

# STATE OF NEW YORK

2461

2019-2020 Regular Sessions

## IN ASSEMBLY

January 22, 2019

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

AN ACT to amend the tax law, in relation to establishing a job creation tax credit

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

1 Section 1. The tax law is amended by adding a new section 44 to read  
2 as follows:

3 § 44. Job creation tax credit. (a) Allowance of credit. For taxable  
4 years beginning on or after January first, two thousand twenty, a  
5 taxpayer subject to tax under article nine-A or twenty-two of this chap-  
6 ter shall be allowed a credit, to be computed as provided in this  
7 section, against the tax imposed by this article, for each net new job  
8 created, for each qualified employee within the state. The taxpayer may  
9 claim the credit in the year in which the qualified employee completes  
10 six months of employment. A taxpayer may only claim the credit once for  
11 each qualified employee and may only claim a tax credit for a maximum of  
12 thirty qualified employees in each taxable year. If the taxpayer claims  
13 the credit allowed under this section, the taxpayer may not use the  
14 hiring of a qualified employee that is the basis for this credit in the  
15 basis of any other credit allowed under this article.

16 (b) Qualified employee. A qualified employee is an individual who  
17 commences employment by the qualified taxpayer on or after January  
18 first, two thousand twenty.

19 (c) Net new job. "Net new job" means jobs created in this state that  
20 (1) are new to the state, (2) have not been transferred from employment  
21 with another business that is a related person, (3) are either full-time  
22 wage-paying jobs or equivalent to a full-time wage-paying job requiring  
23 at least thirty-five hours per week, and (4) are filled for more than  
24 six months.

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

LBD02309-01-9

1 (d) Employer prohibition. An employer shall not discharge an employee  
2 and hire a qualifying employee solely for the purpose of qualifying for  
3 this credit.

4 (e) Amount of credit. The amount of the credit shall be six percent of  
5 the total amount of wages paid to the qualified employee during the  
6 employee's first six months of employment. Provided, however, that, if  
7 the qualified employee was receiving unemployment insurance benefits at  
8 the time of hire for a minimum of thirteen weeks or is employed directly  
9 in the manufacturing process in an eligible industry, the amount of the  
10 credit shall be twelve percent of the total amount of wages paid to the  
11 qualified employee during the employee's first six months of employment.  
12 The credit allowed pursuant to this subdivision shall not exceed in any  
13 taxable year, seven hundred fifty dollars for any qualified employee and  
14 one thousand five hundred dollars for any qualified employee who was  
15 receiving unemployment insurance benefits at the time of hire for a  
16 minimum of thirteen weeks or who is employed directly in the manufactur-  
17 ing process in an eligible industry.

18 (f) Eligible industry. An eligible industry is a business principally  
19 engaged in the production of goods by manufacturing, processing, assem-  
20 bling, refining, mining, extracting, farming, agriculture, horticulture,  
21 floriculture, viticulture or commercial fishing.

22 § 2. Section 210-B of the tax law is amended by adding a new subdivi-  
23 sion 53 to read as follows:

24 53. Job creation tax credit. (a) Allowance of credit. A taxpayer will  
25 be allowed a credit, to be computed as provided in section forty-four of  
26 this chapter, against the tax imposed by this article.

27 (b) Application of credit. The credit allowed under this subdivision  
28 for any taxable year may not reduce the tax due for such year to less  
29 than the higher of the amounts prescribed in paragraph (d) of subdivi-  
30 sion one of section two hundred ten of this article. However, if the  
31 amount of credit allowed under this subdivision for any taxable year  
32 reduces the tax to such amount, any amount of credit thus not deductible  
33 in such taxable year will be treated as an overpayment of tax to be  
34 credited or refunded in accordance with the provisions of section one  
35 thousand eighty-six of this chapter. Provided, however, the provisions  
36 of subsection (c) of section one thousand eighty-eight of this chapter  
37 notwithstanding, no interest will be paid thereon.

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

40 (jjj) Job creation tax credit. (1) A taxpayer will be allowed a cred-  
41 it, to the extent allowed under section forty-four of this chapter,  
42 against the tax imposed by this article.

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

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

51 (xliv) Job creation tax credit  
52 under subsection (jjj)

Amount of credit under  
subdivision fifty-three of section  
two hundred ten-B

54 § 5. This act shall take effect immediately and shall apply to taxable  
55 years beginning on or after January 1, 2020.