

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:

1 Section 1. Section 606 of the tax law is amended by adding a new  
2 subsection (ss) to read as follows:

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

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

15 (3) THIS SUBSECTION SHALL APPLY TO ANY INDIVIDUAL FOR ANY TAXABLE YEAR  
16 ONLY IF SUCH INDIVIDUAL ELECTS TO HAVE THIS SECTION APPLY FOR SUCH TAXA-  
17 BLE YEAR. AN ELECTION TO HAVE THIS SECTION APPLY MAY NOT BE MADE FOR ANY  
18 TAXABLE YEAR IF SUCH ELECTION IS IN EFFECT WITH RESPECT TO SUCH INDIVID-  
19 UAL FOR ANY OTHER TAXABLE YEAR AND PERTAINING TO THE SAME PROGRAM OR ANY  
20 PORTION THEREOF.

21 (4) IN NO EVENT SHALL THE AMOUNT OF THE CREDIT PROVIDED BY THIS  
22 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.

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1 THE AMOUNT OF CREDIT OTHERWISE ALLOWABLE PURSUANT TO THIS SUBSECTION FOR  
2 ANY TAXABLE YEAR RESULTS IN SUCH EXCESS AMOUNT, ANY AMOUNT OF CREDIT NOT  
3 DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING  
4 YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR  
5 OR YEARS.

6 S 2. This act shall take effect immediately and shall apply to taxable  
7 years beginning on and after the first of January next succeeding the  
8 date on which it shall have become a law.