

5385

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. MAISEL, BROOK-KRASNY, CLARK, ROSENTHAL, GIANARIS,  
JOHN -- Multi-Sponsored by -- M. of A. GABRYSZAK, GREENE, LAVINE,  
PHEFFER, J. RIVERA, WEISENBERG -- read once and referred to the  
Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing a tax credit to  
businesses for the purchase of emergency electrical generators

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 a new  
2 subdivision 41 to read as follows:

3 41. CREDIT FOR THE PURCHASE OF EMERGENCY ELECTRICAL GENERATORS. (A)  
4 ALLOWANCE AND AMOUNT OF CREDIT. A TAXPAYER ENGAGED IN THE BUSINESS OF  
5 OFFERING FOR SALE PERISHABLE FOOD ITEMS SHALL BE ALLOWED A CREDIT, TO BE  
6 COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED BY  
7 THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE AMOUNT  
8 EXPENDED IN THE PREVIOUS TAX YEAR FOR THE PURCHASE OF ONE OR MORE EMER-  
9 GENCY ELECTRICAL GENERATORS IMPLEMENTED TO PREVENT SPOILAGE OF FOOD  
10 ITEMS.

11 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
12 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
13 THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF  
14 SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT  
15 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO  
16 SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE  
17 YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR  
18 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND  
19 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF  
20 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
21 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

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

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

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

8		The corporation's credit base under
9		section two hundred ten or section
10	With respect to the following	fourteen hundred fifty-six of this
11	credit under this section:	chapter is:
12	(I) Investment tax credit under	Investment credit base or qualified
13	subsection (a)	rehabilitation expenditures under
14		subdivision twelve of section two
15		hundred ten
16	(II) Empire zone investment	Cost or other basis under
17	tax credit under subsection (j)	subdivision twelve-B of section
18		two hundred ten
19	(III) Empire zone wage tax credit	Eligible wages under subdivision
20	under subsection (k)	nineteen of section two hundred
21		ten or subsection (e) of section
22		fourteen hundred fifty-six
23	(IV) Empire zone capital tax	Qualified investments and
24	credit under subsection (l)	contributions under subdivision
25		twenty of section two hundred ten
26		or subsection (d) of section
27		fourteen hundred fifty-six
28	(V) Agricultural property tax	Allowable school district property
29	credit under subsection (n)	taxes under subdivision twenty-two
30		of section two hundred ten
31	(VI) Credit for employment of	Qualified first-year wages or
32	persons with disabilities	qualified second-year wages under
33	under subsection (o)	subdivision twenty-three of
34		section two hundred ten or
35		subsection (f) of section
36		fourteen hundred fifty-six
37	(VII) Employment incentive credit	Applicable investment credit base
38	under subsection (a-1)	under subdivision twelve-D of
39		section two hundred ten
40	(VIII) Empire zone employment	Applicable investment credit
41	incentive credit under subsection	under subdivision twelve-C of
42	(j-1)	section two hundred ten
43	(IX) Alternative fuels credit	Cost under subdivision twenty-four
44	under subsection (p)	of section two hundred ten

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

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

1	(XXXI) CREDIT FOR THE PURCHASE OF	AMOUNT OF CREDIT UNDER SUBDIVISION
2	EMERGENCY ELECTRICAL GENERATORS	FORTY-ONE OF SECTION TWO HUNDRED
3	UNDER SUBSECTION (QQ)	TEN

4 S 3. Section 606 of the tax law is amended by adding a new subsection  
5 (qq) to read as follows:

6 (QQ) CREDIT FOR THE PURCHASE OF EMERGENCY ELECTRICAL GENERATORS. (1)  
7 ALLOWANCE AND AMOUNT OF CREDIT. A TAXPAYER ENGAGED IN THE BUSINESS OF  
8 OFFERING FOR SALE PERISHABLE FOOD ITEMS SHALL BE ALLOWED A CREDIT, TO BE  
9 COMPUTED AS PROVIDED IN THIS SUBSECTION, AGAINST THE TAX IMPOSED BY THIS  
10 ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE AMOUNT EXPENDED  
11 IN THE PREVIOUS TAX YEAR FOR THE PURCHASE OF ONE OR MORE EMERGENCY ELEC-  
12 TRICAL GENERATORS IMPLEMENTED TO PREVENT SPOILAGE OF FOOD ITEMS.

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

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