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

3031

2011-2012 Regular Sessions

I N A S S E M B L Y

January 21, 2011

Introduced by M. of A. LAVINE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing certain benefits to veterans

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

Section 1. The tax law is amended by adding a new section 35 to read as follows:

S 35. NATIONAL GUARD AND RESERVIST COMPENSATION TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE, NINE-A, TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX IN AN AMOUNT EQUAL TO ANY COMPENSATION WHICH IS PAID TO AN EMPLOYEE WHO IS A MEMBER OF THE ORGANIZED MILITIA OR OF RESERVE FORCES OR RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES WHILE SUCH EMPLOYEE IS ON ACTIVE DUTY AS SUCH TERM IS DEFINED IN THE MILITARY LAW.

(B) A TAXPAYER WISHING TO CLAIM A CREDIT UNDER THIS SECTION SHALL ANNUALLY CERTIFY TO THE COMMISSIONER, ON FORMS SUPPLIED BY THE COMMISSIONER, AMOUNTS PAID TO ELIGIBLE EMPLOYEES SERVING ON ACTIVE DUTY.

(C) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9: SECTION 187-Q.

(2) ARTICLE 9-A: SECTION 210: SUBDIVISION 43.

(3) ARTICLE 22: SECTION 606: SUBSECTION (SS).

(4) ARTICLE 32: SECTION 1456: SUBSECTION (X).

(5) ARTICLE 33: SECTION 1511: SUBDIVISION (A-1).

S 2. The tax law is amended by adding a new section 187-q to read as follows:

S 187-Q. NATIONAL GUARD AND RESERVIST COMPENSATION TAX CREDIT. 1. ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE

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

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COMPUTED AS PROVIDED IN SUBDIVISION (A) OF SECTION THIRTY-FIVE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

2. APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE APPLICABLE MINIMUM TAX FIXED BY SECTION ONE HUNDRED EIGHTY-THREE OR ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 3. Section 210 of the tax law is amended by adding a new subdivision 43 to read as follows:

43. NATIONAL GUARD AND RESERVIST COMPENSATION TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-FIVE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER AMOUNT PRESCRIBED IN SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 4. Section 606 of the tax law is amended by adding a new subsection (ss) to read as follows:

(SS) NATIONAL GUARD AND RESERVIST COMPENSATION TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-FIVE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(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.

S 5. Section 1456 of the tax law is amended by adding a new subsection (x) to read as follows:

(X) NATIONAL GUARD AND RESERVIST COMPENSATING TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-FIVE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF

SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 6. Section 1511 of the tax law is amended by adding a new subdivision (a-1) to read as follows:

(A-1) NATIONAL GUARD AND RESERVIST COMPENSATION TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-FIVE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM FIXED BY PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION FIFTEEN HUNDRED TWO OR SECTION FIFTEEN HUNDRED TWO-A OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 7. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxii) to read as follows:

(XXXII) CREDIT FOR NATIONAL GUARD AND RESERVATION COMPENSATION UNDER SUBSECTION (SS)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-THREE OF SECTION TWO HUNDRED TEN OR UNDER SUBSECTION (X) OF SECTION FOURTEEN HUNDRED FIFTY-SIX

S 8. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2011.