STATE OF NEW YORK

2878

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

Introduced by M. of A. LALOR, RA, FRIEND, PALMESANO, STECK, HAWLEY -- Multi-Sponsored by -- M. of A. McLAUGHLIN -- 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:

Section 1. Article 21 of the economic development law is REPEALED.

§ 2. Sections 39, 39-a and 40 of the tax law are REPEALED.

§ 3. Subdivision 41 of section 210-B of the tax law is REPEALED.

§ 4. Clause (xxxvi) of subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is REPEALED.

§ 5. Subsection (ww) of section 606 of the tax law is REPEALED.

§ 6. Paragraph 40 of subsection (c) of section 612 of the tax law is REPEALED.

§ 7. Section 803 of the tax law, as amended by section 11 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

§ 803. Exemption override. [~~(a) Except as provided in subdivision (b) of this section, any~~] **Any** exemption from tax specified in any other New York state law will not apply to the tax imposed by this article.

[~~(b) If a tax-free NY area approved pursuant to the provisions of article twenty-one of the economic development law is located within the MCTD, the payroll expense in such tax-free NY area of any employer that is located in such area and accepted into the START-UP NY program shall be exempt from the tax imposed under this article. In addition, the net earnings from self-employment of an individual from a business in such~~

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

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~~tax-free NY area that is accepted into the START-UP NY program shall be exempt from the tax imposed under this article.~~]

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

(1) Subject to the conditions and limitations provided for in this section, a refund or credit will be allowed for taxes imposed on the retail sale of tangible personal property described in subdivision (a) of section eleven hundred five of this article, and on every sale of services described in subdivisions (b) and (c) of such section, and consideration given or contracted to be given for, or for the use of, such tangible personal property or services, where such tangible personal property or services are sold to a qualified empire zone enterprise or to a qualified entity that is also a tenant in or part of a New York state innovation hot spot as provided in section thirty-eight of this chapter [~~or to a business located in a tax-free NY area approved pursuant to article twenty-one of the economic development law~~], provided that (A) such tangible personal property or tangible personal property upon which such a service has been performed or such service (other than a service described in subdivision (b) of section eleven hundred five of this article) is directly and predominantly, or such a service described in clause (A) or (D) of paragraph one of such subdivision (b) of section eleven hundred five of this article is directly and exclusively, used or consumed by (i) such qualified empire zone enterprise in an area designated as an empire zone pursuant to article eighteen-B of the general municipal law with respect to which such enterprise is certified pursuant to such article eighteen-B, or (ii) such qualified entity at its location in or as part of a New York state innovation hot spot[~~, or (iii) such business at its location in such tax-free NY area,~~] or (B) such a service described in clause (B) or (C) of paragraph one of subdivision (b) of section eleven hundred five of this article is delivered and billed to (i) such enterprise at an address in such empire zone or (ii) such qualified entity at its location in or as part of the New York state innovation hot spot[~~, or (iii) such business at its location in such tax-free NY area,~~] or (C) the enterprise's place of primary use of the service described in paragraph two of such subdivision (b) of section eleven hundred five is at an address in such empire zone or at its location in or as part of a New York state innovation hot spot[~~, or at its location in such tax-free NY area~~]; provided, further, that, in order for a motor vehicle, as defined in subdivision (c) of section eleven hundred seventeen of this [~~article~~] **part**, or tangible personal property related to such a motor vehicle to be found to be used predominantly in such a zone, at least fifty percent of such motor vehicle's use shall be exclusively within such zone or at least fifty percent of such motor vehicle's use shall be in activities originating or terminating in such zone, or both; and either or both such usages shall be computed either on the basis of mileage or hours of use, at the discretion of such enterprise. For purposes of this subdivision, tangible personal property related to such a motor vehicle shall include a battery, diesel motor fuel, an engine, engine components, motor fuel, a muffler, tires and similar tangible personal property used in or on such a motor vehicle.

(2) Subject to the conditions and limitations provided for in this section, a refund or credit will be allowed for taxes imposed on the retail sale of, and consideration given or contracted to be given for, or for the use of, tangible personal property sold to a contractor,

subcontractor or repairman for use in (A) erecting a structure or building of a qualified empire zone enterprise [~~or a business located in a tax-free NY area approved pursuant to article twenty-one of the economic development law~~], (B) adding to, altering or improving real property, property or land of such an enterprise [~~or such business,~~] or (C) maintaining, servicing or repairing real property, property or land of such an enterprise [~~or of such business~~], as the terms real property, property or land are defined in the real property tax law; provided, however, no credit or refund will be allowed under this paragraph unless such tangible personal property is to become an integral component part of such structure, building, real property, property or land located in an area designated as an empire zone pursuant to article eighteen-B of the general municipal law in, and with respect to which such enterprise is certified pursuant to such article eighteen-B[~~, or in an area approved as a tax-free NY area pursuant to article twenty-one of the economic development law where such business is located~~].

§ 9. Paragraph 11 of subdivision (b) of section 1405 of the tax law is REPEALED.

§ 10. Section 14 of part A of chapter 68 of the laws of 2013, amending the economic development law and other laws relating to establishing the START-UP NY program, is REPEALED.

§ 11. Paragraph 36 of subdivision (c) of section 11-1712 of the administrative code of the city of New York is REPEALED.

§ 12. Subsection (d) of section 1340 of the tax law is REPEALED.

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

2. If any portion of such real property is not so used exclusively to carry out thereupon one or more of such purposes but is leased or otherwise used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be exempt; provided, however, that such real property shall be fully exempt from taxation although it or a portion thereof is used (a) for purposes which are exempt pursuant to this section or sections four hundred twenty-b, four hundred twenty-two, four hundred twenty-four, four hundred twenty-six, four hundred twenty-eight, four hundred thirty or four hundred fifty of this [~~chapter~~] **title** by another corporation which owns real property exempt from taxation pursuant to such sections or whose real property if it owned any would be exempt from taxation pursuant to such sections, (b) for purposes which are exempt pursuant to section four hundred six or section four hundred eight of this [~~chapter~~] **article** by a corporation which owns real property exempt from taxation pursuant to such section or if it owned any would be exempt from taxation pursuant to such section, (c) for purposes which are exempt pursuant to section four hundred sixteen of this chapter by an organization which owns real property exempt from taxation pursuant to such section or whose real property if it owned any would be exempt from taxation pursuant to such section, **or** (d) for purposes relating to civil defense pursuant to the New York state defense emergency act, including but not limited to activities in preparation for anticipated attack, during attack, or following attack or false warning thereof, or in connection with drill or test ordered or directed by civil defense authorities[~~, or (e) for purposes of a tax-free NY area that has been approved pursuant to article twenty-one of the economic development law, subject to the conditions that the real property must have been owned by the corporation or association organized exclusively for educational purposes and exempt pursuant to this~~

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

§ 14. Paragraph a of subdivision 2 of section 355 of the education law, as amended by section 18 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

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

§ 15. Paragraph s of subdivision 2 of section 355 of the education law, as amended by section 19 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

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

New York state teachers' retirement system[~~,~~] **or** the New York state employees' retirement system [~~**or any business that intends to locate in a tax-free NY area approved pursuant to article twenty-one of the economic development law,**~~] to furnish heat from a central heating plant to any academic building, dormitory or other facility erected by them or with moneys supplied by them. Any such academic building, dormitory or other facility shall not be subject to taxation for any purpose.

§ 16. Paragraph z of subdivision 2 of section 355 of the education law is REPEALED.

§ 17. Section 361 of the education law is REPEALED.

§ 18. This act shall take effect immediately; provided, however, that the amendments to paragraph a of subdivision 2 of section 355 of the education law made by section fourteen of this act shall not affect the expiration and reversion of such paragraph and shall be deemed to expire therewith.