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

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2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. MAZIARZ, DeFRANCISCO, DIAZ, LANZA, MORAHAN, RANZENHOFER, SALAND, YOUNG -- 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 establishing an elder care tax credit

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

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

(QQ) ELDER CARE CREDIT. FOR TAXABLE YEARS COMMENCING ON AND AFTER JANUARY ONE, TWO THOUSAND ELEVEN, A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE IN AN AMOUNT EQUAL TO ONE THOUSAND DOLLARS. FOR THE PURPOSES OF THIS SUBSECTION A "QUALIFIED TAXPAYER" SHALL MEAN A SINGLE PERSON WITH AN INCOME OF FORTY THOUSAND DOLLARS OR LESS OR MARRIED PERSONS FILING JOINTLY WITH AN INCOME OF SEVENTY-FIVE THOUSAND DOLLARS OR LESS WHO CARES FOR AN ELDERLY DEPENDENT WHO IS SIXTY-FIVE YEARS OF AGE OR OLDER, RELATED TO THE TAXPAYER WITHIN THE THIRD DEGREE OF CONSANGUINITY, WHO RESIDED WITH THE TAXPAYER FOR THE TWELVE MONTHS IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED AND WHOSE INCOME IS THIRTEEN THOUSAND DOLLARS OR LESS FOR A SINGLE ELDERLY DEPENDENT OR TWENTY THOUSAND DOLLARS OR LESS FOR MARRIED ELDERLY DEPENDENTS.

S 2. Section 210 of the tax law is amended by adding a new subdivision 14 to read as follows:

14. (A) THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR ANY TAXABLE YEAR AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE AMOUNT EXPENDED BY ANY EMPLOYER PROVIDING ELDER CARE FOR EMPLOYEES DURING THE EMPLOYEE'S WORK HOURS. CREDIT SHALL BE APPLIED TO THE COST OF ANY CONTRACT EXECUTED BY THE EMPLOYER FOR OFF-SITE SERVICES TO PROVIDE ELDER CARE; OR, IF THE EMPLOYER ELECTS TO PROVIDE ELDER CARE

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

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ON-SITE, TO EXPENSES OF ELDER CARE STAFF, LEARNING AND RECREATIONAL MATERIALS AND EQUIPMENT, AND THE CONSTRUCTION AND MAINTENANCE OF A FACILITY. A CREDIT PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL NOT BE ALLOWED FOR ANY EXPENSES WHICH SERVE AS THE BASIS FOR A PERSONAL INCOME TAX CREDIT PURSUANT TO THE PROVISIONS OF SUBSECTION (QQ) OF SECTION SIX HUNDRED SIX OF THIS CHAPTER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION SHALL NOT BE USED BY ANY EMPLOYER OTHER THAN AN ELIGIBLE EMPLOYER WITH AN OFF-SITE OR ON-SITE ENROLLMENT FOR THE TAXABLE YEAR OF NO LESS THAN SIX PERSONS SIXTY-FIVE YEARS OF AGE OR OLDER RECEIVING ELDER CARE. FOR THE PURPOSES OF THIS SUBDIVISION, AN "ELIGIBLE EMPLOYER" SHALL MEAN AN EMPLOYER PROVIDING ELDER CARE IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION WHICH HAS BEEN LICENSED OR CERTIFIED IN ACCORDANCE WITH THE APPROPRIATE PROVISIONS OF THE PUBLIC HEALTH LAW AND SOCIAL SERVICES LAW AND HAS BEEN CERTIFIED BY THE DEPARTMENT OF HEALTH AS ELIGIBLE TO RECEIVE THE CREDIT PURSUANT TO THIS SUBDIVISION.

(B) CREDIT MAY BE CARRIED FORWARD FOR THREE SUCCESSIVE YEARS IF THE AMOUNT ALLOWABLE AS CREDIT EXCEEDS INCOME TAX LIABILITY IN A TAXABLE YEAR; HOWEVER, THEREAFTER, IF THE AMOUNT ALLOWABLE AS A CREDIT EXCEEDS THE TAX LIABILITY, THE AMOUNT OF EXCESS SHALL NOT BE REFUNDABLE OR CARRIED FORWARD TO ANY OTHER TAXABLE YEAR.

S 3. 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:
(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
(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
(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
(XXII) Empire state film production credit under subsection (gg)	Amount of credit for qualified 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 qualified 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) ELDER CARE CREDIT UNDER SUBSECTION (QQ)	AMOUNT OF CREDIT UNDER SUBDIVISION FOURTEEN OF

SECTION TWO HUNDRED TEN

S 4. The commissioner of taxation and finance, the commissioner of health and the commissioner of the office of children and family services shall promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date.

S 5. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2011; provided, however that the empire state film production credit under subsection (gg), the empire state commercial production credit under subsection (jj) and the credit for companies who provide transportation to individuals with disabilities under subsection (oo) of section 606 of the tax law contained in section three 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, as amended and section 5 of chapter 522 of the laws of 2006, as amended, respectively.