

2156

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. MAZIARZ, DeFRANCISCO, DIAZ, LANZA, MORAHAN, RANZEN-
HOFER, SALAND, YOUNG -- read twice and ordered printed, and when
printed to be committed to the Committee on Investigations and Govern-
ment 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 606 of the tax law is amended by adding a new
2 subsection (qq) to read as follows:
3 (QQ) ELDER CARE CREDIT. FOR TAXABLE YEARS COMMENCING ON AND AFTER
4 JANUARY ONE, TWO THOUSAND ELEVEN, A QUALIFIED TAXPAYER SHALL BE ALLOWED
5 A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE IN AN AMOUNT EQUAL TO
6 ONE THOUSAND DOLLARS. FOR THE PURPOSES OF THIS SUBSECTION A "QUALIFIED
7 TAXPAYER" SHALL MEAN A SINGLE PERSON WITH AN INCOME OF FORTY THOUSAND
8 DOLLARS OR LESS OR MARRIED PERSONS FILING JOINTLY WITH AN INCOME OF
9 SEVENTY-FIVE THOUSAND DOLLARS OR LESS WHO CARES FOR AN ELDERLY DEPENDENT
10 WHO IS SIXTY-FIVE YEARS OF AGE OR OLDER, RELATED TO THE TAXPAYER WITHIN
11 THE THIRD DEGREE OF CONSANGUINITY, WHO RESIDED WITH THE TAXPAYER FOR THE
12 TWELVE MONTHS IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CRED-
13 IT IS CLAIMED AND WHOSE INCOME IS THIRTEEN THOUSAND DOLLARS OR LESS FOR
14 A SINGLE ELDERLY DEPENDENT OR TWENTY THOUSAND DOLLARS OR LESS FOR
15 MARRIED ELDERLY DEPENDENTS.
16 S 2. Section 210 of the tax law is amended by adding a new subdivision
17 14 to read as follows:
18 14. (A) THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE TAX IMPOSED BY
19 THIS ARTICLE FOR ANY TAXABLE YEAR AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT
20 OF THE AMOUNT EXPENDED BY ANY EMPLOYER PROVIDING ELDER CARE FOR EMPLOY-
21 EES DURING THE EMPLOYEE'S WORK HOURS. CREDIT SHALL BE APPLIED TO THE
22 COST OF ANY CONTRACT EXECUTED BY THE EMPLOYER FOR OFF-SITE SERVICES TO
23 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.

LBD04622-01-9

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

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

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

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

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| 28 | | The corporation's credit base under |
| 29 | | section two hundred ten or section |
| 30 | With respect to the following | fourteen hundred fifty-six of this |
| 31 | credit under this section: | chapter is: |

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| 32 | (I) Investment tax credit | Investment credit base |
| 33 | under subsection (a) | or qualified |
| 34 | | rehabilitation |
| 35 | | expenditures under |
| 36 | | subdivision twelve of |
| 37 | | section two hundred ten |

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| 38 | (II) Empire zone | Cost or other basis |
| 39 | investment tax credit | under subdivision |
| 40 | under subsection (j) | twelve-B |
| 41 | | of section two hundred |
| 42 | | ten |

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| 43 | (III) Empire zone | Eligible wages under |
| 44 | wage tax credit | subdivision nineteen of |
| 45 | under subsection (k) | section two hundred ten |
| 46 | | or subsection (e) of |
| 47 | | section fourteen hundred |
| 48 | | fifty-six |

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| 49 | (IV) Empire zone | Qualified investments |
| 50 | capital tax credit | and contributions under |
| 51 | under subsection (l) | subdivision twenty of |

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| 1 | | section two hundred ten |
| 2 | | or subsection (d) of |
| 3 | | section fourteen hundred |
| 4 | | fifty-six |
| 5 | (V) Agricultural property tax | Allowable school |
| 6 | credit under subsection (n) | district property taxes under |
| 7 | | subdivision twenty-two of |
| 8 | | section two hundred ten |
| 9 | (VI) Credit for employment | Qualified first-year wages or |
| 10 | of persons with dis- | qualified second-year wages |
| 11 | abilities under | under subdivision |
| 12 | subsection (o) | twenty-three of section |
| 13 | | two hundred ten |
| 14 | | or subsection (f) |
| 15 | | of section fourteen |
| 16 | | hundred fifty-six |
| 17 | (VII) Employment incentive | Applicable investment credit |
| 18 | credit under subsec- | base under subdivision |
| 19 | tion (a-1) | twelve-D of section two |
| 20 | | hundred ten |
| 21 | (VIII) Empire zone | Applicable investment |
| 22 | employment | credit under sub- |
| 23 | incentive credit under | division twelve-C |
| 24 | subsection (j-1) | of section two hundred ten |
| 25 | (IX) Alternative fuels credit | Cost under subdivision |
| 26 | under subsection (p) | twenty-four of section two |
| 27 | | hundred ten |
| 28 | (X) Qualified emerging | Applicable credit base |
| 29 | technology company | under subdivision twelve-E |
| 30 | employment credit | of section two hundred ten |
| 31 | under subsection (q) | |
| 32 | (XI) Qualified emerging | Qualified investments under |
| 33 | technology company | subdivision twelve-F of |
| 34 | capital tax credit | section two hundred ten |
| 35 | under subsection (r) | |
| 36 | (XII) Credit for purchase of an | Cost of an automated |
| 37 | automated external defibrillator | external defibrillator under |
| 38 | under subsection (s) | subdivision twenty-five of |
| 39 | | section two hundred ten |
| 40 | | or subsection (j) of section |
| 41 | | fourteen hundred fifty-six |
| 42 | (XIII) Low-income housing | Credit amount under |
| 43 | credit under subsection (x) | subdivision thirty |
| 44 | | of section two hundred ten or |
| 45 | | subsection (l) of section |
| 46 | | fourteen hundred fifty-six |

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| 1 | (XIV) Credit for transportation | Amount of credit under sub- |
| 2 | improvement contributions | division thirty-two of section |
| 3 | under subsection (z) | two hundred ten or subsection |
| 4 | | (n) of section fourteen |
| 5 | | hundred fifty-six |
| 6 | (XV) QEZE credit for real property | Amount of credit under |
| 7 | taxes under subsection (bb) | subdivision twenty-seven of |
| 8 | | section two hundred ten or |
| 9 | | subsection (o) of section |
| 10 | | fourteen hundred fifty-six |
| 11 | (XVI) QEZE tax reduction credit | Amount of benefit period |
| 12 | under subsection (cc) | factor, employment increase factor |
| 13 | | and zone allocation |
| 14 | | factor (without regard |
| 15 | | to pro ration) under |
| 16 | | subdivision twenty-eight of |
| 17 | | section two hundred ten or |
| 18 | | subsection (p) of section |
| 19 | | fourteen hundred fifty-six |
| 20 | | and amount of tax factor |
| 21 | | as determined under |
| 22 | | subdivision (f) of section sixteen |
| 23 | (XVII) Green building credit | Amount of green building credit |
| 24 | under subsection (y) | under subdivision thirty-one |
| 25 | | of section two hundred ten |
| 26 | | or subsection (m) of section |
| 27 | | fourteen hundred fifty-six |
| 28 | (XVIII) Credit for long-term | Qualified costs under |
| 29 | care insurance premiums | subdivision twenty-five-a of |
| 30 | under subsection (aa) | section two hundred ten |
| 31 | | or subsection (k) of section |
| 32 | | fourteen hundred fifty-six |
| 33 | (XIX) Brownfield redevelopment | Amount of credit |
| 34 | credit under subsection | under subdivision |
| 35 | (dd) | thirty-three of section |
| 36 | | two hundred ten |
| 37 | | or subsection (q) of |
| 38 | | section fourteen hundred |
| 39 | | fifty-six |
| 40 | (XX) Remediated brownfield | Amount of credit under |
| 41 | credit for real property | subdivision thirty-four |
| 42 | taxes for qualified | of section two hundred |
| 43 | sites under subsection | ten or subsection (r) of |
| 44 | (ee) | section fourteen hundred |
| 45 | | fifty-six |
| 46 | (XXI) Environmental | Amount of credit under |
| 47 | remediation | subdivision thirty-five of |
| 48 | insurance credit under | section two hundred |
| 49 | subsection (ff) | ten or subsection |

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| 1 | | (s) of section |
| 2 | | fourteen hundred |
| 3 | | fifty-six |
| 4 | (XXII) Empire state film production | Amount of credit for |
| 5 | credit under subsection (gg) | qualified production costs in |
| 6 | | production of a qualified film under |
| 7 | | subdivision thirty-six of |
| 8 | | section two hundred ten |
| 9 | (XXIII) Qualified emerging | Qualifying expenditures and |
| 10 | technology company facilities, | development activities under |
| 11 | operations and training credit | subdivision twelve-G of section |
| 12 | under subsection (nn) | two hundred ten |
| 13 | (XXIV) Security training tax | Amount of credit |
| 14 | credit under | under subdivision thirty-seven |
| 15 | subsection (ii) | of section two hundred ten or |
| 16 | | under subsection (t) of |
| 17 | | section fourteen hundred fifty-six |
| 18 | (XXV) Credit for qualified fuel | Amount of credit under |
| 19 | cell electric generating equipment | subdivision thirty-seven |
| 20 | expenditures under subsection (g-2) | of section two hundred ten |
| 21 | | or subsection (t) of |
| 22 | | section fourteen hundred |
| 23 | | fifty-six |
| 24 | (XXVI) Empire state commercial | Amount of credit for |
| 25 | production | qualified |
| 26 | credit under subsection (jj) | production costs in production |
| 27 | | of a qualified commercial under |
| 28 | | subdivision thirty-eight of sec- |
| 29 | | tion two hundred ten |
| 30 | (XXVII) Biofuel production | Amount of credit |
| 31 | tax credit under | under subdivision |
| 32 | subsection (jj) | thirty-eight of |
| 33 | | section two hundred ten |
| 34 | (XXVIII) Clean heating fuel | Amount of credit under |
| 35 | credit under subsection (mm) | subdivision thirty-nine of |
| 36 | | section two hundred ten |
| 37 | (XXIX) Credit for rehabilitation | Amount of credit under |
| 38 | of historic properties | subdivision forty of |
| 39 | under subsection (oo) | subsection two hundred ten |
| 40 | (XXX) Credit for companies who | Amount of credit under |
| 41 | provide transportation | subdivision forty of |
| 42 | to individuals | section two hundred ten |
| 43 | with disabilities | |
| 44 | under subsection (oo) | |
| 45 | (XXXI) ELDER CARE CREDIT UNDER | AMOUNT OF CREDIT UNDER |
| 46 | SUBSECTION (QQ) | 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.