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

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I N S E N A T E

June 11, 2012

Introduced by Sen. SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law, in relation to establishing a small business tax credit

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

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

(UU) SMALL BUSINESS TAX CREDIT. (1) GENERAL. A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO SIX AND SIXTY-FIVE HUNDREDTHS PERCENT OF QUALIFIED BUSINESS INCOME.

(2) DEFINITIONS. FOR THE PURPOSES OF THIS SUBSECTION, THE TERM:

(A) "QUALIFIED TAXPAYER" SHALL MEAN A SOLE PROPRIETOR WHO EMPLOYS ONE OR MORE PERSONS AND WHO HAS NET BUSINESS INCOME OF LESS THAN TWO HUNDRED FIFTY THOUSAND DOLLARS.

(B) "QUALIFIED BUSINESS INCOME" SHALL MEAN TEN PERCENT OF THE BUSINESS INCOME OF THE TAXPAYER AS DEFINED IN THE LAWS OF THE UNITED STATES.

(3) 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, NO INTEREST SHALL BE PAID THEREON.

S 2. Subparagraph (iv) of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 2 of part N of chapter 60 of the laws of 2007, is amended to read as follows:

(iv) for taxable years beginning on or after January first, two thousand seven AND ENDING BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN, if the entire net income base is not more than two hundred ninety thousand dollars the amount shall be six and one-half percent of the entire net income base; if the entire net income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) eighteen thousand eight hundred fifty dollars, (2) seven and one-tenth percent of the excess of the entire net income base over two hundred ninety thousand dollars but

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

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not over three hundred ninety thousand dollars and (3) four and thirty-five hundredths percent of the excess of the entire net income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars;

S 3. Paragraph (a) of subdivision 1 of section 210 of the tax law is amended by adding a new subparagraph (vii) to read as follows:

(VII) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, IF THE ENTIRE NET INCOME BASE IS NOT MORE THAN TWO HUNDRED NINETY THOUSAND DOLLARS THE AMOUNT SHALL BE FIVE AND TWO-TENTHS PERCENT OF THE ENTIRE NET INCOME BASE; IF THE ENTIRE NET INCOME BASE IS MORE THAN TWO HUNDRED NINETY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS THE AMOUNT SHALL BE THE SUM OF (1) FIFTEEN THOUSAND EIGHTY DOLLARS, (2) NINE AND SEVENTY-FIVE ONE-HUNDREDTHS PERCENT OF THE EXCESS OF THE ENTIRE NET INCOME BASE OVER TWO HUNDRED NINETY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS AND (3) SEVEN AND ONE-TENTHS PERCENT OF THE EXCESS OF THE ENTIRE NET INCOME BASE OVER THREE HUNDRED FIFTY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS;

S 4. The opening paragraph of subparagraph 4 of paragraph (d) of subdivision 1 of section 210 of the tax law, as added by section 2 of part AA-1 of chapter 57 of the laws of 2008, is amended to read as follows:

Notwithstanding subparagraphs one and two of this paragraph, for taxable years beginning on or after January first, two thousand eight AND ENDING BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN, the amount prescribed by this paragraph for New York S corporations will be determined in accordance with the following table:

S 5. Subparagraph 5 of paragraph (d) of subdivision 1 of section 210 of the tax law is renumbered subparagraph 6.

S 6. Paragraph (d) of subdivision 1 of section 210 of the tax law is amended by adding a new subparagraph 5 to read as follows:

(5) NOTWITHSTANDING SUBPARAGRAPHS ONE AND TWO OF THIS PARAGRAPH, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH FOR NEW YORK S CORPORATIONS WILL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLE:

IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
NOT MORE THAN $100,000	$1
MORE THAN $100,000 BUT NOT OVER $250,000	$1
MORE THAN $250,000 BUT NOT OVER $500,000	$1
MORE THAN $500,000 BUT NOT OVER $1,000,000	$1
MORE THAN $1,000,000 BUT NOT OVER $5,000,000	$1,000
MORE THAN $5,000,000 BUT NOT OVER $25,000,000	$3,000
OVER $25,000,000	$4,500

OTHERWISE THE AMOUNT PRESCRIBED BY THIS PARAGRAPH WILL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLE:

IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
NOT MORE THAN $100,000	$1
MORE THAN $100,000 BUT NOT OVER $250,000	$1
MORE THAN $250,000 BUT NOT OVER $500,000	$1
MORE THAN $500,000 BUT NOT OVER $1,000,000	$1
MORE THAN $1,000,000 BUT NOT OVER $5,000,000	$1,500
MORE THAN $5,000,000 BUT NOT OVER $25,000,000	$3,500
OVER $25,000,000	$5,000

FOR PURPOSES OF THIS PARAGRAPH, NEW YORK RECEIPTS ARE THE RECEIPTS COMPUTED IN ACCORDANCE WITH SUBPARAGRAPH TWO OF PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION FOR THE TAXABLE YEAR.

S 7. Subparagraph 6 of paragraph (d) of subdivision 1 of section 210 of the tax law, as added by section 3 of part C of chapter 56 of the laws of 2011 and as renumbered by section five of this act, is amended to read as follows:

(6) For taxable years beginning on or after January first, two thousand twelve and before January first, two thousand fifteen, the amounts prescribed in subparagraphs one and [four] FIVE of this paragraph as the fixed dollar minimum tax for an eligible qualified New York manufacturer shall be one-half of the amounts stated in those subparagraphs. For purposes of this subparagraph, the term "eligible qualified New York manufacturer" shall have the same meaning as in subparagraph (vi) of paragraph (a) of this subdivision.

S 8. This act shall take effect immediately; provided that sections one and seven of this act shall apply to taxable years beginning on or after January 1, 2013.