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

2233

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. CROUCH, P. LOPEZ, HAWLEY, McLAUGHLIN -- Multi-Sponsored by -- M. of A. BARCLAY, PALMESANO, STEVENSON -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a credit for developing a college to work program

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

Section 1. Section 210 of the tax law is amended by adding a new subdivision 22-a to read as follows:

22-A. CREDIT FOR COLLEGE TO WORK PROGRAM. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, BASED UPON ITS PAYMENT OF TUITION TO AN INSTITUTION OF HIGHER EDUCATION ON BEHALF OF AN INDIVIDUAL IN EXCHANGE FOR THE INDIVIDUAL AGREEING TO WORK FOR THE TAXPAYER FOR A NUMBER OF YEARS, AS SET FORTH IN A WRITTEN AGREEMENT BETWEEN THE TAXPAYER AND THE INDIVIDUAL.

(B) TUITION. FOR THE PURPOSES OF THIS CREDIT, THE TERM "TUITION" SHALL MEAN THE TUITION AND FEES PAID FOR THE ENROLLMENT AND ATTENDANCE OF AN INDIVIDUAL AT AN INSTITUTION OF HIGHER EDUCATION, AS WELL AS MONIES PAID FOR TEXTBOOKS IN CONNECTION WITH ATTENDANCE AT AN INSTITUTION OF HIGHER EDUCATION. PROVIDED, HOWEVER, ANY AMOUNTS WHICH HAVE BEEN PAID FOR OR REIMBURSED BY ANY OTHER SCHOLARSHIPS OR FINANCIAL AID, OR TUITION REQUIRED FOR ENROLLMENT OR ATTENDANCE IN A COURSE OF STUDY LEADING TO THE GRANTING OF A POST BACCALAUREATE OR OTHER GRADUATE DEGREE, SHALL BE EXCLUDED FROM THE DEFINITION OF "TUITION".

(C) INSTITUTION OF HIGHER EDUCATION. FOR THE PURPOSES OF THIS CREDIT, THE TERM "INSTITUTION OF HIGHER EDUCATION" SHALL MEAN ANY INSTITUTION OF HIGHER EDUCATION, RECOGNIZED AND APPROVED BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK OR ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY OR ASSOCIATION

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

LBD06289-01-3

ACCEPTED AS SUCH BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK, WHICH PROVIDES A COURSE OF STUDY LEADING TO THE GRANTING OF A POST-SECONDARY DEGREE, CERTIFICATE OR DIPLOMA.

(D) QUALIFIED INDIVIDUAL. FOR PURPOSES OF THIS CREDIT, THE TERM "QUALIFIED INDIVIDUAL" SHALL MEAN ANY INDIVIDUAL WHO IS NOT A SPOUSE, CHILD OR DEPENDENT OF THE TAXPAYER OR ANY INDIVIDUAL WHO IS NOT A SPOUSE, CHILD OR DEPENDENT OF ANY OFFICER OR EMPLOYEE OF THE TAXPAYER.

(E) WRITTEN AGREEMENT. FOR PURPOSES OF THIS CREDIT, THE TERM "WRITTEN AGREEMENT" SHALL MEAN A DOCUMENT SIGNED AND DATED BY BOTH THE TAXPAYER AND THE QUALIFIED INDIVIDUAL WHICH CONTAINS PROVISIONS INCLUDING BUT NOT LIMITED TO THE MINIMUM SALARY WHICH THE TAXPAYER WILL PAY TO THE QUALIFIED INDIVIDUAL UPON COMPLETION OF THE INDIVIDUAL'S DEGREE; THE REQUIRED DURATION OF EMPLOYMENT UPON COMPLETION OF THE INDIVIDUAL'S DEGREE; AND THE PARTIES' RESPECTIVE RESPONSIBILITIES IN THE EVENT THAT THE TAXPAYER CEASES OPERATIONS OR LATER DECIDES NOT TO OFFER EMPLOYMENT TO THE INDIVIDUAL UPON COMPLETION OF HIS/HER DEGREE OR IN THE EVENT THAT THE QUALIFIED INDIVIDUAL FAILS TO COMPLETE THE DEGREE OR TO WORK FOR THE TAXPAYER FOR THE AGREED UPON TERM.

(F) AMOUNT OF CREDIT. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW, A TAXPAYER WHICH PROVIDES FOR THE PAYMENT OF AN INDIVIDUAL'S TUITION UNDER THE COLLEGE TO WORK PROGRAM ESTABLISHED BY THIS SUBDIVISION, SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE, TO THE EXTENT OF TWENTY-FIVE PERCENT OF MONIES PAID FOR EACH INDIVIDUAL'S TUITION, BUT SUCH CREDIT SHALL NOT EXCEED FIVE THOUSAND DOLLARS FOR ONE YEAR FOR EACH SUCH QUALIFIED INDIVIDUAL.

(G) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE 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. PROVIDED, HOWEVER, IF 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.

S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxv) to read as follows:

(XXXV) COLLEGE TO WORK PROGRAM CREDIT UNDER SUBSECTION (S-1)	AMOUNT OF CREDIT UNDER SUBDIVISION TWENTY-TWO-A OF SECTION TWO HUNDRED TEN

S 3. Section 606 of the tax law is amended by adding a new subsection (s-1) to read as follows:

(S-1) CREDIT FOR COLLEGE TO WORK PROGRAM. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, BASED UPON SUCH TAXPAYER'S PAYMENT OF TUITION TO AN INSTITUTION OF HIGHER EDUCATION ON BEHALF OF AN INDIVIDUAL IN EXCHANGE FOR THE INDIVIDUAL AGREEING TO WORK FOR THE TAXPAYER FOR A NUMBER OF YEARS, AS SET FORTH IN A WRITTEN AGREEMENT BETWEEN THE TAXPAYER AND THE INDIVIDUAL.

(2) TUITION. FOR THE PURPOSES OF THIS CREDIT, THE TERM "TUITION" SHALL MEAN THE TUITION AND FEES PAID FOR THE ENROLLMENT AND ATTENDANCE OF AN INDIVIDUAL AT AN INSTITUTION OF HIGHER EDUCATION, AS WELL AS MONIES PAID FOR TEXTBOOKS IN CONNECTION WITH ATTENDANCE AT AN INSTITUTION OF HIGHER EDUCATION. PROVIDED, HOWEVER, ANY AMOUNTS WHICH HAVE BEEN PAID FOR OR

REIMBURSED BY ANY OTHER SCHOLARSHIPS OR FINANCIAL AID, OR TUITION REQUIRED FOR ENROLLMENT OR ATTENDANCE IN A COURSE OF STUDY LEADING TO THE GRANTING OF A POST BACCALAUREATE OR OTHER GRADUATE DEGREE, SHALL BE EXCLUDED FROM THE DEFINITION OF "TUITION".

(3) INSTITUTION OF HIGHER EDUCATION. FOR THE PURPOSES OF THIS CREDIT, THE TERM "INSTITUTION OF HIGHER EDUCATION" SHALL MEAN ANY INSTITUTION OF HIGHER EDUCATION, RECOGNIZED AND APPROVED BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK OR ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY OR ASSOCIATION ACCEPTED AS SUCH BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK, WHICH PROVIDES A COURSE OF STUDY LEADING TO THE GRANTING OF A POST-SECONDARY DEGREE, CERTIFICATE OR DIPLOMA.

(4) QUALIFIED INDIVIDUAL. FOR PURPOSES OF THIS CREDIT, THE TERM "QUALIFIED INDIVIDUAL" SHALL MEAN ANY INDIVIDUAL WHO IS NOT A SPOUSE, CHILD OR DEPENDENT OF THE TAXPAYER OR ANY INDIVIDUAL WHO IS NOT A SPOUSE, CHILD OR DEPENDENT OF ANY OFFICER OR EMPLOYEE OF THE TAXPAYER.

(5) WRITTEN AGREEMENT. FOR PURPOSES OF THIS CREDIT, THE TERM "WRITTEN AGREEMENT" SHALL MEAN A DOCUMENT SIGNED AND DATED BY BOTH THE TAXPAYER AND THE QUALIFIED INDIVIDUAL WHICH CONTAINS PROVISIONS INCLUDING BUT NOT LIMITED TO THE MINIMUM SALARY WHICH THE TAXPAYER WILL PAY TO THE QUALIFIED INDIVIDUAL UPON COMPLETION OF THE INDIVIDUAL'S DEGREE; THE REQUIRED DURATION OF EMPLOYMENT UPON COMPLETION OF THE INDIVIDUAL'S DEGREE; AND THE PARTIES' RESPECTIVE RESPONSIBILITIES IN THE EVENT THAT THE TAXPAYER CEASES OPERATIONS OR LATER DECIDES NOT TO OFFER EMPLOYMENT TO THE INDIVIDUAL UPON COMPLETION OF HIS/HER DEGREE OR IN THE EVENT THAT THE QUALIFIED INDIVIDUAL FAILS TO COMPLETE THE DEGREE OR TO WORK FOR THE TAXPAYER FOR THE AGREED UPON TERM.

(6) AMOUNT OF CREDIT. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW, A TAXPAYER WHO PROVIDES FOR THE PAYMENT OF AN INDIVIDUAL'S TUITION UNDER THE COLLEGE TO WORK PROGRAM ESTABLISHED BY THIS SUBSECTION, SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE, TO THE EXTENT OF TWENTY-FIVE PERCENT OF MONIES PAID FOR EACH INDIVIDUAL'S TUITION, BUT SUCH CREDIT SHALL NOT EXCEED FIVE THOUSAND DOLLARS FOR ONE YEAR FOR EACH SUCH QUALIFIED INDIVIDUAL.

(7) CARRYOVER. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX AMOUNT, ANY AMOUNT OF THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 4. This act shall take effect immediately and shall apply to all taxable years commencing after January 1, 2012.