

8131

2013-2014 Regular Sessions

I N A S S E M B L Y

August 30, 2013

Introduced by M. of A. LALOR, RA -- read once and referred to the
Committee on Ways and Means

AN ACT to amend the tax law, the real property tax law and the education law, in relation to eliminating the START-UP NY program; and to repeal certain provisions of the economic development law, the tax law, chapter 68 of the laws of 2013, amending the economic development law and other laws relating to establishing the START-UP NY program, the administrative code of the city of New York and the education law, relating to the START-UP NY program

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

- 1 Section 1. Article 21 of the economic development law is REPEALED.
2 S 2. Sections 39, 39-a and 40 of the tax law are REPEALED.
3 S 3. Subdivision 3 of section 180 of the tax law is REPEALED.
4 S 4. Subdivision 3 of section 181 of the tax law is REPEALED.
5 S 5. Subdivision 47 of section 210 of the tax law is REPEALED.
6 S 6. Clause (xxxvi) of subparagraph (B) of paragraph 1 of subsection
7 (i) of section 606 of the tax law is REPEALED.
8 S 7. Subsection (ww) of section 606 of the tax law is REPEALED.
9 S 8. Paragraph 40 of subsection (c) of section 612 of the tax law is
10 REPEALED.
11 S 9. Section 803 of the tax law, as amended by section 11 of part A of
12 chapter 68 of the laws of 2013, is amended to read as follows:
13 S 803. Exemption override. [(a) Except as provided in subdivision (b)
14 of this section, any] ANY exemption from tax specified in any other New
15 York state law will not apply to the tax imposed by this article.
16 [(b) If a tax-free NY area approved pursuant to the provisions of
17 article twenty-one of the economic development law is located within the
18 MCTD, the payroll expense in such tax-free NY area of any employer that
19 is located in such area and accepted into the START-UP NY program shall
20 be exempt from the tax imposed under this article. In addition, the net

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

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1 earnings from self-employment of an individual from a business in such
2 tax-free NY area that is accepted into the START-UP NY program shall be
3 exempt from the tax imposed under this article.]

4 S 10. Paragraphs 1 and 2 of subdivision (d) of section 1119 of the tax
5 law, as amended by section 12 of part A of chapter 68 of the laws of
6 2013, are amended to read as follows:

7 (1) Subject to the conditions and limitations provided for in this
8 section, a refund or credit will be allowed for taxes imposed on the
9 retail sale of tangible personal property described in subdivision (a)
10 of section eleven hundred five of this article, and on every sale of
11 services described in subdivisions (b) and (c) of such section, and
12 consideration given or contracted to be given for, or for the use of,
13 such tangible personal property or services, where such tangible
14 personal property or services are sold to a qualified empire zone enter-
15 prise or to a qualified entity that is also a tenant in or part of a New
16 York state innovation hot spot as provided in section thirty-eight of
17 this chapter [or to a business located in a tax-free NY area approved
18 pursuant to article twenty-one of the economic development law],
19 provided that (A) such tangible personal property or tangible personal
20 property upon which such a service has been performed or such service
21 (other than a service described in subdivision (b) of section eleven
22 hundred five of this article) is directly and predominantly, or such a
23 service described in clause (A) or (D) of paragraph one of such subdivi-
24 sion (b) of section eleven hundred five of this article is directly and
25 exclusively, used or consumed by (i) such qualified empire zone enter-
26 prise in an area designated as an empire zone pursuant to article eigh-
27 teen-B of the general municipal law with respect to which such enter-
28 prise is certified pursuant to such article eighteen-B, or (ii) such
29 qualified entity at its location in or as part of a New York state inno-
30 vation hot spot[, or (iii) such business at its location in such tax-
31 free NY area,] or (B) such a service described in clause (B) or (C) of
32 paragraph one of subdivision (b) of section eleven hundred five of this
33 article is delivered and billed to (i) such enterprise at an address in
34 such empire zone or (ii) such qualified entity at its location in or as
35 part of the New York state innovation hot spot[, or (iii) such business
36 at its location in such tax-free NY area,] or (C) the enterprise's place
37 of primary use of the service described in paragraph two of such subdivi-
38 sion (b) of section eleven hundred five is at an address in such
39 empire zone or at its location in or as part of a New York state inno-
40 vation hot spot[, or at its location in such tax-free NY area];
41 provided, further, that, in order for a motor vehicle, as defined in
42 subdivision (c) of section eleven hundred seventeen of this [article]
43 PART, or tangible personal property related to such a motor vehicle to
44 be found to be used predominantly in such a zone, at least fifty percent
45 of such motor vehicle's use shall be exclusively within such zone or at
46 least fifty percent of such motor vehicle's use shall be in activities
47 originating or terminating in such zone, or both; and either or both
48 such usages shall be computed either on the basis of mileage or hours of
49 use, at the discretion of such enterprise. For purposes of this subdivi-
50 sion, tangible personal property related to such a motor vehicle shall
51 include a battery, diesel motor fuel, an engine, engine components,
52 motor fuel, a muffler, tires and similar tangible personal property used
53 in or on such a motor vehicle.

54 (2) Subject to the conditions and limitations provided for in this
55 section, a refund or credit will be allowed for taxes imposed on the
56 retail sale of, and consideration given or contracted to be given for,

1 or for the use of, tangible personal property sold to a contractor,
2 subcontractor or repairman for use in (A) erecting a structure or build-
3 ing of a qualified empire zone enterprise [or a business located in a
4 tax-free NY area approved pursuant to article twenty-one of the economic
5 development law], (B) adding to, altering or improving real property,
6 property or land of such an enterprise [or such business,] or (C) main-
7 taining, servicing or repairing real property, property or land of such
8 an enterprise [or of such business], as the terms real property, proper-
9 ty or land are defined in the real property tax law; provided, however,
10 no credit or refund will be allowed under this paragraph unless such
11 tangible personal property is to become an integral component part of
12 such structure, building, real property, property or land located in an
13 area designated as an empire zone pursuant to article eighteen-B of the
14 general municipal law in, and with respect to which such enterprise is
15 certified pursuant to such article eighteen-B[, or in an area approved
16 as a tax-free NY area pursuant to article twenty-one of the economic
17 development law where such business is located].

18 S 11. Paragraph 11 of subdivision (b) of section 1405 of the tax law
19 is REPEALED.

20 S 12. Section 14 of part A of chapter 68 of the laws of 2013, amend-
21 ing the economic development law and other laws relating to establishing
22 the START-UP NY program, is REPEALED.

23 S 13. Paragraph 36 of subdivision (c) of section 11-1712 of the admin-
24 istrative code of the city of New York is REPEALED.

25 S 14. Subsection (d) of section 1340 of the tax law is REPEALED.

26 S 15. Subdivision 2 of section 420-a of the real property tax law, as
27 amended by section 17 of part A of chapter 68 of the laws of 2013, is
28 amended to read as follows:

29 2. If any portion of such real property is not so used exclusively to
30 carry out thereupon one or more of such purposes but is leased or other-
31 wise used for other purposes, such portion shall be subject to taxation
32 and the remaining portion only shall be exempt; provided, however, that
33 such real property shall be fully exempt from taxation although it or a
34 portion thereof is used (a) for purposes which are exempt pursuant to
35 this section or sections four hundred twenty-b, four hundred twenty-two,
36 four hundred twenty-four, four hundred twenty-six, four hundred twenty-
37 eight, four hundred thirty or four hundred fifty of this [chapter] TITLE
38 by another corporation which owns real property exempt from taxation
39 pursuant to such sections or whose real property if it owned any would
40 be exempt from taxation pursuant to such sections, (b) for purposes
41 which are exempt pursuant to section four hundred six or section four
42 hundred eight of this [chapter] ARTICLE by a corporation which owns real
43 property exempt from taxation pursuant to such section or if it owned
44 any would be exempt from taxation pursuant to such section, (c) for
45 purposes which are exempt pursuant to section four hundred sixteen of
46 this chapter by an organization which owns real property exempt from
47 taxation pursuant to such section or whose real property if it owned any
48 would be exempt from taxation pursuant to such section, OR (d) for
49 purposes relating to civil defense pursuant to the New York state
50 defense emergency act, including but not limited to activities in prepa-
51 ration for anticipated attack, during attack, or following attack or
52 false warning thereof, or in connection with drill or test ordered or
53 directed by civil defense authorities[, or (e) for purposes of a tax-
54 free NY area that has been approved pursuant to article twenty-one of
55 the economic development law, subject to the conditions that the real
56 property must have been owned by the corporation or association organ-

1 ized exclusively for educational purposes and exempt pursuant to this
2 section on June first, two thousand thirteen, and that the exemption
3 shall apply only to the portion of such real property that is used for
4 purposes of the START-UP NY program]; and provided further that such
5 real property shall be exempt from taxation only so long as it or a
6 portion thereof, as the case may be, is devoted to such exempt purposes
7 and so long as any moneys paid for such use do not exceed the amount of
8 the carrying, maintenance and depreciation charges of the property or
9 portion thereof, as the case may be.

10 S 16. Paragraph a of subdivision 2 of section 355 of the education
11 law, as amended by section 18 of part A of chapter 68 of the laws of
12 2013, is amended to read as follows:

13 a. To take, hold and administer on behalf of the state university or
14 any institution therein, real and personal property or any interest
15 therein and the income thereof either absolutely or in trust for any
16 educational or other purpose within the jurisdiction and corporate
17 purposes of the state university. The trustees may acquire property for
18 such purposes by purchase, appropriation or lease and by the acceptance
19 of gifts, grants, bequests and devises, and, within appropriations made
20 therefor, may equip and furnish buildings and otherwise improve property
21 owned, used or occupied by the state university or any institution ther-
22 ein. The trustees may acquire property by the acceptance of conditional
23 gifts, grants, devises or bequests, the provisions of section eleven of
24 the state finance law notwithstanding. Where real property is to be
25 acquired by purchase or appropriation, such acquisition shall be in
26 accordance with the provisions of section three hundred seven of this
27 chapter except that the powers and duties in said section mentioned to
28 be performed by the commissioner shall be performed by the state univer-
29 sity trustees. [The provisions of section three of the public lands law
30 notwithstanding, the trustees may provide for the lease of state-owned
31 real property under the jurisdiction of the state university that is
32 part of a tax-free NY area approved pursuant to article twenty-one of
33 the economic development law, in such manner and upon such terms as the
34 trustees shall determine, provided such lease is consistent with the
35 approved plan for such tax-free NY area.]

36 S 17. Paragraph s of subdivision 2 of section 355 of the education
37 law, as amended by section 19 of part A of chapter 68 of the laws of
38 2013, is amended to read as follows:

39 s. To lease or make available to the state university construction
40 fund, the dormitory authority or other public benefit corporation, the
41 New York state teachers' retirement system[,] OR the New York state
42 employees' retirement system[, or a business that intends to locate in a
43 tax-free NY area approved pursuant to article twenty-one of the economic
44 development law,] a portion of the grounds or real property occupied by
45 a state-operated institution or statutory or contract college for the
46 construction, acquisition, reconstruction, rehabilitation or improvement
47 of academic buildings, dormitories or other facilities thereon pursuant
48 to article eight-A of this chapter and for the purpose of facilitating
49 such construction, acquisition, reconstruction, rehabilitation or
50 improvement, to enter into leases and agreements for the use of any such
51 academic building, dormitory or other facility in accordance with the
52 provisions of section three hundred seventy-eight of this [chapter]
53 TITLE; provided, however, that nothing herein contained shall affect the
54 provisions of any lease or agreement heretofore executed by the state
55 university with the dormitory authority. The state university trustees
56 may also enter into agreements with the state university construction

1 fund, the dormitory authority or other public benefit corporation, the
2 New York state teachers' retirement system[,] OR the New York state
3 employees' retirement system [or any business that intends to locate in
4 a tax-free NY area approved pursuant to article twenty-one of the
5 economic development law,] to furnish heat from a central heating plant
6 to any academic building, dormitory or other facility erected by them or
7 with moneys supplied by them. Any such academic building, dormitory or
8 other facility shall not be subject to taxation for any purpose.

9 S 18. Paragraph z of subdivision 2 of section 355 of the education law
10 is REPEALED.

11 S 19. Section 361 of the education law is REPEALED.

12 S 20. This act shall take effect immediately; provided, however, that
13 the amendments to paragraph a of subdivision 2 of section 355 of the
14 education law made by section sixteen of this act shall not affect the
15 expiration and reversion of such paragraph and shall be deemed to expire
16 therewith.