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

3877

2013-2014 Regular Sessions

I N S E N A T E

February 26, 2013

Introduced by Sen. BALL -- 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 exempting earnings from self-employment, for-profit corporations, not-for-profit corporations, political subdivisions of the state and school districts from the metropolitan commuter transportation mobility tax; and to repeal certain provisions of such law relating thereto

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

Section 1. Subsection (b) of section 800 of the tax law, as amended by section 1 of part B of chapter 56 of the laws of 2011, is amended to read as follows:

(b) Employer. Employer means an employer required by section six hundred seventy-one of this chapter to deduct and withhold tax from wages, that has a payroll expense in excess of three hundred twelve thousand five hundred dollars in any calendar quarter; other than

(1) any agency or instrumentality of the United States;

(2) the United Nations;

(3) an interstate agency or public corporation created pursuant to an agreement or compact with another state or the Dominion of Canada; [or]

(4) [Any] ANY eligible educational institution. An "eligible educational institution" shall mean any public school district, a board of cooperative educational services, a public elementary or secondary school, a school approved pursuant to article eighty-five or eighty-nine of the education law to serve students with disabilities of school age, or a nonpublic elementary or secondary school that provides instruction in grade one or above[.];

(5) ANY FOR-PROFIT CORPORATION;

(6) ANY NOT-FOR-PROFIT CORPORATION;

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

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(7) ANY POLITICAL SUBDIVISION OF THE STATE OR ANY MUNICIPALITY, AND EVERY AGENCY AND INSTRUMENTALITY THEREOF; OR

(8) AN INDIVIDUAL HAVING NET EARNINGS FROM SELF-EMPLOYMENT FROM ACTIVITY WITHIN THE MCTD.

S 2. Subsection (e) of section 800 of the tax law is REPEALED.

S 3. Section 801 of the tax law, as added by section 1 of part C of chapter 25 of the laws of 2009, subdivision (a) as amended by section 1 of part N of chapter 59 of the laws of 2012, is amended to read as follows:

S 801. Imposition of tax and rate. (a) For the sole purpose of providing an additional stable and reliable dedicated funding source for the metropolitan transportation authority and its subsidiaries and affiliates to preserve, operate and improve essential transit and transportation services in the metropolitan commuter transportation district, a tax is hereby imposed on employers and individuals as follows: [(1)] For employers who engage in business within the MCTD, the tax is imposed at a rate of [(A)] (1) eleven hundredths (.11) percent of the payroll expense for employers with payroll expense no greater than three hundred seventy-five thousand dollars in any calendar quarter, [(B)] (2) twenty-three hundredths (.23) percent of the payroll expense for employers with payroll expense greater than three hundred seventy-five thousand dollars and no greater than four hundred thirty-seven thousand five hundred dollars in any calendar quarter, and [(C)] (3) thirty-four hundredths (.34) percent of the payroll expense for employers with payroll expense in excess of four hundred thirty-seven thousand five hundred dollars in any calendar quarter. If the employer is a professional employer organization, as defined in section nine hundred sixteen of the labor law, the employer's tax shall be calculated by determining the payroll expense attributable to each client who has entered into a professional employer agreement with such organization and the payroll expense attributable to such organization itself, multiplying each of those payroll expense amounts by the applicable rate set forth in this paragraph and adding those products together. [(2) For individuals, the tax is imposed at a rate of thirty-four hundredths (.34) percent of the net earnings from self-employment of individuals that are attributable to the MCTD if such earnings attributable to the MCTD exceed fifty thousand dollars for the tax year.]

(b)[(1) An individual having net earnings from self-employment from activity both within and without the metropolitan commuter transportation district is required to allocate and apportion such net earnings to the MCTD in the manner required for allocation and apportionment of income under article twenty-two of this chapter.

(2) In the case of individuals with earnings from self-employment, the net earnings from self employment threshold in paragraph two of subsection (a) of this section will be computed on an individual basis regardless of whether that individual filed a joint personal income tax return.

(c)] The determination of whether a covered employee is employed within the MCTD will be made by utilizing the rules applicable to the jurisdiction of employment for purposes of the statewide wage reporting system under section one hundred seventy-one-a of this chapter and substituting the MCTD for the state in that application.

S 4. Subsection (b) of section 804 of the tax law is REPEALED.

S 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.