

3503

2009-2010 Regular Sessions

I N S E N A T E

March 20, 2009

Introduced by Sen. 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 a tax credit to businesses for the purchase of emergency electrical generators

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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.  
22 S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
23 of the tax law, as amended by section 2 of part ZZ-1 of chapter 57 of  
24 the laws of 2008, is amended to read as follows:

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

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

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

1	(XXI) Environmental remediation	Amount of credit under subdivision
2	insurance credit under subsection	thirty-five of section two hundred
3	(ff)	ten or subsection (s) of section
4		fourteen hundred fifty-six
5	(XXII) Empire state film production	Amount of credit for qualified
6	credit under subsection (gg)	production costs in production of a
7		qualified film under subdivision
8		thirty-six of section two hundred
9		ten
10	(XXIII) Qualified emerging	Qualifying expenditures and
11	technology company facilities,	development activities under
12	operations and training credit	subdivision twelve-G of section two
13	under subsection (nn)	hundred ten
14	(XXIV) Security training tax credit	Amount of credit under subdivision
15	under subsection (ii)	thirty-seven of section two hundred
16		ten or under subsection (t) of
17		section fourteen hundred fifty-six
18	(XXV) Credit for qualified fuel	Amount of credit under subdivision
19	cell electric generating equipment	thirty-seven of section two hundred
20	expenditures under subsection (g-2)	ten or subsection (t) of section
21		fourteen hundred fifty-six
22	(XXVI) Empire state commercial	Amount of credit for qualified
23	production credit under subsection	production costs in production of
24	(jj)	a qualified commercial under
25		subdivision thirty-eight of
26		section two hundred ten
27	(XXVII) Biofuel production tax	Amount of credit under subdivision
28	credit under subsection (jj)	thirty-eight of section two hundred
29		ten
30	(XXVIII) Clean heating fuel credit	Amount of credit under subdivision
31	under subsection (mm)	thirty-nine of section two hundred
32		ten
33	(XXIX) Credit for rehabilitation	Amount of credit under subdivision
34	of historic properties under	forty of [subsection] SECTION
35	subsection (oo)	two hundred ten
36	(XXX) Credit for companies who	Amount of credit under subdivision
37	provide transportation to	forty of section two hundred ten
38	individuals with disabilities under	
39	subsection (oo)	
40	(XXXI) CREDIT FOR THE PURCHASE OF	AMOUNT OF CREDIT UNDER SUBDIVISION
41	EMERGENCY ELECTRICAL GENERATORS	FORTY-ONE OF SECTION TWO HUNDRED
42	UNDER SUBSECTION (QQ)	TEN
43	S 3. Section 606 of the tax law is amended by adding a new subsection	
44	(qq) to read as follows:	
45	(QQ) CREDIT FOR THE PURCHASE OF EMERGENCY ELECTRICAL GENERATORS. (1)	
46	ALLOWANCE AND AMOUNT OF CREDIT. A TAXPAYER ENGAGED IN THE BUSINESS OF	

1 OFFERING FOR SALE PERISHABLE FOOD ITEMS SHALL BE ALLOWED A CREDIT, TO BE  
2 COMPUTED AS PROVIDED IN THIS SUBSECTION, AGAINST THE TAX IMPOSED BY THIS  
3 ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE AMOUNT EXPENDED  
4 IN THE PREVIOUS TAX YEAR FOR THE PURCHASE OF ONE OR MORE EMERGENCY ELEC-  
5 TRICAL GENERATORS IMPLEMENTED TO PREVENT SPOILAGE OF FOOD ITEMS.

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

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