

3697

2011-2012 Regular Sessions

I N A S S E M B L Y

January 26, 2011

Introduced by M. of A. MORELLE, SCHIMMINGER, DESTITO, TOWNS -- read once  
and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a small busi-  
ness tax credit for SBA guaranty fees paid

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

1 Section 1. Section 210 of the tax law is amended by adding a new  
2 subdivision 43 to read as follows:

3 43. SMALL BUSINESS TAX CREDIT. (A) GENERAL. A TAXPAYER WHO HAS ONE  
4 HUNDRED EMPLOYEES OR LESS, SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS  
5 PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED BY THIS ARTICLE  
6 FOR ANY AMOUNT PAID TO THE UNITED STATES SMALL BUSINESS ADMINISTRATION  
7 (SBA) AS A GUARANTY FEE PURSUANT TO THE OBTAINING OF A SBA 7(A) GUARAN-  
8 TEED LOAN.

9 (B) AMOUNT OF CREDIT. A CREDIT AUTHORIZED BY THIS SECTION MAY BE  
10 CLAIMED FOR GUARANTY FEES PAID ON OR AFTER JANUARY FIRST, TWO THOUSAND  
11 THIRTEEN.

12 (C) NO CREDIT MAY BE CLAIMED PURSUANT TO THIS SUBDIVISION IF, PURSUANT  
13 TO THE AGREEMENT BETWEEN THE BANKING ASSOCIATION OR CREDIT UNION AND THE  
14 ENTITY TO WHICH PROCEEDS ARE MADE AVAILABLE, THE BANKING ASSOCIATION OR  
15 CREDIT UNION ADDS THE AMOUNT OF THE SBA 7(A) LOAN GUARANTY FEE TO THE  
16 AMOUNT FINANCED BY THE BORROWER OR IN ANY OTHER WAY RECOVERS THE GUARAN-  
17 TY FEE AMOUNT FROM THE BORROWER.

18 (D) CARRYOVERS. THE CREDIT ALLOWED UNDER THIS SUBDIVISION MAY BE  
19 CLAIMED AND IF NOT FULLY USED IN THE INITIAL YEAR FOR WHICH THE CREDIT  
20 IS CLAIMED MAY BE CARRIED OVER, IN ORDER, TO EACH OF THE FIVE SUCCEEDING  
21 TAXABLE YEARS. THE CREDIT AUTHORIZED BY THIS SUBDIVISION MAY NOT BE USED  
22 TO REDUCE THE TAX LIABILITY OF THE CREDIT CLAIMANT BELOW ZERO.

23 S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
24 of the tax law is amended by adding a new clause (xxxii) to read as  
25 follows:

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

LBD05491-01-1

1 (XXXII) SBA GUARANTY FEE CREDIT COSTS UNDER SUBDIVISION  
2 UNDER SUBSECTION (SS) FORTY-THREE OF SECTION  
3 TWO HUNDRED TEN

4 S 3. Section 606 of the tax law is amended by adding a new subsection  
5 (ss) to read as follows:

6 (SS) SMALL BUSINESS GUARANTY FEE TAX CREDIT. (1) GENERAL. A TAXPAYER  
7 WHO HAS ONE HUNDRED EMPLOYEES OR LESS, SHALL BE ALLOWED A CREDIT, TO BE  
8 COMPUTED AS PROVIDED IN THIS SUBSECTION, AGAINST THE TAX IMPOSED BY THIS  
9 ARTICLE FOR ANY AMOUNT PAID TO THE UNITED STATES SMALL BUSINESS ADMINIS-  
10 TRATION (SBA) AS A GUARANTY FEE PURSUANT TO THE OBTAINING OF SBA GUARAN-  
11 TEED FINANCING.

12 (2) AMOUNT OF CREDIT. A CREDIT AUTHORIZED BY THIS SECTION MAY BE  
13 CLAIMED FOR GUARANTY FEES PAID ON OR AFTER JANUARY FIRST, TWO THOUSAND  
14 THIRTEEN.

15 (3) NO CREDIT MAY BE CLAIMED PURSUANT TO THIS SUBSECTION IF, PURSUANT  
16 TO THE AGREEMENT BETWEEN THE BANKING ASSOCIATION OR CREDIT UNION AND THE  
17 ENTITY TO WHICH PROCEEDS ARE MADE AVAILABLE, THE BANKING ASSOCIATION OR  
18 CREDIT UNION ADDS THE AMOUNT OF THE SBA 7(A) LOAN GUARANTY FEE TO THE  
19 AMOUNT FINANCED BY THE BORROWER OR IN ANY OTHER WAY RECOVERS THE GUARAN-  
20 TY FEE AMOUNT FROM THE BORROWER.

21 (4) CARRYOVERS. THE CREDIT ALLOWED UNDER THIS SUBSECTION MAY BE  
22 CLAIMED AND IF NOT FULLY USED IN THE INITIAL YEAR FOR WHICH THE CREDIT  
23 IS CLAIMED MAY BE CARRIED OVER, IN ORDER, TO EACH OF THE FIVE SUCCEEDING  
24 TAXABLE YEARS. THE CREDIT AUTHORIZED BY THIS SUBSECTION MAY NOT BE USED  
25 TO REDUCE THE TAX LIABILITY OF THE CREDIT CLAIMANT BELOW ZERO.

26 S 4. This act shall take effect immediately.