STATE OF NEW YORK

8248

IN SENATE

April 23, 2018

Introduced by Sen. AVELLA -- 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 a tax credit for employers whose employees utilize telecommuting and for necessary technology purchases made by telecommuting employees; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 210-B of the tax law is amended by adding a new subdivision 53 to read as follows:

53. Tax credit for employers of telecommuting employees. (a) For periods beginning on or after January first, two thousand nineteen but before January first, two thousand twenty-one, an employer shall be allowed a credit against the tax imposed pursuant to this article in an amount equal to one percent of the salary and wages paid by the employer during the privilege period to a qualified residential telecommuting employee residing in the state during the privilege period.

(b) For purposes of this subdivision:

(1) "Qualified residential telecommuting employee" means a salaried or hourly employee who utilizes telecommuting and who, pursuant to a residential telecommuting work arrangement between the employer and that employee entered into after the effective date of this subdivision regularly performs a majority of the services that are part of that employee's normal workweek in the employee's residence in this state, without making any work-related commute trips on the day or days that the employee is telecommuting and is not directly supervised in the conduct of the employee's duties while at the employee's residence.

(2) "Residential telecommuting work arrangement" means a written contract between the employer and employee defining the responsibilities of the employer and employee with respect to a job allowing residential telecommuting.

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

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(3) "Telecommuting" means an off-site arrangement that permits an employee to work in the employee's residence for all or part of the workweek.

(c) An employer claiming a credit under this subdivision shall file with the commissioner, on a form provided by the commissioner, for each qualified residential telecommuting employee, the following information at a minimum:

(1) the start date of employment;

(2) the date the employee began working from the employee's residence;

(3) the total number of hours or days worked per workweek;

(4) the number of hours or days per workweek that the employee works from the employee's residence;

(5) total salary or wages paid during the privilege period to the employee; and

(6) any other information deemed necessary by the commissioner to ensure that employers are claiming this credit only for employees that are working from home. A copy of this information required to be filed with the commissioner shall be made available to the qualified residential telecommuting employee and may be provided as part of the statement as to tax withheld on wages required to be furnished by an employer to an employee.

§ 2. Section 606 of the tax law is amended by adding a new subsection (jjj) to read as follows:

(jjj) Tax credit for employers of telecommuting employees. (1) For periods beginning on or after January first, two thousand nineteen but before January first, two thousand twenty-one, an employer shall be allowed a credit against the tax imposed pursuant to this article in an amount equal to one percent of the salary and wages paid by the employer during the privilege period to a qualified residential telecommuting employee residing in the state during the privilege period.

(2) For purposes of this subsection:

(A) "Qualified residential telecommuting employee" means a salaried or hourly employee who utilizes telecommuting and who, pursuant to a residential telecommuting work arrangement between the employer and that employee entered into after the effective date of this subsection regularly performs a majority of the services that are part of that employee's normal workweek in the employee's residence in this state, without making any work-related commute trips on the day or days that the employee is telecommuting and is not directly supervised in the conduct of the employee's duties while at the employee's residence.

(B) "Residential telecommuting work arrangement" means a written contract between the employer and employee defining the responsibilities of the employer and employee with respect to a job allowing residential telecommuting.

(C) "Telecommuting" means an off-site arrangement that permits an employee to work in the employee's residence for all or part of the workweek.

(3) An employer claiming a credit under this subsection shall file with the commissioner, on a form provided by the commissioner, for each qualified residential telecommuting employee, the following information at a minimum:

(A) the start date of employment;

(B) the date the employee began working from the employee's residence;

(C) the total number of hours or days worked per workweek;

(D) the number of hours or days per workweek that the employee works from the employee's residence;

(E) total salary or wages paid during the privilege period to the employee; and

(F) any other information deemed necessary by the commissioner to ensure that employers are claiming this credit only for employees that are working from home. A copy of this information required to be filed with the commissioner shall be made available to the qualified residential telecommuting employee and may be provided as part of the statement as to tax withheld on wages required to be furnished by an employer to an employee.

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

(xliv) Tax credit for employers of telecommuting employees under subsection (jjj)	Amount of credit under subdivision fifty-three of section two hundred ten-B

§ 4. Section 606 of the tax law is amended by adding a new subsection (kkk) to read as follows:

(kkk) Telecommuting employee technology purchase credit. (1) Allowance of credit. (A) A taxpayer who is a qualified residential telecommuting employee as defined in subparagraph one of paragraph (b) of subdivision fifty-three of section two hundred ten-B of this chapter shall be allowed a credit as hereinafter provided, against the tax imposed by this article. The amount of the credit shall be up to five hundred dollars annually for qualified technology purchases necessary to perform his or her job.

(B) The commissioner, in consultation with the director of the office of information technology services, shall promulgate rules and regulations by December thirty-first, two thousand eighteen to establish qualifying technology purchases for the purpose of allocating tax credits pursuant to subparagraph (A) of this paragraph. Notwithstanding any other provisions to the contrary in the state administrative procedure act, such rules and regulations may be adopted on an emergency basis if necessary to meet such December thirty-first, two thousand eighteen deadline.

(2) Application of credit. If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(3) Proof of claim. The commissioner may require a qualified taxpayer to furnish proof of his or her qualified technology purchases in support of his or her claim for credit under this subsection.

§ 5. This act shall take effect immediately; provided, however, that this act shall expire and be deemed repealed January 1, 2021; and provided, further, that this act shall apply to taxable years commencing January 1, 2019.