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I N  S E N A T E

January 13, 2014

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the economic development law, the tax law and the labor law, in relation to authorizing the creation of small business tax-deferred savings accounts

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

Section 1. The economic development law is amended by adding a new section 139 to read as follows:

S 139. SMALL BUSINESS TAX-DEFERRED SAVINGS ACCOUNTS. 1. ANY SMALL BUSINESS SHALL BE AUTHORIZED TO ESTABLISH AND DEPOSIT PROFITS INTO A SMALL BUSINESS TAX-DEFERRED SAVINGS ACCOUNT.

2. THE MONIES IN SUCH TAX-DEFERRED SAVINGS ACCOUNTS MAY BE WITHDRAWN TAX FREE ONLY WHEN THE COMMISSIONER OF LABOR DECLARES AN ECONOMIC DOWNTURN PURSUANT TO SUBDIVISION FIFTEEN OF SECTION TWENTY-ONE OF THE LABOR LAW.

3. IF A SMALL BUSINESS WITHDRAWS FUNDS FROM SUCH A TAX-DEFERRED SAVINGS ACCOUNT WHEN AN ECONOMIC DOWNTURN HAS NOT BEEN DECLARED, SUCH FUNDS WITHDRAWN SHALL BE TAXABLE AS INCOME UNDER THE TAX LAW.

S 2. Section 209 of the tax law is amended by adding a new subdivision 12 to read as follows:

12. FOR ANY TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, ANY SMALL BUSINESS, AS SUCH TERM IS DEFINED PURSUANT TO SECTION ONE HUNDRED THIRTY-ONE OF THE ECONOMIC DEVELOPMENT LAW, SHALL BE EXEMPT FROM ALL TAXES IMPOSED PURSUANT TO THIS ARTICLE FOR ANY WITHDRAWAL FROM A SMALL BUSINESS TAX-DEFERRED SAVINGS ACCOUNT ESTABLISHED PURSUANT TO SECTION ONE HUNDRED THIRTY-NINE OF THE ECONOMIC DEVELOPMENT LAW AND MADE DURING AN ECONOMIC DOWNTURN DECLARED BY THE COMMISSIONER OF LABOR PURSUANT TO SUBDIVISION FIFTEEN OF SECTION TWENTY-ONE OF THE LABOR LAW.

S 3. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 41 to read as follows:

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

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(41) ANY WITHDRAWAL FROM A SMALL BUSINESS TAX-DEFERRED SAVINGS ACCOUNT ESTABLISHED PURSUANT TO SECTION ONE HUNDRED THIRTY-NINE OF THE ECONOMIC DEVELOPMENT LAW MADE DURING AN ECONOMIC DOWNTURN DECLARED BY THE COMMISSIONER OF LABOR PURSUANT TO SUBDIVISION FIFTEEN OF SECTION TWENTY-ONE OF THE LABOR LAW.

S 4. Section 21 of the labor law is amended by adding a new subdivision 15 to read as follows:

15. SHALL CALCULATE AND PUBLISH, ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH, A COMPOSITE INDEX OF BUSINESS CYCLE INDICATORS. SUCH INDEX SHALL BE CALCULATED USING MONTHLY DATA ON NEW YORK STATE EMPLOYMENT, TOTAL MANUFACTURING HOURS WORKED, AND UNEMPLOYMENT PREPARED BY THE DEPARTMENT OR ITS SUCCESSOR AGENCY, AND TOTAL SALES TAX COLLECTED NET OF LAW CHANGES, PREPARED BY THE DEPARTMENT OF TAXATION AND FINANCE OR ITS SUCCESSOR AGENCY. SUCH INDEX SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE PROCEDURES FOR CALCULATING COMPOSITE INDEXES ISSUED BY THE CONFERENCE BOARD OR ITS SUCCESSOR ORGANIZATION, AND ADJUSTED FOR SEASONAL VARIATIONS IN ACCORDANCE WITH THE PROCEDURES ISSUED BY THE CENSUS BUREAU OF THE UNITED STATES DEPARTMENT OF COMMERCE OR ITS SUCCESSOR AGENCY. IF THE COMPOSITE INDEX DECLINES FOR FIVE CONSECUTIVE MONTHS, THE COMMISSIONER OF LABOR SHALL NOTIFY THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE MINORITY LEADERS OF THE ASSEMBLY AND THE SENATE THAT AN ECONOMIC DOWNTURN HAS BEEN DECLARED.

S 5. This act shall take effect immediately.