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

1163

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. BING, KELLNER -- Multi-Sponsored by -- M. of A. BROOK-KRASNY, CAHILL, V. LOPEZ, PEOPLES-STOKES, SPANO -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing a tax credit to individuals for up to two hundred dollars of expenses related to the development and posting of an open source or free license program

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 (ss) to read as follows:

(SS) OPEN SOURCE OR FREE LICENSE CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBSECTION, AGAINST THE TAX IMPOSED PURSUANT TO SECTION SIX HUNDRED ONE OF THIS PART. THE AMOUNT OF CREDIT SHALL EQUAL UP TO TWENTY PERCENT OF THE TOTAL OUT-OF-POCKET EXPENSES OF THE TAXPAYER USED IN THE DEVELOPMENT OF A PROGRAM THAT IS PROVIDED TO THE PUBLIC UNDER AN OPEN SOURCE OR FREE SOFTWARE LICENSE, UP TO A MAXIMUM OF TWO HUNDRED DOLLARS.

(2) FOR THE PURPOSES OF THIS SUBSECTION, A PROGRAM SHALL QUALIFY FOR THE CREDIT PROVIDED BY THIS SUBSECTION IF THE CODE FOR SUCH PROGRAM HAS BEEN RELEASED UNDER AN OPEN SOURCE LICENSE RECOGNIZED BY THE OPEN SOURCE INITIATIVE, OR HAS BEEN RELEASED UNDER A FREE SOFTWARE LICENSE RECOGNIZED BY THE FREE SOFTWARE FOUNDATION.

(3) THIS SUBSECTION SHALL APPLY TO ANY INDIVIDUAL FOR ANY TAXABLE YEAR ONLY IF SUCH INDIVIDUAL ELECTS TO HAVE THIS SECTION APPLY FOR SUCH TAXABLE YEAR. AN ELECTION TO HAVE THIS SECTION APPLY MAY NOT BE MADE FOR ANY TAXABLE YEAR IF SUCH ELECTION IS IN EFFECT WITH RESPECT TO SUCH INDIVIDUAL FOR ANY OTHER TAXABLE YEAR AND PERTAINING TO THE SAME PROGRAM OR ANY PORTION THEREOF.

(4) IN NO EVENT SHALL THE AMOUNT OF THE CREDIT PROVIDED BY THIS SUBSECTION EXCEED THE TAXPAYER'S TAX FOR THE TAXABLE YEAR. HOWEVER, IF

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

THE AMOUNT OF CREDIT OTHERWISE ALLOWABLE PURSUANT TO THIS SUBSECTION FOR ANY TAXABLE YEAR RESULTS IN SUCH EXCESS AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR 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 2. This act shall take effect immediately and shall apply to taxable years beginning on and after the first of January next succeeding the date on which it shall have become a law.