STATE OF NEW YORK

7089

2019-2020 Regular Sessions

IN ASSEMBLY

April 5, 2019

Introduced by M. of A. ORTIZ -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the imposition of a corporate welfare tax; and to amend the labor law, in relation to prohibiting discrimination against individuals receiving federal 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 article 9-B to read as follows:

ARTICLE 9-B

CORPORATE WELFARE TAX

Section 230. Definitions.
231. Imposition of tax.
232. Returns and payment of tax.
233. Deposit and disposition of revenue.

§ 230. Definitions. For purposes of this article, the term:

1. "Large employer" shall mean, with respect to a calendar year, an employer who employed an average of at least five hundred employees on business days during the preceding calendar year and has an officer, agent, trustee or representative within the state. For the purposes of determining employer size:

(a) All persons treated as a single employer under subsections (b), (c), (m), or (o) of section four hundred fourteen of the Internal Revenue Code of 1986 shall be treated as 1 employer.

(b) In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a large employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year as determined by the commissioner.

(c) Any reference in this article to an employer shall include a reference to any predecessor of such employer.

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

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2. "Qualified employee benefits" shall mean, with respect to a person for a taxable year, the sum of the qualified federal benefits received by individuals who are employees of such person for such taxable year.

3. "Qualified federal benefits" shall mean, with respect to an individual, the following:

(a) The dollar value of supplemental nutrition assistance for which the household, as defined in section 3(m) of the Food and Nutrition Act of 2008, that includes such individual is eligible;

(b) The dollar value of meals that such individual or dependents of such individual are eligible for under the school lunch program under the Richard B. Russell National School Lunch Act and the school breakfast program under section four of the Child Nutrition Act of 1966;

(c) The aggregate amount of the monthly assistance payments for rental of a dwelling unit that the household of such individual is a member of is eligible to have made on its behalf pursuant to section eight of the United States Housing Act of 1937; and

(d) The amount of payments made under section 1903 of the Social Security Act with respect to expenditures made by a state under a state medicaid plan under title XIX of such Act, or a waiver of such plan, for medical assistance for such individual or for dependents of such individual.

4. "Employee" shall mean:

(a) any full-time or part-time employee;

(b) any individual who is a full-time or part-time independent contractor, including any employee of such independent contractor, and provides services to the employer, unless:

(i) the individual is free from control and direction in connection with the performance of the service, both under the contract for the performance of service and in fact;

(ii) the service is performed outside the usual course of the business of the employer; and

(iii) the individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed; and

(c) any individual who is a full-time or part-time joint employee, provided that the employer possesses, reserves, or exercises sufficient direct or indirect control over the essential terms and conditions of employment of such employee.

§ 231. Imposition of tax. Notwithstanding any other provision of this chapter, or of any other law, for taxable years beginning on and after January first, two thousand twenty, an annual tax is hereby imposed on every taxpayer who is a large employer equal to one hundred percent of the qualified employee benefits with respect to such taxpayer for such taxable year.

§ 232. Returns and payment of tax. 1. Every taxpayer subject to tax under this article shall, on or before the fifteenth day of the fifth month following the close of each of its taxable years, make and file a return with the tax commission setting forth such information as the tax commission may prescribe. Every taxpayer which ceases to be subject to the tax imposed by this article shall make and file a return with the tax commission on the date of such cessation, or at such other time which the tax commission may require, covering each taxable year or period for which no return was theretofore filed, setting forth such information as the tax commission may require. Every taxpayer shall also file such other returns and furnish such other facts and information as the tax commission may require in the administration of this article.

2. The tax imposed by section two hundred thirty-one of this article shall be payable to the tax commission in full at the time the return is required to be filed. Such tax imposed on any taxpayer which ceases to be subject to the tax imposed by this article shall be payable to the tax commission at the time the return is required to be filed and all other taxes of any such taxpayer, which pursuant to the provisions of this section would otherwise be payable subsequent to the time such return is required to be filed, shall nevertheless be payable at such time.

3. The tax commission may grant a reasonable extension of time for filing a return or for payment of a tax imposed by this article under such conditions as it deems just and proper.

§ 233. Deposit and disposition of revenue. All taxes, interest and penalties collected or received by the tax commission under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter.

§ 2. The labor law is amended by adding a new section 215-d to read as follows:

§ 215-d. Protection of individuals receiving federal benefits. No employer, public or private, or such employer's duly authorized agent shall make inquiries of an applicant for employment, or otherwise seek information about such an applicant, including through the use of any form or application, relating to whether such applicant receives federal benefits.

§ 3. This act shall take effect immediately.