

5148

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. McDONALD -- 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 creating a wage tax credit for employers who employ New York national guard men and women, reservists, volunteer firefighters and EMS personnel

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 two new
2 subdivisions 41 and 42 to read as follows:
3 41. EMPLOYMENT OF NEW YORK NATIONAL GUARD AND RESERVE MEMBERS WAGE TAX
4 CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT,
5 TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED
6 BY THIS ARTICLE, IF IT EMPLOYS MEMBERS OF THE NEW YORK NATIONAL GUARD
7 AND RESERVES. PROVIDED, HOWEVER, SUCH TAXPAYER SHALL COMPLY WITH THE
8 UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT, AS FOUND IN
9 SECTION 4301 ET SEQ. OF TITLE 18 OF THE UNITED STATES CODE.
10 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
11 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
12 THAN THE HIGHER OF THE AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF
13 SUBDIVISION ONE OF THIS SECTION. IF, HOWEVER, THE AMOUNT OF CREDITS
14 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
15 SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE
16 YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
17 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
18 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
19 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
20 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.
21 42. EMPLOYMENT OF VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL
22 SERVICES (EMS) FIRST RESPONDER PERSONNEL WAGE CREDIT. (A) ALLOWANCE OF
23 CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED

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

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1 IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED BY THIS ARTICLE, IF IT
2 EMPLOYS VOLUNTEER FIREFIGHTERS AND EMS FIRST RESPONDER PERSONNEL.
3 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
4 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
5 THAN THE HIGHER OF THE AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF
6 SUBDIVISION ONE OF THIS SECTION. IF, HOWEVER, THE AMOUNT OF CREDITS
7 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
8 SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE
9 YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
10 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
11 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
12 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
13 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

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

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

21 The corporation's credit base under
22 section two hundred ten or section
23 With respect to the following
24 credit under this section: fourteen hundred fifty-six of this
chapter is:

25 (I) Investment tax credit Investment credit base
26 under subsection (a) or qualified
27 rehabilitation
28 expenditures under
29 subdivision twelve of
30 section two hundred ten

31 (II) Empire zone Cost or other basis
32 investment tax credit under subdivision
33 under subsection (j) twelve-B
34 of section two hundred
35 ten

36 (III) Empire zone Eligible wages under
37 wage tax credit subdivision nineteen of
38 under subsection (k) section two hundred ten
39 or subsection (e) of
40 section fourteen hundred
41 fifty-six

42 (IV) Empire zone Qualified investments
43 capital tax credit and contributions under
44 under subsection (l) subdivision twenty of
45 section two hundred ten
46 or subsection (d) of
47 section fourteen hundred
48 fifty-six

49 (V) Agricultural property tax Allowable school
50 credit under subsection (n) district property taxes under

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

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

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

(XXXII) EMPLOYMENT OF VOLUNTEER AMOUNT OF CREDIT UNDER
FIREFIGHTERS AND EMS SUBDIVISION FORTY-TWO OF
FIRST RESPONDER SECTION TWO HUNDRED TEN
PERSONNEL WAGE
CREDIT UNDER SUB-
SECTION (RR)

S 3. Section 606 of the tax law is amended by adding two new subsections (qq) and (rr) to read as follows:

(QQ) EMPLOYMENT OF NEW YORK NATIONAL GUARD AND RESERVE MEMBER CREDIT.

(1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE IF THEY EMPLOY NEW YORK NATIONAL GUARD AND RESERVE MEMBERS. PROVIDED, HOWEVER, THEY SHALL COMPLY WITH THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT, AS FOUND IN SECTION 4301 ET SEQ. OF TITLE 18 OF THE UNITED STATES CODE. THE AMOUNT OF THE CREDIT SHALL BE FIFTEEN HUNDRED DOLLARS FOR EACH NATIONAL GUARD MEMBER OR RESERVIST EMPLOYED.

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

(3) CARRYOVER. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(RR) EMPLOYMENT OF VOLUNTEER FIREFIGHTERS AND EMS FIRST RESPONDER PERSONNEL WAGE CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE IF THEY EMPLOY VOLUNTEER FIREFIGHTERS AND EMS FIRST RESPONDER PERSONNEL. THE AMOUNT OF THE CREDIT SHALL BE FIFTEEN HUNDRED DOLLARS FOR EACH VOLUNTEER FIREFIGHTER AND EMS FIRST RESPONDER EMPLOYED.

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

(3) CARRYOVER. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS 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 4. This act shall take effect immediately and apply to taxable years beginning on and after January 1, 2012; provided, however that the empire state film production credit under subsection (gg), the empire state commercial production credit under subsection (jj) and credit for companies who provide transportation to individuals with disabilities under subsection (oo) of section 606 of the tax law contained in section two 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, and section 5 of chapter 522 of the laws of 2006, as amended, respectively.