STATE OF NEW YORK

7264--A

2019-2020 Regular Sessions

IN ASSEMBLY

April 18, 2019

Introduced by M. of A. STERN -- read once and referred to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to establishing a qualified transportation fringe benefits program

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 45 to read as follows:

§ 45. Qualified transportation fringe benefits program. (a) As used in this section, the following terms shall have the following meanings:

(1) "Qualified transportation fringe benefits" shall mean any of the following provided by an employer to an employee:

(i) transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment;

(ii) any transit pass;

(iii) qualified parking; or

(iv) qualified bicycle commuting reimbursement.

(2) "Covered employee" shall mean any person who performed an average of at least ten hours of work per week for compensation for the same employer within the previous calendar month.

(3) "Covered employer" shall mean an employer for which an average of twenty or more persons per week perform work for compensation. In determining the number of persons performing work for an employer during a given week, all persons performing work for compensation on a full-time, part-time or temporary basis shall be counted, including persons made available to work through the services of a temporary services or staffing agency or similar entity. A covered employer shall not include any governmental entity.

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

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(4) "Transit pass" shall mean any pass, token, fare card, voucher or similar item entitling a person to transportation, or transportation at a reduced price, if such transportation is:

(i) on mass transit facilities, whether or not publicly owned; or

(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (i) of paragraph five of this subdivision.

(5) "Commuter highway vehicle" shall mean any highway vehicle where:

(i) the seating capacity is at least six adults, not including the driver; and

(ii) at least eighty percent of the mileage use can reasonably be expected to be:

(A) for purposes of transporting employees in connection with travel between their residences and their place of employment; and

(B) on trips during which the number of employees transported for such purposes is at least one-half of the adult seating capacity of such vehicle, not including the driver.

(6) "Qualified parking" means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in paragraph four of this subdivision, in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

(7) "Qualified bicycle commuting reimbursement" shall mean, with respect to any calendar year, any employer reimbursement during the fifteen month period beginning with the first day of such calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage, if such bicycle is regularly used for travel between the employee's residence and place of employment. There shall be an annual limitation with respect to any employee for any calendar year, the product of twenty dollars multiplied by the number of qualified bicycle commuting months during such year.

(8) "Qualified bicycle commuting months" shall mean, with respect to any employee, any month during which such employee:

(i) regularly uses the bicycle for a substantial portion of the travel between the employee's residence and place of employment; and

(ii) does not receive any benefit described in subparagraph (i), (ii), or (iii) of paragraph one of this subdivision.

(b) Covered employers may provide the following transportation benefit programs to covered employees:

(1) a pre-tax election program allowing employees to elect to exclude from taxable wages and compensation, employee commuting costs incurred for transit passes, commuter highway vehicle charges, qualified parking, and qualified bicycle commuting. The amount of qualified transportation fringe benefits shall not exceed:

(i) the maximum dollar amount permitted under subsection (f) of section one hundred thirty-two of the internal revenue code in case of the aggregate of the benefits described in subparagraphs (i) and (ii) of paragraph one of subdivision (a) of this section;

(ii) the maximum dollar amount permitted under subsection (f) of section one hundred thirty-two of the internal revenue code in the case of qualified parking; and

(iii) the applicable annual limitation in the case of any qualified bicycle commuting reimbursement.

(2) the maximum dollar amount permitted under subsection (f) of section one hundred thirty-two of the internal revenue code in the case of an employer paid benefit program whereby the employer supplies a transit pass for a public transit system of the employer's choosing upon request by each covered employee or reimbursement for equivalent commuter highway vehicle charges equal in value to the purchase price of the appropriate benefit; or

(3) the maximum dollar amount permitted under subsection (f) of section one hundred thirty-two of the internal revenue code in the case of employer provided transit furnished by the employer at no cost to the covered employee in a commuter highway vehicle or bus, or similar multi-passenger vehicle operated by or for the employer.

(c) (1) The duly authorized officer having predominant jurisdiction over transportation issues in the municipality in which a transportation benefits program is administered shall promulgate such rules and regulations as necessary to implement the provisions of this section.

(2) Such officer shall maintain an education and advice program to assist covered employers with meeting the requirements of subdivision (b) of this section.

§ 2. Subsection (d) of section 615 of the tax law is amended by adding a new paragraph 6 to read as follows:

(6) the full amount of expenses for any qualified transportation fringe benefit provided to an employee of the taxpayer in accordance with section forty-five of this chapter.

§ 3. Paragraph (a) of subdivision 9 of section 208 of the tax law is amended by adding a new subparagraph 21 to read as follows:

(21) The full amount of expenses for any qualified transportation fringe benefit provided to an employee of the taxpayer in accordance with section forty-five of this chapter.

§ 4. This act shall take effect immediately, provided, however, that section one of this act shall take effect on the one hundred twentieth day after it shall have become a law; provided, further, that sections two and three of this act shall apply to taxable years beginning on and after January 1, 2020.