

1495

2009-2010 Regular Sessions

I N   S E N A T E

February 2, 2009

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Introduced by Sens. DeFRANCISCO, ALESI, GRIFFO, MORAHAN, SAMPSON, SKELOS, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to providing for business tax credits for a portion of the cost of employer sponsored tissue typing programs

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

1     Section 1. The tax law is amended by adding a new section 187-o to  
2     read as follows:  
3     S 187-O. CREDIT FOR TISSUE TYPING DONOR PROGRAM. 1. FOR PURPOSES OF  
4     THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:  
5     (A) "EMPLOYEE" MEANS A PERSON WHO PERFORMS SERVICES FOR HIRE FOR AN  
6     EMPLOYER, FOR AN AVERAGE OF TWENTY OR MORE HOURS PER WEEK, AND INCLUDES  
7     ALL INDIVIDUALS EMPLOYED AT ANY SITE OWNED OR OPERATED BY AN EMPLOYER  
8     BUT SHALL NOT INCLUDE AN INDEPENDENT CONTRACTOR.  
9     (B) "EMPLOYER" MEANS A TAXPAYER THAT EMPLOYS TWENTY OR MORE EMPLOYEES  
10    AT AT LEAST ONE SITE AND INCLUDES AN INDIVIDUAL, CORPORATION, PARTNER-  
11    SHIP, ASSOCIATION, NONPROFIT ORGANIZATION, GROUP OF PERSONS, STATE,  
12    COUNTY, TOWN, CITY, SCHOOL DISTRICT, PUBLIC AUTHORITY OR OTHER GOVERN-  
13    MENTAL SUBDIVISION OF ANY KIND.  
14    2. A TAXPAYER WHO IS AN EMPLOYER, SHALL BE ALLOWED A CREDIT TO BE  
15    CREDITED AGAINST THE TAX IMPOSED BY THIS ARTICLE, AFTER ALLOWANCE OF ANY  
16    OTHER THAN THE TAXES AND FEES IMPOSED BY SECTIONS ONE HUNDRED EIGHTY,  
17    ONE HUNDRED EIGHTY-ONE AND ONE HUNDRED EIGHTY-SIX-A OF THIS ARTICLE, FOR  
18    ANY TAXABLE YEAR IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF EXPENSES  
19    PAID OR INCURRED IN PROVIDING A PROGRAM FOR THE TISSUE TYPING OF EMPLOY-  
20    EES EMPLOYED IN THIS STATE WHO AGREE TO SERVE AS POTENTIAL BONE MARROW  
21    DONORS. PROGRAM EXPENSES ELIGIBLE FOR THE CREDIT INCLUDE PAYMENTS TO

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

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HEALTH CARE PROVIDERS AND WAGES PAID TO EMPLOYEES FOR TIME REASONABLY RELATED TO BONE MARROW DONATION.

3. IN NO EVENT SHALL THE CREDIT PROVIDED FOR IN THIS SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE MINIMUM FIXED BY SECTION ONE HUNDRED EIGHTY-THREE OR ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SECTION 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. Section 210 of the tax law is amended by adding a new subdivision 20-a to read as follows:

20-A. CREDIT FOR TISSUE TYPING DONOR PROGRAM. (A) FOR PURPOSES OF THIS SUBDIVISION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(I) "EMPLOYEE" MEANS A PERSON WHO PERFORMS SERVICES FOR HIRE FOR AN EMPLOYER, FOR AN AVERAGE OF TWENTY OR MORE HOURS PER WEEK, AND INCLUDES ALL INDIVIDUALS EMPLOYED AT ANY SITE OWNED OR OPERATED BY AN EMPLOYER BUT SHALL NOT INCLUDE AN INDEPENDENT CONTRACTOR.

(II) "EMPLOYER" MEANS A PERSON OR ENTITY THAT EMPLOYS TWENTY OR MORE EMPLOYEES AT AT LEAST ONE SITE AND INCLUDES AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, NONPROFIT ORGANIZATION, GROUP OF PERSONS, STATE, COUNTY, TOWN, CITY, SCHOOL DISTRICT, PUBLIC AUTHORITY OR OTHER GOVERNMENTAL SUBDIVISION OF ANY KIND.

(B) A TAXPAYER WHO IS AN EMPLOYER, SHALL BE ALLOWED A CREDIT TO BE CREDITED AGAINST THE TAX IMPOSED BY THIS ARTICLE, AFTER ALLOWANCE OF ANY OTHER CREDIT PROVIDED UNDER THIS SECTION, FOR ANY TAXABLE YEAR IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF EXPENSES PAID OR INCURRED IN PROVIDING A PROGRAM FOR THE TISSUE TYPING OF EMPLOYEES EMPLOYED IN THIS STATE WHO AGREE TO SERVE AS POTENTIAL BONE MARROW DONORS. PROGRAM EXPENSES ELIGIBLE FOR THE CREDIT INCLUDE PAYMENTS TO HEALTH CARE PROVIDERS AND WAGES PAID TO EMPLOYEES FOR TIME REASONABLY RELATED TO BONE MARROW DONATION.

(C) IN NO EVENT SHALL THE CREDIT PROVIDED FOR IN THIS SUBDIVISION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE MINIMUM FIXED BY PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS PARAGRAPH 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 3. Section 606 of the tax law is amended by adding a new subsection (i-1) to read as follows:

(I-1) (1) IN THE CASE OF A SHAREHOLDER OF AN S CORPORATION WHERE THE ELECTION PROVIDED FOR IN SUBSECTION (A) OF SECTION SIX HUNDRED SIXTY OF THIS ARTICLE IS IN EFFECT, THERE SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE AFTER ALLOWANCE OF ANY OTHER CREDIT PROVIDED UNDER THIS SECTION AND ANY CREDITS PERMITTED UNDER SECTIONS SIX HUNDRED TWENTY, SIX HUNDRED TWENTY-ONE AND SIX HUNDRED THIRTY-FIVE OF THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE HIS PRO RATA SHARE OF THE CREDITS UNDER SUBDIVISION TWENTY-A OF SECTION TWO HUNDRED TEN OF THIS CHAPTER DETERMINED FOR THE CORPORATION FOR WHICH SUCH ELECTION IS IN EFFECT, FOR THE CORPORATION'S TAXABLE YEAR ENDING WITH OR WITHIN THE SHAREHOLDER'S TAXABLE YEAR. SUCH CREDIT SHALL NOT, HOWEVER, INCLUDE ANY CREDIT ARISING FOR A TAXABLE YEAR WHEN SUCH ELECTION WAS NOT IN EFFECT.

(2) ANY REDETERMINATION OF CREDIT UPON DISPOSITION OR CESSATION OF QUALIFIED USE OF PROPERTY PURSUANT TO SUBDIVISION TWENTY-A OF SECTION

TWO HUNDRED TEN OF THIS CHAPTER SHALL BE ATTRIBUTED IN PRO RATA SHARES TO THE SHAREHOLDERS WHO WERE ALLOWED CREDIT UNDER THIS SUBSECTION WITH RESPECT TO SUCH PROPERTY, AND THE REDUCTION OF A SHAREHOLDER'S PROPORTIONATE STOCK INTEREST SHALL BE TREATED AS A DISPOSITION OF PROPERTY FOR WHICH A REDETERMINATION OF CREDIT UNDER SUCH SUBDIVISION IS REQUIRED WITH RESPECT TO SUCH SHAREHOLDER.

S 4. Section 606 of the tax law is amended by adding a new subsection (r-1) to read as follows:

(R-1) CREDIT FOR TISSUE TYPING PROGRAM. (1) FOR PURPOSES OF THIS SUBSECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "EMPLOYEE" MEANS A PERSON WHO PERFORMS SERVICES FOR HIRE FOR AN EMPLOYER, FOR AN AVERAGE OF TWENTY OR MORE HOURS PER WEEK, AND INCLUDES ALL INDIVIDUALS EMPLOYED AT ANY SITE OWNED OR OPERATED BY AN EMPLOYER BUT SHALL NOT INCLUDE AN INDEPENDENT CONTRACTOR.

(B) "EMPLOYER" MEANS A PERSON OR ENTITY THAT EMPLOYS TWENTY OR MORE EMPLOYEES AT AT LEAST ONE SITE AND INCLUDES AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, NONPROFIT ORGANIZATION, GROUP OF PERSONS, STATE, COUNTY, TOWN, CITY, SCHOOL DISTRICT, PUBLIC AUTHORITY OR OTHER GOVERNMENTAL SUBDIVISION OF ANY KIND.

(2) A TAXPAYER WHO IS AN EMPLOYER SHALL BE ALLOWED A CREDIT TO BE CREDITED AGAINST THE TAX IMPOSED BY THIS ARTICLE, AFTER ALLOWANCE OF ANY OTHER CREDIT PROVIDED UNDER THIS SECTION, FOR ANY TAXABLE YEAR IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF EXPENSES PAID OR INCURRED IN PROVIDING A PROGRAM FOR THE TISSUE TYPING OF EMPLOYEES EMPLOYED IN THIS STATE WHO AGREE TO SERVE AS POTENTIAL BONE MARROW DONORS. PROGRAM EXPENSES ELIGIBLE FOR THE CREDIT INCLUDE PAYMENTS TO HEALTH CARE PROVIDERS AND WAGES PAID TO EMPLOYEES FOR TIME REASONABLY RELATED TO BONE MARROW DONATION.

(3) IN NO EVENT SHALL THE CREDIT PROVIDED FOR IN THIS SUBSECTION BE ALLOWED IN EXCESS OF THE TAXPAYER'S TAX FOR SUCH YEAR. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION 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 5. Section 1456 of the tax law is amended by adding a new subsection (u) to read as follows:

(U) CREDIT FOR TISSUE TYPING PROGRAM. (1) FOR PURPOSES OF THIS SUBSECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "EMPLOYEE" MEANS A PERSON WHO PERFORMS SERVICES FOR HIRE FOR AN EMPLOYER, FOR AN AVERAGE OF TWENTY OR MORE HOURS PER WEEK, AND INCLUDES ALL INDIVIDUALS EMPLOYED AT ANY SITE OWNED OR OPERATED BY AN EMPLOYER BUT SHALL NOT INCLUDE AN INDEPENDENT CONTRACTOR.

(B) "EMPLOYER" MEANS A PERSON OR ENTITY THAT EMPLOYS TWENTY OR MORE EMPLOYEES AT AT LEAST ONE SITE AND INCLUDES AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, NONPROFIT ORGANIZATION, GROUP OF PERSONS, STATE, COUNTY, TOWN, CITY, SCHOOL DISTRICT, PUBLIC AUTHORITY OR OTHER GOVERNMENTAL SUBDIVISION OF ANY KIND.

(2) A TAXPAYER WHO IS AN EMPLOYER SHALL BE ALLOWED A CREDIT TO BE CREDITED AGAINST THE TAX IMPOSED BY THIS ARTICLE, AFTER ALLOWANCE OF ANY OTHER CREDIT PROVIDED UNDER THIS SECTION, FOR ANY TAXABLE YEAR IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF EXPENSES PAID OR INCURRED IN PROVIDING A PROGRAM FOR THE TISSUE TYPING OF EMPLOYEES EMPLOYED IN THIS STATE WHO AGREE TO SERVE AS POTENTIAL BONE MARROW DONORS. PROGRAM EXPENSES ELIGIBLE FOR THE CREDIT INCLUDE PAYMENTS TO HEALTH CARE PROVIDERS AND WAGES PAID TO EMPLOYEES FOR TIME REASONABLY RELATED TO BONE MARROW DONATION.

(3) IN NO EVENT SHALL THE CREDIT PROVIDED FOR IN THIS SUBSECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE MINIMUM FIXED BY PARAGRAPH ONE OF SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION 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 6. Section 1511 of the tax law is amended by adding a new subdivision (y) to read as follows:

(Y) CREDIT FOR TISSUE TYPING PROGRAM. (1) FOR PURPOSES OF THIS SUBDIVISION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "EMPLOYEE" MEANS A PERSON WHO PERFORMS SERVICES FOR HIRE FOR AN EMPLOYER, FOR AN AVERAGE OF TWENTY OR MORE HOURS PER WEEK, AND INCLUDES ALL INDIVIDUALS EMPLOYED AT ANY SITE OWNED OR OPERATED BY AN EMPLOYER BUT SHALL NOT INCLUDE AN INDEPENDENT CONTRACTOR.

(B) "EMPLOYER" MEANS A PERSON OR ENTITY THAT EMPLOYS TWENTY OR MORE EMPLOYEES AT AT LEAST ONE SITE AND INCLUDES AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, NONPROFIT ORGANIZATION, GROUP OF PERSONS, STATE, COUNTY, TOWN, CITY, SCHOOL DISTRICT, PUBLIC AUTHORITY OR OTHER GOVERNMENTAL SUBDIVISION OF ANY KIND.

(2) A TAXPAYER WHO IS AN EMPLOYER SHALL BE ALLOWED A CREDIT TO BE CREDITED AGAINST THE TAX IMPOSED BY THIS ARTICLE, AFTER ALLOWANCE OF ANY OTHER CREDIT PROVIDED UNDER THIS SECTION, FOR ANY TAXABLE YEAR IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF EXPENSES PAID OR INCURRED IN PROVIDING A PROGRAM FOR THE TISSUE TYPING OF EMPLOYEES EMPLOYED IN THIS STATE WHO AGREE TO SERVE AS POTENTIAL BONE MARROW DONORS. PROGRAM EXPENSES ELIGIBLE FOR THE CREDIT INCLUDE PAYMENTS TO HEALTH CARE PROVIDERS AND WAGES PAID TO EMPLOYEES FOR TIME REASONABLY RELATED TO BONE MARROW DONATION.

(3) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION FIFTEEN HUNDRED TWO OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS 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 7. This act shall take effect immediately and shall apply to taxable years beginning on and after the first of January next succeeding the date on which it shall have become a law.