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

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2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KLEIN, STEWART-COUSINS, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to enacting the medical malpractice insurance premiums credit act

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

Section 1. Short title. This act shall be known and may be cited as the "medical malpractice insurance premiums credit act".

S 2. Section 210 of the tax law is amended by adding a new subdivision 25-b to read as follows:

25-B. CREDIT FOR MEDICAL MALPRACTICE INSURANCE PREMIUMS. (A) AS USED IN THIS SUBDIVISION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(1) "MEDICAL MALPRACTICE INSURANCE" MEANS INSURANCE AGAINST LEGAL LIABILITY OF THE INSURED, AND AGAINST LOSS, DAMAGE OR EXPENSE INCIDENT TO A CLAIM OF SUCH LIABILITY ARISING OUT OF THE DEATH OR INJURY OF ANY PERSON DUE TO MEDICAL, DENTAL, PODIATRIC, CERTIFIED NURSE-MIDWIFERY OR HOSPITAL MALPRACTICE BY ANY LICENSED PHYSICIAN, DENTIST, PODIATRIST, CERTIFIED NURSE-MIDWIFE, CERTIFIED REGISTERED NURSE ANESTHETIST OR HOSPITAL.

(2) "QUALIFIED PREMIUMS" SHALL INCLUDE ALL PREMIUMS PAID BY THE TAXPAYER DURING THE CURRENT TAX YEAR ON ALL MEDICAL MALPRACTICE INSURANCE POLICIES WHOSE PREMIUMS ARE REGULATED AND ESTABLISHED BY THE INSURANCE DEPARTMENT WITH THE EXCEPTION OF PREMIUMS PAID FOR EXCESS MEDICAL MALPRACTICE INSURANCE COVERAGE PROVIDED PURSUANT TO CHAPTER TWO HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN HUNDRED EIGHTY-SIX, AS AMENDED.

(3) "QUALIFIED INCOME" SHALL INCLUDE ALL NET RECEIPTS THE TAXPAYER DERIVES FROM ACTIVITIES COVERED BY THE MALPRACTICE POLICY FOR WHICH THE QUALIFIED PREMIUMS ARE PAID.

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

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(B) A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO TWENTY-FIVE PERCENT OF THE AMOUNT BY WHICH ANNUAL QUALIFIED PREMIUMS EXCEED TEN PERCENT OF THE TAXPAYER'S QUALIFIED INCOME FOR THE CURRENT YEAR, NOT TO EXCEED THE LESSER OF THE TAXPAYER'S CURRENT YEAR TAX LIABILITY OR TWENTY-FIVE THOUSAND DOLLARS. THE CREDIT SHALL BE CLAIMED AFTER THE ALLOWANCE OF ALL OTHER CREDITS PROVIDED BY THIS CHAPTER.

(C) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH 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.

(D) FOR THE PURPOSES OF THIS SUBDIVISION A TAXPAYER MAY INCLUDE A PARTNERSHIP, A CORPORATION THAT HAS MADE AN ELECTION UNDER SUBCHAPTER S OF CHAPTER ONE OF SUBTITLE A OF THE INTERNAL REVENUE CODE, OR ANY OTHER BUSINESS ENTITY THROUGH WHICH INCOME FLOWS AS A DISTRIBUTIVE SHARE TO ITS OWNERS. A CREDIT RECEIVED UNDER THIS SUBDIVISION BY A PARTNERSHIP, S-CORPORATION, OR OTHER SUCH BUSINESS ENTITY SHALL BE APPORTIONED AMONG THE PERSONS TO WHOM THE INCOME OR PROFIT OF THE PARTNERSHIP, S-CORPORATION, OR OTHER ENTITY IS DISTRIBUTED, IN THE SAME PROPORTIONS AS THOSE IN WHICH THE INCOME OR PROFIT IS DISTRIBUTED.

S 3. 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) MEDICAL MALPRACTICE INSURANCE PREMIUMS CREDIT UNDER SUBSECTION (SS)	QUALIFIED PREMIUMS UNDER SUBDIVISION TWENTY-FIVE-B OF SECTION TWO HUNDRED TEN

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

(SS) MEDICAL MALPRACTICE INSURANCE PREMIUMS TAX CREDIT. (1) AS USED IN THIS SUBSECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "MEDICAL MALPRACTICE INSURANCE" MEANS INSURANCE AGAINST LEGAL LIABILITY OF THE INSURED, AND AGAINST LOSS, DAMAGE OR EXPENSE INCIDENT TO A CLAIM OF SUCH LIABILITY ARISING OUT OF THE DEATH OR INJURY OF ANY PERSON DUE TO MEDICAL, DENTAL, PODIATRIC, CERTIFIED NURSE-MIDWIFERY OR HOSPITAL MALPRACTICE BY ANY LICENSED PHYSICIAN, DENTIST, PODIATRIST, CERTIFIED NURSE-MIDWIFE, CERTIFIED REGISTERED NURSE ANESTHETIST OR HOSPITAL.

(B) "QUALIFIED PREMIUMS" SHALL INCLUDE ALL PREMIUMS PAID BY THE TAXPAYER DURING THE CURRENT TAX YEAR ON ALL MEDICAL MALPRACTICE INSURANCE POLICIES WHOSE PREMIUMS ARE REGULATED AND ESTABLISHED BY THE INSURANCE DEPARTMENT WITH THE EXCEPTION OF PREMIUMS PAID FOR EXCESS MEDICAL MALPRACTICE INSURANCE COVERAGE PROVIDED PURSUANT TO CHAPTER TWO HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN HUNDRED EIGHTY-SIX, AS AMENDED.

(C) "QUALIFIED INCOME" SHALL INCLUDE ALL NET RECEIPTS THE TAXPAYER DERIVES FROM ACTIVITIES COVERED BY THE MALPRACTICE POLICY FOR WHICH THE QUALIFIED PREMIUMS ARE PAID.

(2) A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO TWENTY-FIVE PERCENT OF THE AMOUNT BY WHICH ANNUAL QUALIFIED PREMIUMS EXCEED TEN PERCENT OF THE TAXPAYER'S QUALIFIED INCOME FOR THE CURRENT YEAR, NOT TO EXCEED THE LESSER OF THE TAXPAYER'S CURRENT YEAR TAX LIABILITY OR TWENTY-FIVE THOUSAND DOLLARS. THE CREDIT SHALL BE

CLAIMED AFTER THE ALLOWANCE OF ALL OTHER CREDITS PROVIDED BY THIS CHAPTER.

(3) ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN A 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.

(4) FOR THE PURPOSES OF THIS SUBSECTION A TAXPAYER MAY INCLUDE A PARTNERSHIP, A CORPORATION THAT HAS MADE AN ELECTION UNDER SUBCHAPTER S OF CHAPTER ONE OF SUBTITLE A OF THE INTERNAL REVENUE CODE, OR ANY OTHER BUSINESS ENTITY THROUGH WHICH INCOME FLOWS AS A DISTRIBUTIVE SHARE TO ITS OWNERS. A CREDIT RECEIVED UNDER THIS SUBSECTION BY A PARTNERSHIP, S-CORPORATION, OR OTHER SUCH BUSINESS ENTITY SHALL BE APPORTIONED AMONG THE PERSONS TO WHOM THE INCOME OR PROFIT OF THE PARTNERSHIP, S-CORPORATION, OR OTHER ENTITY IS DISTRIBUTED, IN THE SAME PROPORTIONS AS THOSE IN WHICH THE INCOME OR PROFIT IS DISTRIBUTED.

S 5. This act shall take effect immediately and shall apply to taxable years commencing on or after January 1, 2011 through December 31, 2020.