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2013-2014 Regular Sessions

IN ASSEMBLY

(PREFILED)

January 9, 2013

- Introduced by M. of A. MAGNARELLI, COOK, ORTIZ, SCHIMMINGER -- Multi-Sponsored by -- M. of A. ABBATE, CLARK, GUNTHER, JACOBS, SWEENEY -read once and referred to the Committee on Ways and Means
- AN ACT to amend the tax law, in relation to providing credits against the tax imposed upon employers providing certain day care services to the children of its employees

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

1 Section 1. Section 210 of the tax law is amended by adding a new 2 subdivision 46 to read as follows:

46. EMPLOYER DAY CARE CREDIT. (A) A TAXPAYER SHALL BE ALLOWED A CREDIT 3 4 THE TAX IMPOSED BY THIS ARTICLE TO THE EXTENT OF TWENTY PERCENT AGAINST 5 OF THE EXPENSES INCURRED DURING A TAXABLE YEAR BY THE TAXPAYER IN MAKING AVAILABLE DAY CARE SERVICES TO THE CHILDREN AND WARDS OF EMPLOYEES 6 AND 7 IN TRAINING PERSONS EMPLOYED BY THE TAXPAYER OR BY A THIRD PARTY PROVID-8 RENDERING SUCH SERVICES. A TAXPAYER MAY MAKE SUCH SERVICES AVAILABLE ER 9 AS FOLLOWS:

(1) PURSUANT TO A WRITTEN CONTRACT WITH A THIRD PARTY PROVIDER;

11 (2) BY REIMBURSING AN EMPLOYEE FOR EXPENSES INCURRED BY THE EMPLOYEE 12 FOR SUCH SERVICES; OR

(3) BY PROVIDING ON-SITE OR NEAR-SITE DAY CARE SERVICES.

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14 IN NO EVENT SHALL THE AMOUNT OF SUCH CREDIT EXCEED THE AMOUNT OF TAX 15 OTHERWISE DUE PURSUANT TO THIS ARTICLE FOR ANY TAXABLE YEAR.

16 (B) (1) NO SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER WHO UNFAIRLY 17 DISCRIMINATES AGAINST ANY EMPLOYEE ON THE BASIS OF RACE, CREED, RELI-18 GION, SEX, NATIONAL ORIGIN, AGE, DISABILITY, OR MARITAL STATUS IN MAKING 19 AVAILABLE DAY CARE SERVICES.

20 (2) A TAXPAYER MAY GIVE A PREFERENCE TO CHILDREN OR WARDS OF EMPLOYEES 21 FOR WHOM OBTAINING OR MAINTAINING GAINFUL EMPLOYMENT IS CONTINGENT UPON

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

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THE AVAILABILITY OF DAY CARE SERVICES FOR SUCH CHILDREN OR WARDS, IN 1 PROVIDING SERVICES QUALIFYING FOR A CREDIT HEREUNDER. 2 3 NO SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER UNLESS THE FACILITY (C) 4 OR PROGRAM RENDERING DAY CARE SERVICES IS LICENSED BY AND SUBJECT TO THE 5 REGULATIONS OF THE DEPARTMENT OF FAMILY ASSISTANCE OR THEHUMAN 6 RESOURCES ADMINISTRATION GOVERNING DAY CARE FACILITIES IN NEW YORK CITY. 7 NO SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER IF THE FACILITY OR (D) 8 PROGRAM RENDERING DAY CARE SERVICES ADMITS, DURING REGULAR SCHOOL HOURS, CHILDREN WHO ARE SUBJECT TO THE PROVISIONS OF THE EDUCATION LAW WITH 9 10 REGARD TO COMPULSORY SCHOOL ATTENDANCE. S 2. Section 1456 of the tax law is amended by adding a new subsection 11 12 (z) to read as follows: (Z) EMPLOYER DAY CARE CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT 13 14 AGAINST THE TAX IMPOSED BY THIS ARTICLE TO THE EXTENT OF TWENTY PERCENT 15 OF THE EXPENSES INCURRED DURING THE TAXABLE YEAR BY THE TAXPAYER IN 16 MAKING AVAILABLE DAY CARE SERVICES TO THE CHILDREN AND WARDS OF EMPLOY-17 EES AND IN TRAINING PERSONS EMPLOYED BY THE TAXPAYER OR BY A THIRD PARTY PROVIDER RENDERING SUCH SERVICES. A TAXPAYER MAY MAKE SUCH SERVICES 18 19 AVAILABLE AS FOLLOWS: 20 (A) PURSUANT TO A WRITTEN CONTRACT WITH A THIRD PARTY PROVIDER; 21 BY REIMBURSING AN EMPLOYEE FOR EXPENSES INCURRED BY THE EMPLOYEE (B) 22 FOR SUCH SERVICES; OR 23 (C) BY PROVIDING ON-SITE OR NEAR-SITE DAY CARE SERVICES. 24 IN NO EVENT SHALL THE AMOUNT OF SUCH CREDIT EXCEED THE AMOUNT TAX OF 25 OTHERWISE DUE PURSUANT TO THIS ARTICLE FOR ANY TAXABLE YEAR. 26 (2) (A) NO SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER WHO UNFAIRLY DISCRIMINATES AGAINST ANY EMPLOYEE ON THE BASIS OF RACE, CREED, RELI-27 28 SEX, NATIONAL ORIGIN, AGE, DISABILITY OR MARITAL STATUS IN MAKING GION, 29 AVAILABLE DAY CARE SERVICES. (B) A TAXPAYER MAY GIVE A PREFERENCE TO CHILDREN OR WARDS OF EMPLOYEES 30 FOR WHOM OBTAINING OR MAINTAINING GAINFUL EMPLOYMENT IS CONTINGENT UPON 31 32 AVAILABILITY OF DAY CARE SERVICES FOR SUCH CHILDREN OR WARDS, IN THE 33 PROVIDING SERVICES QUALIFYING FOR A CREDIT HEREUNDER. (3) NO SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER UNLESS THE 34 FACILITY 35 OR PROGRAM RENDERING DAY CARE SERVICES IS LICENSED BY AND SUBJECT TO THE REGULATIONS OF THE DEPARTMENT OF FAMILY ASSISTANCE OR 36 THE HUMAN 37 RESOURCES ADMINISTRATION GOVERNING DAY CARE FACILITIES IN NEW YORK CITY. 38 (4) NO SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER IF THE FACILITY OR 39 PROGRAM RENDERING DAY CARE SERVICES ADMITS, DURING REGULAR SCHOOL HOURS, 40 CHILDREN WHO ARE SUBJECT TO THE PROVISIONS OF THE EDUCATION LAW WITH REGARD TO COMPULSORY SCHOOL ATTENDANCE. 41 S 3. Section 1511 of the tax law is amended by adding a new 42 subdivi-43 sion (cc) to read as follows: 44 (CC) EMPLOYER DAY CARE CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CRED-45 AGAINST THE TAX IMPOSED BY THIS ARTICLE TO THE EXTENT OF TWENTY IΤ PERCENT OF THE EXPENSES INCURRED DURING THE TAXABLE YEAR BY THE TAXPAYER 46 47 IN MAKING AVAILABLE DAY CARE SERVICES TO THE CHILDREN AND WARDS OF 48 EMPLOYEES AND IN TRAINING PERSONS EMPLOYED BY THE TAXPAYER OR BY A THIRD PROVIDER RENDERING SUCH SERVICES. A TAXPAYER MAY 49 PARTY MAKE SUCH 50 SERVICES AVAILABLE AS FOLLOWS: 51 (A) PURSUANT TO A WRITTEN CONTRACT WITH A THIRD PARTY PROVIDER; 52 (B) BY REIMBURSING AN EMPLOYEE FOR EXPENSES INCURRED BY THE EMPLOYEE 53 FOR SUCH SERVICES; OR 54 (C) BY PROVIDING ON-SITE OR NEAR-SITE DAY CARE SERVICES. 55 NO EVENT SHALL THE AMOUNT OF SUCH CREDIT EXCEED THE AMOUNT OF TAX IN

56 OTHERWISE DUE PURSUANT TO THIS ARTICLE FOR ANY TAXABLE YEAR.

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(2) (A) NO SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER WHO UNFAIRLY 1 2 DISCRIMINATES AGAINST ANY EMPLOYEE ON THE BASIS OF RACE, CREED, RELI-GION, SEX, NATIONAL ORIGIN, AGE, DISABILITY OR MARITAL STATUS IN MAKING 3 4 AVAILABLE DAY CARE SERVICES.

5 (B) A TAXPAYER MAY GIVE A PREFERENCE TO CHILDREN OR WARDS OF DAY CARE 6 DEPENDENT EMPLOYEES FOR WHOM OBTAINING OR MAINTAINING GAINFUL EMPLOYMENT 7 IS CONTINGENT UPON THE AVAILABILITY OF DAY CARE SERVICES FOR SUCH CHIL-8 DREN OR WARDS, IN PROVIDING SERVICES QUALIFYING FOR A CREDIT HEREUNDER.

(3) NO SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER UNLESS THE FACILITY 9 10 OR PROGRAM RENDERING DAY CARE SERVICES IS LICENSED BY AND SUBJECT TO THE 11 REGULATIONS OF THE DEPARTMENT OF FAMILY ASSISTANCE OR THE HUMAN RESOURCES ADMINISTRATION GOVERNING DAY CARE FACILITIES IN NEW YORK CITY. 12 13

(4) NO SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER IF THE FACILITY OR 14 PROGRAM RENDERING DAY CARE SERVICES ADMITS, DURING REGULAR SCHOOL HOURS, CHILDREN WHO ARE SUBJECT TO THE PROVISIONS OF THE EDUCATION LAW WITH 15 16 REGARD TO COMPULSORY SCHOOL ATTENDANCE.

17 S 4. Section 606 of the tax law is amended by adding a new subsection 18 (vv) to read as follows:

19 (VV) EMPLOYER DAY CARE CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CRED-20 IT AGAINST THE TAX IMPOSED BY SECTION SIX HUNDRED ONE OF THIS ARTICLE TO 21 THE EXTENT OF TWENTY PERCENT OF EXPENSES INCURRED DURING THE TAXABLE YEAR BY THE TAXPAYER IN MAKING AVAILABLE DAY CARE SERVICES TO THE CHIL-22 DREN AND WARDS OF EMPLOYEES AND IN TRAINING PERSONS EMPLOYED BY THE 23 TAXPAYER OR BY A THIRD PARTY PROVIDER RENDERING SUCH SERVICES. A TAXPAY-24 25 ER MAY MAKE SUCH SERVICES AVAILABLE AS FOLLOWS:

(A) PURSUANT TO A WRITTEN CONTRACT WITH A THIRD PARTY PROVIDER;

27 (B) BY REIMBURSING AN EMPLOYEE FOR EXPENSES INCURRED BY THE EMPLOYEE 28 FOR SUCH SERVICES; OR 29

(C) BY PROVIDING ON-SITE OR NEAR-SITE DAY CARE SERVICES.

30 IN NO EVENT SHALL THE AMOUNT OF SUCH CREDIT EXCEED THE AMOUNT OF TAX OTHERWISE DUE PURSUANT TO THIS ARTICLE FOR ANY TAXABLE YEAR. 31

32 (A) NO SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER WHO UNFAIRLY (2) DISCRIMINATES AGAINST ANY EMPLOYEE ON THE BASIS OF RACE, CREED, RELI-33 GION, SEX, NATIONAL ORIGIN, AGE, DISABILITY OR MARITAL STATUS IN MAKING 34 35 AVAILABLE DAY CARE SERVICES.

(B) A TAXPAYER MAY GIVE A PREFERENCE TO CHILDREN OR WARDS OF EMPLOYEES 36 37 FOR WHOM OBTAINING OR MAINTAINING GAINFUL EMPLOYMENT IS CONTINGENT UPON 38 THE AVAILABILITY OF DAY CARE SERVICES FOR SUCH CHILDREN OR WARDS, IN PROVIDING SERVICES QUALIFYING FOR A CREDIT HEREUNDER. 39

40 (3) NO SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER UNLESS THE FACILITY OR PROGRAM RENDERING DAY CARE SERVICES IS LICENSED BY AND SUBJECT TO THE 41 42 REGULATIONS OF THE DEPARTMENT OF FAMILY ASSISTANCE OR THE HUMAN 43 RESOURCES ADMINISTRATION GOVERNING DAY CARE FACILITIES IN NEW YORK CITY. (4) NO SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER IF THE FACILITY OR 44 45 PROGRAM RENDERING DAY CARE SERVICES ADMITS, DURING REGULAR SCHOOL HOURS, CHILDREN WHO ARE SUBJECT TO THE PROVISIONS OF THE EDUCATION LAW WITH 46 47 REGARD TO COMPULSORY SCHOOL ATTENDANCE.

48 S 5. This act shall take effect immediately and shall apply to taxable 49 years commencing on and after January 1, 2014.