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

6519

I N S E N A T E

January 22, 2016

Introduced by Sen. AKSHAR -- 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 the business income base rate and certain small business taxpayers (Part A); to repeal sections 24, 28 and 31 of the tax law, subsections (gg), (jj) and (qq) of section 606 of the tax law, subdivisions 20, 23 and 32 of section 210-B of the tax law and subdivisions (b) and (c) of section 1201-a of the tax law, relating to the empire state film production credit, the empire state commercial production credit, and the empire state film post production credit (Part B); and to direct the empire state development corporation to cease all advertisement and promotional activities for the Start-Up NY Program (Part C)

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

Section 1. This act enacts into law major components of legislation to assist small businesses within New York state. Each component is wholly contained within a Part identified as Parts A through C. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

S 2. This act shall be known and may be cited as the "small business jobs revitalization act".

PART A

Section 1. Subparagraph (iv) of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

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

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(iv) (A) for taxable years beginning before January first, two thousand sixteen, if the business income base is not more than two hundred ninety thousand dollars the amount shall be six and one-half percent of the business income base; if the business income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) eighteen thousand eight hundred fifty dollars, (2) seven and one-tenth percent of the excess of the business income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) four and thirty-five hundredths percent of the excess of the business income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars;

(B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, IF THE BUSINESS INCOME BASE IS NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS THE AMOUNT SHALL BE THREE AND ONE-QUARTER PERCENT OF THE BUSINESS INCOME BASE; IF THE BUSINESS INCOME BASE IS MORE THAN FIVE HUNDRED THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS THE AMOUNT SHALL BE THE SUM OF (1) SIXTEEN THOUSAND TWO HUNDRED FIFTY DOLLARS, (2) SIX AND ONE-HALF PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER FIVE HUNDRED THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS AND (3) THIRTY-TWO AND ONE-HALF PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER FIVE HUNDRED FIFTY THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS;

(C) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, IF THE BUSINESS INCOME BASE IS NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS THE AMOUNT SHALL BE TWO AND NINE-TENTHS PERCENT OF THE BUSINESS INCOME BASE; IF THE BUSINESS INCOME BASE IS MORE THAN FIVE HUNDRED THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS THE AMOUNT SHALL BE THE SUM OF (1) FOURTEEN THOUSAND FIVE HUNDRED DOLLARS, (2) SIX AND ONE-HALF PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER FIVE HUNDRED THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS AND (3) THIRTY-SIX PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER FIVE HUNDRED FIFTY THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS;

(D) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN, IF THE BUSINESS INCOME BASE IS NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS THE AMOUNT SHALL BE TWO AND ONE-HALF PERCENT OF THE BUSINESS INCOME BASE; IF THE BUSINESS INCOME BASE IS MORE THAN FIVE HUNDRED THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS THE AMOUNT SHALL BE THE SUM OF (1) TWELVE THOUSAND FIVE DOLLARS, (2) SIX AND ONE-HALF PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER FIVE HUNDRED THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS AND (3) FORTY PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER FOUR HUNDRED FIFTY THOUSAND DOLLARS BUT NOT OVER FIVE HUNDRED THOUSAND DOLLARS.

S 2. Paragraph 39 of subsection (c) of section 612 of the tax law, as added by section 1 of part Y of chapter 59 of the laws of 2013, is amended to read as follows:

(39) In the case of a taxpayer who is a small business who has business income and/or farm income as defined in the laws of the United States, an amount equal to three percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning ON OR after JANUARY FIRST, two thousand thirteen[,] BUT BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN; an amount equal to three

and three-quarters percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning ON OR after JANUARY FIRST, two thousand fourteen[, and] BUT BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN; an amount equal to five percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning ON OR after JANUARY FIRST, two thousand fifteen BUT BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN; AN AMOUNT EQUAL TO TEN PERCENT OF THE NET ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION ATTRIBUTABLE TO SUCH BUSINESS OR FARM ENTERING INTO FEDERAL ADJUSTED GROSS INCOME, BUT NOT LESS THAN ZERO, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN BUT BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN; AN AMOUNT EQUAL TO FIFTEEN PERCENT OF THE NET ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION ATTRIBUTABLE TO SUCH BUSINESS OR FARM ENTERING INTO FEDERAL ADJUSTED GROSS INCOME, BUT NOT LESS THAN ZERO, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN BUT BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN; AND AN AMOUNT EQUAL TO TWENTY PERCENT OF THE NET ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION ATTRIBUTABLE TO SUCH BUSINESS OR FARM ENTERING INTO FEDERAL ADJUSTED GROSS INCOME, BUT NOT LESS THAN ZERO, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN. PROVIDED THAT SUCH BUSINESS OR FARM INCOME IS LESS THAN OR EQUAL TO FIVE HUNDRED THOUSAND DOLLARS. For the purposes of this paragraph, the term small business shall mean a [sole proprietor] BUSINESS or a farm business who employs one or more persons during the taxable year and who has net business income or net farm income of EQUAL TO OR less than [two hundred fifty] FIVE HUNDRED thousand dollars. FOR THE PURPOSES OF THIS PARAGRAPH, IF THE TAXPAYER IS A MEMBER, PARTNER, OR SHAREHOLDER OF A LIMITED LIABILITY COMPANY, PARTNERSHIP OR S-CORPORATION, THE TAXPAYER WILL ONLY BE ELIGIBLE UNDER THIS PARAGRAPH IF THE NEW YORK SOURCE GROSS INCOME OF THE LIMITED LIABILITY COMPANY, PARTNERSHIP OR S-CORPORATION DOES NOT EXCEED ONE MILLION DOLLARS. NEW YORK SOURCE GROSS INCOME IS THE SUM OF THE MEMBERS, PARTNERS, OR SHAREHOLDERS SHARES OF FEDERAL GROSS INCOME FROM THE LIMITED LIABILITY COMPANY, PARTNERSHIP, OR S-CORPORATION DERIVED FROM OR CONNECTED WITH NEW YORK SOURCES, DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED THIRTY-ONE OF THIS ARTICLE AS IF THOSE PROVISIONS AND ANY RELATED PROVISIONS EXPRESSLY REFERRED TO A COMPUTATION OF FEDERAL GROSS INCOME FROM NEW YORK SOURCES.

S 3. This act shall take effect immediately.

PART B

Section 1. Sections 24, 28 and 31 of the tax law, section 28 as added by section 2 of part V of chapter 62 of the laws of 2006 and section 31 as added by section 12 of part Q of chapter 57 of the laws of 2010, are REPEALED.

S 2. Subsections (gg), (jj) and (qq) of section 606 of the tax law, subsection (jj) as added by section 5 of part V of chapter 62 of the laws of 2006 and subsection (qq) as added by section 15 of part Q of chapter 57 of the laws of 2010, are REPEALED.

S 3. Subdivisions 20, 23 and 32 of section 210-B of the tax law are REPEALED.

S 4. Subdivisions (b) and (c) of section 1201-a of the tax law are REPEALED and subdivision (d) is relettered subdivision (b).

S 5. This act shall take effect immediately.

PART C

Section 1. The empire state development corporation shall immediately cease and discontinue all promotional and advertising campaigns for the Start-Up NY Program established pursuant to article 21 of the economic development law. Any remaining funds appropriated for such campaigns shall be returned to the general fund.

S 2. This act shall take effect immediately.

S 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 4. This act shall take effect immediately, provided, however, that the applicable effective date of Parts A through C of this act shall be as specifically set forth in the last section of such Parts.