

4010

2009-2010 Regular Sessions

I N A S S E M B L Y

January 29, 2009

Introduced by M. of A. HAWLEY, KOLB, ERRIGO, WALKER, BARCLAY, TOBACCO --
Multi-Sponsored by -- M. of A. CONTE, JORDAN, MOLINARO, TOWNSEND,
WEISENBERG -- read once and referred to the Committee on Ways and
Means

AN ACT to amend the tax law, in relation to creating a wage tax credit
for employers who employ New York national guard men and women, reser-
vists, volunteer firefighters and EMS personnel

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

1 Section 1. Section 210 of the tax law is amended by adding two new
2 subdivisions 41 and 42 to read as follows:
3 41. EMPLOYMENT OF NEW YORK NATIONAL GUARD AND RESERVE MEMBERS WAGE TAX
4 CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT,
5 TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED
6 BY THIS ARTICLE, IF IT EMPLOYS MEMBERS OF THE NEW YORK NATIONAL GUARD
7 AND RESERVES. PROVIDED, HOWEVER, SUCH TAXPAYER SHALL COMPLY WITH THE
8 UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT, AS FOUND IN
9 SECTION 4301 ET SEQ. OF TITLE 18 OF THE UNITED STATES CODE.
10 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
11 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
12 THAN THE HIGHER OF THE AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF
13 SUBDIVISION ONE OF THIS SECTION. IF, HOWEVER, THE AMOUNT OF CREDITS
14 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
15 SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE
16 YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
17 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
18 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
19 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
20 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.
21 42. EMPLOYMENT OF VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL
22 SERVICES (EMS) FIRST RESPONDER PERSONNEL WAGE CREDIT. (A) ALLOWANCE OF

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

LBD03453-02-9

CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED BY THIS ARTICLE, IF IT EMPLOYS VOLUNTEER FIREFIGHTERS AND EMS FIRST RESPONDER PERSONNEL.

(B) APPLICATION OF CREDIT. 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 AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. IF, HOWEVER, THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

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-1 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.

22		The corporation's credit base under
23		section two hundred ten or section
24	With respect to the following	fourteen hundred fifty-six of this
25	credit under this section:	chapter is:

26	(I) Investment tax credit	Investment credit base
27	under subsection (a)	or qualified
28		rehabilitation
29		expenditures under
30		subdivision twelve of
31		section two hundred ten

32	(II) Empire zone	Cost or other basis
33	investment tax credit	under subdivision
34	under subsection (j)	twelve-B
35		of section two hundred
36		ten

37	(III) Empire zone	Eligible wages under
38	wage tax credit	subdivision nineteen of
39	under subsection (k)	section two hundred ten
40		or subsection (e) of
41		section fourteen hundred
42		fifty-six

43	(IV) Empire zone	Qualified investments
44	capital tax credit	and contributions under
45	under subsection (l)	subdivision twenty of
46		section two hundred ten
47		or subsection (d) of
48		section fourteen hundred
49		fifty-six

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

1	(XV) QEZE credit for real property	Amount of credit under
2	taxes under subsection (bb)	subdivision twenty-seven of
3		section two hundred ten or
4		subsection (o) of section
5		fourteen hundred fifty-six
6	(XVI) QEZE tax reduction credit	Amount of benefit period
7	under subsection (cc)	factor, employment increase factor
8		and zone allocation
9		factor (without regard
10		to pro ration) under
11		subdivision twenty-eight of
12		section two hundred ten or
13		subsection (p) of section
14		fourteen hundred fifty-six
15		and amount of tax factor
16		as determined under
17		subdivision (f) of section sixteen
18	(XVII) Green building credit	Amount of green building credit
19	under subsection (y)	under subdivision thirty-one
20		of section two hundred ten
21		or subsection (m) of section
22		fourteen hundred fifty-six
23	(XVIII) Credit for long-term	Qualified costs under
24	care insurance premiums	subdivision twenty-five-a of
25	under subsection (aa)	section two hundred ten
26		or subsection (k) of section
27		fourteen hundred fifty-six
28	(XIX) Brownfield redevelopment	Amount of credit
29	credit under subsection	under subdivision
30	(dd)	thirty-three of section
31		two hundred ten
32		or subsection (q) of
33		section fourteen hundred
34		fifty-six
35	(XX) Remediated brownfield	Amount of credit under
36	credit for real property	subdivision thirty-four
37	taxes for qualified	of section two hundred
38	sites under subsection	ten or subsection (r) of
39	(ee)	section fourteen hundred
40		fifty-six
41	(XXI) Environmental	Amount of credit under
42	remediation	subdivision thirty-five of
43	insurance credit under	section two hundred
44	subsection (ff)	ten or subsection
45		(s) of section
46		fourteen hundred
47		fifty-six

1	(XXII) Empire state film production	Amount of credit for
2	qualified credit under	production costs in production
3	subsection (gg)	of a qualified film under
4		subdivision thirty-six of
5		section two hundred ten
6	(XXIII) Qualified emerging	Qualifying expenditures and
7	technology company facilities,	development activities under
8	operations and training credit	subdivision twelve-G of section
9	under subsection (nn)	two hundred ten
10	(XXIV) Security training tax	Amount of credit
11	credit under	under subdivision thirty-seven
12	subsection (ii)	of section two hundred ten or
13		under subsection (t) of
14		section fourteen hundred fifty-six
15	(XXV) Credit for qualified fuel	Amount of credit under
16	cell electric generating equipment	subdivision thirty-seven
17	expenditures under subsection (g-2)	of section two hundred ten
18		or subsection (t) of
19		section fourteen hundred
20		fifty-six
21	(XXVI) Empire state commercial	Amount of credit for
22	production credit	production costs in production
23	under subsection (jj)	of a qualified commercial under
24		subdivision thirty-eight of sec-
25		tion two hundred ten
26	(XXVII) Biofuel production	Amount of credit
27	tax credit under	under subdivision
28	subsection (jj)	thirty-eight of
29		section two hundred ten
30	(XXVIII) Clean heating fuel credit	Amount of credit under
31	under subsection (mm)	subdivision thirty-nine of
32		section two hundred ten
33	(XXIX) Credit for rehabilitation	Amount of credit under
34	of historic properties	subdivision forty of
35	under subsection (oo)	subsection two hundred ten
36	(XXX) Credit for companies who	Amount of credit under
37	provide transportation	subdivision forty of
38	to individuals	section two hundred ten
39	with disabilities	
40	under subsection (oo)	
41	(XXXI) EMPLOYMENT OF NEW	AMOUNT OF CREDIT
42	YORK NATIONAL	UNDER SUBDIVISION
43	GUARD AND RESERVE	FORTY-ONE OF
44	MEMBERS CREDIT	SECTION TWO HUNDRED TEN
45	UNDER SUB-	
46	SECTION (QQ)	

(XXXII) EMPLOYMENT OF VOLUNTEER AMOUNT OF CREDIT UNDER
FIREFIGHTERS AND EMS SUBDIVISION FORTY-TWO OF
FIRST RESPONDER SECTION TWO HUNDRED TEN
PERSONNEL WAGE
CREDIT UNDER SUB-
SECTION (RR)

S 3. Section 606 of the tax law is amended by adding two new subsections (qq) and (rr) to read as follows:

(QQ) EMPLOYMENT OF NEW YORK NATIONAL GUARD AND RESERVE MEMBER CREDIT.

(1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE IF THEY EMPLOY NEW YORK NATIONAL GUARD AND RESERVE MEMBERS. PROVIDED, HOWEVER, THEY SHALL COMPLY WITH THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT, AS FOUND IN SECTION 4301 ET SEQ. OF TITLE 18 OF THE UNITED STATES CODE. THE AMOUNT OF THE CREDIT SHALL BE FIFTEEN HUNDRED DOLLARS FOR EACH NATIONAL GUARD MEMBER OR RESERVIST EMPLOYED.

(2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

(3) CARRYOVER. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH 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.

(RR) EMPLOYMENT OF VOLUNTEER FIREFIGHTERS AND EMS FIRST RESPONDER PERSONNEL WAGE CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE IF THEY EMPLOY VOLUNTEER FIREFIGHTERS AND EMS FIRST RESPONDER PERSONNEL. THE AMOUNT OF THE CREDIT SHALL BE FIFTEEN HUNDRED DOLLARS FOR EACH VOLUNTEER FIREFIGHTER AND EMS FIRST RESPONDER EMPLOYED.

(2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

(3) CARRYOVER. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH 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 apply to taxable years beginning on and after January 1, 2012; provided, however that the empire state film production credit under subsection (gg), the empire state commercial production credit under subsection (jj) and 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, and section 5 of chapter 522 of the laws of 2006, as amended, respectively.