

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The tax law is amended by adding a new section 35 to read
2 as follows:
3 S 35. NATIONAL GUARD AND RESERVIST COMPENSATION TAX CREDIT. (A) ALLOW-
4 ANCE OF CREDIT. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE, NINE-A,
5 TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER SHALL BE ALLOWED
6 A CREDIT AGAINST SUCH TAX IN AN AMOUNT EQUAL TO ANY COMPENSATION WHICH
7 IS PAID TO AN EMPLOYEE WHO IS A MEMBER OF THE ORGANIZED MILITIA OR OF
8 RESERVE FORCES OR RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED
9 STATES WHILE SUCH EMPLOYEE IS ON ACTIVE DUTY AS SUCH TERM IS DEFINED IN
10 THE MILITARY LAW.
11 (B) A TAXPAYER WISHING TO CLAIM A CREDIT UNDER THIS SECTION SHALL
12 ANNUALLY CERTIFY TO THE COMMISSIONER, ON FORMS SUPPLIED BY THE COMMIS-
13 SIONER, AMOUNTS PAID TO ELIGIBLE EMPLOYEES SERVING ON ACTIVE DUTY.
14 (C) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN
15 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:
16 (1) ARTICLE 9: SECTION 187-Q.
17 (2) ARTICLE 9-A: SECTION 210: SUBDIVISION 43.
18 (3) ARTICLE 22: SECTION 606: SUBSECTION (SS).
19 (4) ARTICLE 32: SECTION 1456: SUBSECTION (X).
20 (5) ARTICLE 33: SECTION 1511: SUBDIVISION (A-1).
21 S 2. The tax law is amended by adding a new section 187-q to read as
22 follows:
23 S 187-Q. NATIONAL GUARD AND RESERVIST COMPENSATION TAX CREDIT. 1.
24 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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1 COMPUTED AS PROVIDED IN SUBDIVISION (A) OF SECTION THIRTY-FIVE OF THIS
2 CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

3 2. APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS
4 SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO
5 LESS THAN THE APPLICABLE MINIMUM TAX FIXED BY SECTION ONE HUNDRED EIGHT-
6 Y-THREE OR ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE
7 AMOUNT OF CREDIT ALLOWABLE UNDER THIS SECTION FOR ANY TAXABLE YEAR
8 REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN
9 SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
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 3. Section 210 of the tax law is amended by adding a new subdivision
15 43 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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