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

6737--B

I N S E N A T E

March 5, 2014

Introduced by Sens. CARLUCCI, KLEIN, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to establishing tax credits for taxpayers which provide their employees with access to federal qualified transportation fringe benefits

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

Section 1. The tax law is amended by adding a new section 42 to read as follows:

S 42. CREDIT FOR PROVISION OF EMPLOYEE FEDERAL QUALIFIED TRANSPORTATION FRINGE BENEFITS. (A) ALLOWANCE OF CREDIT. FOR THE TAXABLE YEAR COMMENCING ON JANUARY FIRST, TWO THOUSAND FOURTEEN, A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE, NINE-A, TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (D) OF THIS SECTION. THE CREDIT SHALL BE ALLOWED WHERE A TAXPAYER HAS ESTABLISHED AND IMPLEMENTED FEDERAL QUALIFIED TRANSPORTATION FRINGE BENEFITS FOR ITS EMPLOYEES DURING THE TAXABLE YEAR IN WHICH SUCH CREDIT IS CLAIMED, AND THE TAXPAYER HAS NOT PROVIDED SUCH BENEFITS TO ITS EMPLOYEES DURING ANY PRIOR TAXABLE YEAR. THE CREDIT SHALL BE EQUAL TO FIFTY DOLLARS FOR EACH EMPLOYEE OF THE TAXPAYER WHO ELECTED TO PARTICIPATE IN THE TAXPAYER'S FEDERAL QUALIFIED TRANSPORTATION FRINGE BENEFITS PROGRAM DURING THE TAXABLE YEAR IN WHICH SUCH PROGRAM IS ESTABLISHED BY THE TAXPAYER. THE AMOUNT OF THE CREDIT GRANTED TO ANY TAXPAYER PURSUANT TO THIS SECTION SHALL NOT EXCEED FIFTY THOUSAND DOLLARS.

(B) DEFINITION. AS USED IN THIS SECTION, "FEDERAL QUALIFIED TRANSPORTATION FRINGE BENEFITS" MEANS A QUALIFIED FEDERAL TRANSPORTATION FRINGE BENEFITS PROGRAM ESTABLISHED AND IMPLEMENTED BY A TAXPAYER IN ACCORDANCE WITH SECTION 132(F) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS

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

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ADOPTED PURSUANT THERETO. EVERY SUCH PROGRAM SHALL BE ADMINISTERED BY A THIRD PARTY PROGRAM ADMINISTRATOR.

(C) CROSS REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9: SECTION 187-T,

(2) ARTICLE 9-A: SECTION 210, SUBDIVISION 50,

(3) ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (V),

(4) ARTICLE 32: SECTION 1456, SUBSECTION (AA),

(5) ARTICLE 33: SECTION 1511, SUBDIVISION (DD).

(D) ALLOCATION OF CREDIT. THE AGGREGATE OF TAX CREDITS ALLOWED UNDER THIS SECTION, SECTION ONE HUNDRED EIGHTY-SEVEN-T, SUBDIVISION FIFTY OF SECTION TWO HUNDRED TEN, CLAUSE (XLI) OF SUBPARAGRAPH (B) OF PARAGRAPH ONE OF SUBSECTION (I) AND SUBSECTION (V) OF SECTION SIX HUNDRED SIX, SUBSECTION (AA) OF SECTION FOURTEEN HUNDRED FIFTY-SIX AND SUBDIVISION (DD) OF SECTION FIFTEEN HUNDRED ELEVEN OF THIS CHAPTER SHALL NOT EXCEED FIVE MILLION DOLLARS.

S 2. The tax law is amended by adding a new section 187-t to read as follows:

S 187-T. CREDIT FOR PROVISION OF EMPLOYEE FEDERAL QUALIFIED TRANSPORTATION FRINGE BENEFITS. 1. ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION FORTY-TWO OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY SECTIONS ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR AND ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE. PROVIDED, HOWEVER, THAT THE AMOUNT OF SUCH CREDIT ALLOWABLE AGAINST THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-FOUR OF THIS ARTICLE SHALL BE THE EXCESS OF THE AMOUNT OF SUCH CREDIT OVER THE AMOUNT OF ANY CREDIT ALLOWED BY THIS SECTION AGAINST THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-THREE OF THIS ARTICLE.

2. APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE APPLICABLE MINIMUM TAX FIXED BY SECTION ONE HUNDRED EIGHTY-THREE OR ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE.

S 3. Section 210 of the tax law is amended by adding a new subdivision 50 to read as follows:

50. CREDIT FOR PROVISION OF EMPLOYEE FEDERAL QUALIFIED TRANSPORTATION FRINGE BENEFITS. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION FORTY-TWO OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION SHALL NOT REDUCE THE TAX DUE TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION.

S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xli) to read as follows:

(XLI) CREDIT FOR PROVISION OF EMPLOYEE FEDERAL QUALIFIED TRANSPORTATION FRINGE BENEFITS UNDER SUBSECTION (V)	AMOUNT OF CREDIT UNDER SUBDIVISION FIFTY OF SECTION TWO HUNDRED TEN, SUBSECTION (AA) OF SECTION FOURTEEN HUNDRED FIFTY-SIX OR SUBDIVISION (DD) OF SECTION FIFTEEN HUNDRED ELEVEN

S 5. Section 606 of the tax law is amended by adding a new subsection (v) to read as follows:

(V) CREDIT FOR PROVISION OF EMPLOYEE FEDERAL QUALIFIED TRANSPORTATION FRINGE BENEFITS. ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION FORTY-TWO OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

S 6. Section 1456 of the tax law is amended by adding a new subsection (aa) to read as follows:

(AA) CREDIT FOR PROVISION OF EMPLOYEE FEDERAL QUALIFIED TRANSPORTATION FRINGE BENEFITS. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION FORTY-TWO OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBSECTION SHALL NOT REDUCE THE TAX DUE TO LESS THAN THE MINIMUM TAX FIXED BY SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE.

S 7. Section 1511 of the tax law is amended by adding a new subdivision (dd) to read as follows:

(DD) CREDIT FOR PROVISION OF EMPLOYEE FEDERAL QUALIFIED TRANSPORTATION FRINGE BENEFITS. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION FORTY-TWO OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION SHALL NOT REDUCE THE TAX DUE TO LESS THAN THE MINIMUM TAX FIXED BY PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION FIFTEEN HUNDRED TWO OF THIS ARTICLE OR BY SECTION FIFTEEN HUNDRED TWO-A OF THIS ARTICLE, WHICHEVER IS APPLICABLE.

S 8. This act shall take effect immediately; provided, however, that the amendment to section 1456 of the tax law made by section six of this act shall not affect the repeal of such section and shall be deemed repealed therewith, and the amendment to subparagraph (B) of paragraph (1) of subsection (i) of section 606 of the tax law made by section four of this act shall take effect on the same date and in the same manner as section 68 of part A of chapter 59 of the laws of 2014.