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

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, reservists, volunteer firefighters and EMS personnel

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 two new subdivisions 41 and 42 to read as follows:

41. EMPLOYMENT OF NEW YORK NATIONAL GUARD AND RESERVE MEMBERS WAGE TAX CREDIT. (A) ALLOWANCE OF 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 MEMBERS OF THE NEW YORK NATIONAL GUARD AND RESERVES. PROVIDED, HOWEVER, SUCH TAXPAYER 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.

(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.

42. EMPLOYMENT OF VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL 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.

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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.

| 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: |
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| (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 |

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| (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 |

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| (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 |

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| (XXII) Empire state film production qualified credit under subsection (gg) | Amount of credit for 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 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 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) EMPLOYMENT OF NEW YORK NATIONAL GUARD AND RESERVE MEMBERS CREDIT UNDER SUB-SECTION (QQ) | AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN |

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

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.