

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

4845--B

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. DUANE, DILAN, MONTGOMERY, ONORATO, SCHNEIDERMAN, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to authorizing any city having a population of one million or more to provide a biotechnology credit against the general corporation tax, unincorporated business tax and banking corporation tax of such city

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

1 Section 1. Section 1201-a of the tax law is amended by adding a new
2 subdivision (d) to read as follows:
3 (D) BIOTECHNOLOGY CREDIT. 1. ANY CITY IN THIS STATE HAVING A POPU-
4 LATION OF ONE MILLION OR MORE, ACTING THROUGH ITS LOCAL LEGISLATIVE
5 BODY, IS HEREBY AUTHORIZED TO ADOPT AND AMEND LOCAL LAWS TO ALLOW A
6 CREDIT AGAINST THE GENERAL CORPORATION TAX, UNINCORPORATED BUSINESS TAX
7 AND THE BANKING CORPORATION TAX IMPOSED PURSUANT TO THE AUTHORITY OF
8 CHAPTER SEVEN HUNDRED SEVENTY-TWO OF THE LAWS OF NINETEEN HUNDRED
9 SIXTY-SIX WHICH SHALL BE SUBSTANTIALLY IDENTICAL TO THE CREDIT ALLOWED
10 UNDER SUBDIVISION TWELVE-G OF SECTION TWO HUNDRED TEN OF THIS CHAPTER,
11 EXCEPT THAT (A) WHENEVER SUBDIVISION TWELVE-G OF SECTION TWO HUNDRED TEN
12 OF THIS CHAPTER REFERENCES THE STATE, SUCH WORDS SHALL BE READ AS REFER-
13 ENCING THE CITY, (B) SUCH CREDIT SHALL BE ALLOWED ONLY TO A TAXPAYER
14 THAT (1) IS A QUALIFIED EMERGING TECHNOLOGY COMPANY PURSUANT TO THE
15 PROVISIONS OF PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-ONE
16 HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, EXCEPT THAT SUCH COMPANY
17 SHALL MEAN A COMPANY LOCATED IN SUCH CITY, (2) ENGAGES IN ACTIVITIES
18 REFERENCED IN SUBPARAGRAPH FIVE OF PARAGRAPH (B) OF SUBDIVISION ONE OF
19 SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, AND (3)

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

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1 MEETS THE ELIGIBILITY REQUIREMENTS IN PARAGRAPH (B) OF SUBDIVISION
2 TWELVE-G OF SECTION TWO HUNDRED TEN OF THIS CHAPTER, AND (C) THE EFFEC-
3 TIVE DATE OF SUCH CREDIT SHALL BE AS PROVIDED IN LOCAL LAWS. SUBJECT TO
4 THE LIMITATIONS SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION, SUCH
5 CREDIT SHALL BE APPLIED IN A MANNER CONSISTENT WITH THE CREDIT ALLOWED
6 UNDER SUBDIVISION TWELVE-G OF SECTION TWO HUNDRED TEN OF THIS CHAPTER
7 EXCEPT AS MAY BE NECESSARY TO TAKE INTO ACCOUNT DIFFERENCES BETWEEN
8 ARTICLE NINE-A OF THIS CHAPTER AND THE GENERAL CORPORATION TAX, THE
9 UNINCORPORATED BUSINESS TAX OR THE BANKING CORPORATION TAX.

10 2. (A) THE PERCENTAGE OF THE CREDIT ALLOWED TO A TAXPAYER UNDER THIS
11 SUBDIVISION IN ANY CALENDAR YEAR SHALL BE:

12 (1) IF THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY A
13 TAXPAYER IN THE CITY DURING THE CALENDAR YEAR IN WHICH THE CREDIT IS
14 CLAIMED IS AT LEAST ONE HUNDRED FIVE PERCENT OF THE TAXPAYER'S BASE YEAR
15 EMPLOYMENT, ONE HUNDRED PERCENT, EXCEPT THAT IN NO CASE SHALL THE CREDIT
16 ALLOWED UNDER THIS CLAUSE EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS PER
17 CALENDAR YEAR. PROVIDED, HOWEVER, THE INCREASE IN BASE YEAR EMPLOYMENT
18 SHALL NOT APPLY TO A TAXPAYER ALLOWED A CREDIT UNDER THIS SUBDIVISION
19 THAT WAS, (I) LOCATED OUTSIDE OF THE CITY, (II) NOT DOING BUSINESS, OR
20 (III) DID NOT HAVE ANY EMPLOYEES, IN THE YEAR PRECEDING THE FIRST YEAR
21 THAT THE CREDIT WAS CLAIMED.

22 (2) IF THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY A
23 TAXPAYER IN THE CITY DURING THE CALENDAR YEAR IN WHICH THE CREDIT IS
24 CLAIMED IS LESS THAN ONE HUNDRED FIVE PERCENT OF THE TAXPAYER'S BASE
25 YEAR EMPLOYMENT, FIFTY PERCENT, EXCEPT THAT IN NO CASE SHALL THE CREDIT
26 ALLOWED UNDER THIS CLAUSE EXCEED ONE HUNDRED TWENTY-FIVE THOUSAND
27 DOLLARS PER CALENDAR YEAR. IN THE CASE OF AN ENTITY LOCATED IN THE CITY
28 OF NEW YORK RECEIVING SPACE AND BUSINESS SUPPORT SERVICES BY AN ACADEMIC
29 INCUBATOR FACILITY, AS DEFINED IN SUBPARAGRAPH (VI) OF PARAGRAPH (E) OF
30 SUBDIVISION TWELVE-G OF SECTION TWO HUNDRED TEN OF THIS CHAPTER, IF THE
31 AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY SUCH FACILITY IN THE
32 CITY DURING THE CALENDAR YEAR IN WHICH THE CREDIT ALLOWED UNDER THIS
33 SUBDIVISION IS CLAIMED IS LESS THAN ONE HUNDRED FIVE PERCENT OF THE
34 TAXPAYER'S BASE YEAR EMPLOYMENT, THE CREDIT SHALL BE ZERO.

35 (B) FOR THE PURPOSES OF THIS SUBDIVISION, "BASE YEAR EMPLOYMENT" MEANS
36 THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY THE TAXPAYER IN
37 THE CITY IN THE YEAR PRECEDING THE FIRST CALENDAR YEAR IN WHICH THE
38 CREDIT IS CLAIMED.

39 (C) FOR THE PURPOSES OF THIS SUBDIVISION, AVERAGE NUMBER OF INDIVID-
40 UALS EMPLOYED FULL-TIME SHALL BE COMPUTED BY ADDING THE NUMBER OF SUCH
41 INDIVIDUALS EMPLOYED BY THE TAXPAYER AT THE END OF EACH QUARTER DURING
42 EACH CALENDAR YEAR OR OTHER APPLICABLE PERIOD AND DIVIDING THE SUM SO
43 OBTAINED BY THE NUMBER OF SUCH QUARTERS OCCURRING WITHIN SUCH CALENDAR
44 YEAR OR OTHER APPLICABLE PERIOD.

45 3. THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED UNDER THIS SUBDIVISION
46 IN ANY CALENDAR YEAR SHALL BE UP TO THREE MILLION DOLLARS. SUCH AGGRE-
47 GATE AMOUNT OF CREDITS SHALL BE ALLOCATED BY THE NEW YORK CITY DEPART-
48 MENT OF FINANCE AMONG ELIGIBLE TAXPAYERS ON A PRO RATA BASIS. TAXPAYERS
49 ELIGIBLE FOR SUCH PRO RATA ALLOCATION SHALL BE DETERMINED BY THE NEW
50 YORK CITY DEPARTMENT OF FINANCE NO LATER THAN FEBRUARY TWENTY-EIGHTH OF
51 THE SUCCEEDING CALENDAR YEAR IN WHICH THE CREDIT PROVIDED IN THIS SUBDI-
52 VISION IS APPLIED.

53 4. THE NEW YORK CITY DEPARTMENT OF FINANCE SHALL ESTABLISH BY RULE BY
54 OCTOBER THIRTY-FIRST, TWO THOUSAND NINE, PROCEDURES FOR THE ALLOCATION
55 OF TAX CREDITS AS REQUIRED BY PARAGRAPH TWO OF THIS SUBDIVISION. SUCH
56 RULES SHALL INCLUDE PROVISIONS DESCRIBING THE APPLICATION PROCESS, THE

1 DUE DATES FOR SUCH APPLICATIONS, THE STANDARDS THAT SHALL BE USED TO
2 EVALUATE THE APPLICATIONS, THE DOCUMENTATION THAT WILL BE PROVIDED TO
3 TAXPAYERS TO SUBSTANTIATE THE AMOUNT OF TAX CREDITS ALLOCATED TO SUCH
4 TAXPAYERS, AND SUCH OTHER PROVISIONS AS DEEMED NECESSARY AND APPROPRI-
5 ATE.
6 5. ANY LOCAL LAW ADOPTED PURSUANT TO THIS SUBDIVISION MAY PROVIDE FOR
7 A CREDIT AS AUTHORIZED BY THIS SUBDIVISION FOR A MAXIMUM OF THREE
8 CONSECUTIVE CALENDAR YEARS, PROVIDED, HOWEVER, THAT ANY SUCH CREDIT MAY
9 NOT APPLY TO TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND
10 TEN OR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN.
11 S 2. This act shall take effect immediately.