

6522

2009-2010 Regular Sessions

I N A S S E M B L Y

March 6, 2009

Introduced by M. of A. GIGLIO, RAIA, QUINN, BURLING, HAWLEY, SAYWARD,
WALKER, BARRA, KOLB -- Multi-Sponsored by -- M. of A. BACALLES, BALL,
BARCLAY, CROUCH, HAYES, McDONOUGH, McKEVITT, O'MARA, REILICH, TOWNSEND
-- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing business fran-
chise and personal income tax credits for certain small businesses in
a village or small city

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 29 to read as follows:
3 29. SMALL BUSINESS CAPITAL TAX CREDIT. (A) A TAXPAYER SHALL BE ALLOWED
4 A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE
5 TAX IMPOSED BY THIS ARTICLE. SUCH CREDIT SHALL BE GRANTED TO ANY TAXPAY-
6 ER WHICH IS A SMALL BUSINESS WHEN THE SMALL BUSINESS IS LOCATED IN A
7 VILLAGE OR IN A CITY WITH A POPULATION OF LESS THAN THIRTY-FIVE THOUSAND
8 AS DETERMINED BY THE MOST RECENT FEDERAL DECENNIAL CENSUS. THE AMOUNT OF
9 THE CREDIT SHALL BE EQUAL TO TWENTY-FIVE PERCENT OF THE SUM OF QUALIFIED
10 INVESTMENTS IN SUCH SMALL BUSINESS, AS DETERMINED BY THE COMMISSIONER.
11 (B) FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "SMALL BUSINESS"
12 MEANS A BUSINESS WHICH EMPLOYS LESS THAN FIFTEEN EMPLOYEES.
13 (C) THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED UNDER THIS SUBDI-
14 VISION FOR ANY TAXABLE YEAR SHALL NOT, IN THE AGGREGATE, REDUCE THE TAX
15 DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN
16 PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF
17 THE AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT, OR BOTH, ALLOWED
18 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH
19 AMOUNT, ANY AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT
20 DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING
21 YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS.

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	Investment tax credit	Investment credit base
13	under subsection (a)	or qualified
14		rehabilitation
15		expenditures under
16		subdivision twelve of
17		section two hundred ten

18	Empire zone	Cost or other basis
19	investment tax credit	under subdivision
20	under subsection (j)	twelve-B
21		of section two hundred
22		ten

23	Empire zone	Eligible wages under
24	wage tax credit	subdivision nineteen of
25	under subsection (k)	section two hundred ten
26		or subsection (e) of
27		section fourteen hundred
28		fifty-six

29	Empire zone	Qualified investments
30	capital tax credit	and contributions under
31	under subsection (l)	subdivision twenty of
32		section two hundred ten
33		or subsection (d) of
34		section fourteen hundred
35		fifty-six

36	Agricultural property tax	Allowable school
37	credit under subsection (n)	district property taxes under
38		subdivision twenty-two of
39		section two hundred ten

40	Credit for employment	Qualified first-year wages or
41	of persons with dis-	qualified second-year wages
42	abilities under	under subdivision
43	subsection (o)	twenty-three of section
44		two hundred ten
45		or subsection (f)
46		of section fourteen
47		hundred fifty-six

1	Employment incentive	Applicable investment credit
2	credit under subsec-	base under subdivision
3	tion (a-1)	twelve-D of section two
4		hundred ten
5	Empire zone	Applicable investment
6	employment	credit under sub-
7	incentive credit under	division twelve-C
8	subsection (j-1)	of section two hundred ten
9	Alternative fuels credit	Cost under subdivision
10	under subsection (p)	twenty-four of section two
11		hundred ten
12	Qualified emerging	Applicable credit base
13	technology company	under subdivision twelve-E
14	employment credit	of section two hundred ten
15	under subsection (q)	
16	Qualified emerging	Qualified investments under
17	technology company	subdivision twelve-F of
18	capital tax credit	section two hundred ten
19	under subsection (r)	
20	Credit for purchase of an	Cost of an automated
21	automated external defibrillator	external defibrillator under
22	under subsection (s)	subdivision twenty-five of
23		section two hundred ten
24		or subsection (j) of section
25		fourteen hundred fifty-six
26	Low-income housing	Credit amount under
27	credit under subsection (x)	subdivision thirty
28		of section two hundred ten or
29		subsection (l) of section
30		fourteen hundred fifty-six
31	Credit for transportation	Amount of credit under sub-
32	improvement contributions	division thirty-two of section
33	under subsection (z)	two hundred ten or subsection
34		(n) of section fourteen
35		hundred fifty-six
36	QEZE credit for real property	Amount of credit under
37	taxes under subsection (bb)	subdivision twenty-seven of
38		section two hundred ten or
39		subsection (o) of section
40		fourteen hundred fifty-six
41	QEZE tax reduction credit	Amount of benefit period
42	under subsection (cc)	factor, employment increase factor
43		and zone allocation
44		factor (without regard
45		to pro ration) under
46		subdivision twenty-eight of
47		section two hundred ten or

1		subsection (p) of section
2		fourteen hundred fifty-six
3		and amount of tax factor
4		as determined under
5		subdivision (f) of section sixteen
6	Green building credit	Amount of green building credit
7	under subsection (y)	under subdivision thirty-one
8		of section two hundred ten
9		or subsection (m) of section
10		fourteen hundred fifty-six
11	Credit for long-term	Qualified costs under
12	care insurance premiums	subdivision twenty-five-a of
13	under subsection (aa)	section two hundred ten
14		or subsection (k) of section
15		fourteen hundred fifty-six
16	Brownfield redevelopment	Amount of credit
17	credit under subsection	under subdivision
18	(dd)	thirty-three of section
19		two hundred ten
20		or subsection (q) of
21		section fourteen hundred
22		fifty-six
23	Remediated brownfield	Amount of credit under
24	credit for real property	subdivision thirty-four
25	taxes for qualified	of section two hundred
26	sites under subsection	ten or subsection (r) of
27	(ee)	section fourteen hundred
28		fifty-six
29	Environmental	Amount of credit under
30	remediation	subdivision thirty-five of
31	insurance credit under	section two hundred
32	subsection (ff)	ten or subsection
33		(s) of section
34		fourteen hundred
35		fifty-six
36	Empire state film production	Amount of credit for qualified
37	credit under subsection (gg)	production costs in production
38		of a qualified film under
39		subdivision thirty-six of
40		section two hundred ten
41	Qualified emerging	Qualifying expenditures and
42	technology company facilities,	development activities under
43	operations and training credit	subdivision twelve-G of section
44	under subsection (nn)	two hundred ten
45	Security training tax	Amount of credit
46	credit under	under subdivision thirty-seven
47	subsection (ii)	of section two hundred ten or
48		under subsection (t) of

1		section fourteen hundred fifty-six
2	Credit for qualified fuel	Amount of credit under
3	cell electric generating equipment	subdivision thirty-seven
4	expenditures under subsection (g-2)	of section two hundred ten
5		or subsection (t) of
6		section fourteen hundred
7		fifty-six
8	Empire state commercial production	Amount of credit for qualified
9	credit under subsection (jj)	production costs in production
10		of a qualified commercial under
11		subdivision thirty-eight of sec-
12		tion two hundred ten
13	Biofuel production	Amount of credit
14	tax credit under	under subdivision
15	subsection (jj)	thirty-eight of
16		section two hundred ten
17	Clean heating fuel credit	Amount of credit under
18	under subsection (mm)	subdivision thirty-nine of
19		section two hundred ten
20	Credit for rehabilitation	Amount of credit under
21	of historic properties	subdivision forty of
22	under subsection (oo)	[subsection] SECTION
23		two hundred ten
24	Credit for companies who	Amount of credit under
25	provide transportation	subdivision forty of
26	to individuals	section two hundred ten
27	with disabilities	
28	under subsection (oo)	
29	SMALL BUSINESS CAPITAL	AMOUNT OF CREDIT UNDER
30	TAX CREDIT UNDER	SUBDIVISION TWENTY-NINE OF
31	SUBSECTION (QQ)	SECTION TWO HUNDRED TEN
32	S 3. Section 606 of the tax law is amended by adding a new subsection	
33	(qq) to read as follows:	
34	(QQ) SMALL BUSINESS CAPITAL TAX CREDIT. (1) A TAXPAYER SHALL BE	
35	ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBSECTION, AGAINST	
36	THE TAX IMPOSED BY THIS ARTICLE. SUCH CREDIT SHALL BE GRANTED TO ANY	
37	TAXPAYER WHICH IS A SMALL BUSINESS WHEN THE SMALL BUSINESS IS LOCATED IN	
38	A VILLAGE OR IN A CITY WITH A POPULATION OF LESS THAN THIRTY-FIVE THOU-	
39	SAND AS DETERMINED BY THE MOST RECENT FEDERAL DECENNIAL CENSUS. THE	
40	AMOUNT OF THE CREDIT SHALL BE EQUAL TO TWENTY-FIVE PERCENT OF THE SUM OF	
41	QUALIFIED INVESTMENTS IN SUCH SMALL BUSINESS, AS DETERMINED BY THE	
42	COMMISSIONER.	
43	(2) FOR THE PURPOSES OF THIS SUBSECTION, THE TERM "SMALL BUSINESS"	
44	MEANS A BUSINESS WHICH EMPLOYS LESS THAN FIFTEEN EMPLOYEES.	
45	(3) THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED UNDER THIS	
46	SUBSECTION FOR ANY TAXABLE YEAR SHALL NOT, IN THE AGGREGATE, REDUCE THE	
47	TAX DUE FOR SUCH YEAR TO BE LESS THAN THE HIGHER OF THE AMOUNTS	
48	PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF SECTION TWO	
49	HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF THE AMOUNT OF CREDIT OR CARRY-	

1 OVERS OF SUCH CREDIT, OR BOTH, ALLOWED UNDER THIS SUBSECTION FOR ANY
2 TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT OR
3 CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY
4 BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM
5 THE TAX FOR SUCH YEAR OR YEARS.
6 S 4. This act shall take effect on the first of January next succeed-
7 ing the date on which it shall have become a law and shall apply to
8 taxable years commencing on or after such date; provided, however, that
9 the empire state film production credit under subsection (gg), the
10 empire state commercial production credit under subsection (jj) and the
11 credit for companies who provide transportation to individuals with
12 disabilities under subsection (oo) of section 606 of the tax law
13 contained in section two of this act shall expire on the same date as
14 provided in section 9 of part P of chapter 60 of the laws of 2004, as
15 amended, section 10 of part V of chapter 62 of the laws of 2006, as
16 amended and section 5 of chapter 522 of the laws of 2006, as amended,
17 respectively.