITUTION OF HIGHER EDUCATION. FOR THE PURPOSES OF THIS CREDIT, THE TERM "INSTITUTION OF HIGHER EDUCATION" SHALL MEAN ANY INSTITUTION OF HIGHER EDUCATION, RECOGNIZED AND APPROVED BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK OR ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY OR ASSOCIATION ACCEPTED AS SUCH BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK, WHICH PROVIDES A COURSE OF STUDY LEADING TO THE GRANTING OF A POST-SECONDARY DEGREE, CERTIFICATE OR DIPLOMA.

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

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

VIDUAL UPON COMPLETION OF HIS/HER DEGREE OR IN THE EVENT THAT THE QUALIFIED INDIVIDUAL FAILS TO COMPLETE THE DEGREE OR TO WORK FOR THE TAXPAYER FOR THE AGREED UPON TERM.

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

(7) CARRYOVER. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX AMOUNT, ANY AMOUNT OF 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 all taxable years commencing after January 1, 2008; 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.