

# STATE OF NEW YORK

8996

## IN ASSEMBLY

January 8, 2020

Introduced by M. of A. CUSICK, LUPARDO, BLANKENBUSH, COLTON, WEPRIN, STERN, WALSH, HUNTER, MOSLEY, BUTTENSCHON, OTIS, SANTABARBARA, REILLY, SEAWRIGHT, FALL -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law and the labor law, in relation to establishing a small business tax credit for the employment of disabled persons; 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:

1 Section 1. Section 210-B of the tax law is amended by adding a new  
2 subdivision 55 to read as follows:

3 55. Small business tax credit; disabled persons. (a) General. A  
4 taxpayer who has one hundred employees or less, shall be allowed a cred-  
5 it, to be computed as provided in this subdivision, against the tax  
6 imposed by this article for each disabled person hired during a taxable  
7 year, provided that such disabled person is employed for thirty-five  
8 hours or more per week, remains in the employ of such taxpayer for six  
9 months or more and the employer submits verification that the claimed  
10 employees meet the statutory definition of "disabled person" pursuant to  
11 paragraph (d) of this subdivision.

12 (b) Amount of credit. A credit authorized by this section shall equal  
13 five thousand dollars per hired disabled person but shall not exceed  
14 twenty-five thousand dollars.

15 (c) Carryovers. The credit allowed under this subdivision for any  
16 taxable year shall not reduce the tax due for such year to less than the  
17 amount prescribed in paragraph (d) of subdivision one of section two  
18 hundred ten of this article. However, if the amount of credit allowable  
19 under this subdivision for any taxable year reduces the tax to such  
20 amount or if the taxpayer otherwise pays tax based on the fixed dollar  
21 minimum amount, any amount of credit not deductible in such taxable year  
22 may be carried over to the following three years and may be deducted  
23 from the taxpayer's tax for such year or years.

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

LBD10946-04-0

1 (d) Definitions. As used in this subdivision, the term "disabled  
2 person" shall mean a resident of the state who has any physical, mental  
3 or medical impairment resulting from anatomical, physiological, genetic  
4 or neurological conditions which prevents the exercise of a normal bodi-  
5 ly function or is demonstrable by medically accepted clinical or labora-  
6 tory diagnostic techniques.

7 (e) Aggregate amount. The aggregate amount of tax credits allowed  
8 pursuant to the authority of this subdivision and subsection (kkk) of  
9 section six hundred six of this chapter shall be five million dollars  
10 each year. Such aggregate amounts of credits shall be allocated by the  
11 commissioner. If the total amount of allocated credits applied for in  
12 any particular year exceeds the aggregate amount of tax credits allowed  
13 for such year under this section, such excess shall be treated as having  
14 been applied for on the first day of the subsequent year.

15 (f) Claim of credit. A taxpayer shall not be allowed to claim this  
16 credit to the extent the basis of the calculation of this credit has  
17 been claimed for another tax credit under this chapter.

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

21 <u>(xlvi) Small business tax credit;</u>	<u>Amount of credit under</u>
22 <u>disabled persons under</u>	<u>subdivision fifty-five</u>
23 <u>subsection (kkk)</u>	<u>of section two hundred</u>
24	<u>ten-B</u>

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

27 (kkk) Small business tax credit; disabled persons. (1) General. A  
28 taxpayer who has one hundred employees or less, shall be allowed a cred-  
29 it, to be computed as provided in this subsection, against the tax  
30 imposed by this article for each disabled person hired during a taxable  
31 year, provided that such disabled person is employed for thirty-five  
32 hours or more per week, remains in the employ of such taxpayer for six  
33 months or more and the employer submits verification that the claimed  
34 employees have met the statutory definition of "disabled person" pursu-  
35 ant to paragraph four of this subsection.

36 (2) Amount of credit. A credit authorized by this section shall equal  
37 five thousand dollars per hired disabled person but shall not exceed  
38 twenty-five thousand dollars.

39 (3) Carryovers. The credit allowed under this subdivision for any  
40 taxable year shall not reduce the tax due for such year to less than the  
41 amount prescribed in paragraph (d) of subdivision one of section two  
42 hundred ten of this article. However, if the amount of credit allowable  
43 under this subdivision for any taxable year reduces the tax to such  
44 amount or if the taxpayer otherwise pays tax based on the fixed dollar  
45 minimum amount, any amount of credit not deductible in such taxable year  
46 may be carried over to the following three years and may be deducted  
47 from the taxpayer's tax for such year or years.

48 (4) Definitions. As used in this subsection, the term "disabled  
49 person" shall mean a resident of the state who has any physical, mental  
50 or medical impairment resulting from anatomical, physiological, genetic  
51 or neurological conditions which prevents the exercise of a normal bodi-  
52 ly function or is demonstrable by medically accepted clinical or labora-  
53 tory diagnostic techniques.

54 (5) Aggregate amount. The aggregate amount of tax credits allowed  
55 pursuant to the authority of this subsection and subdivision fifty-five  
56 of section two hundred ten-B of this chapter shall be five million

1 dollars each year. Such aggregate amounts of credits shall be allocated  
2 by the commissioner. If the total amount of allocated credits applied  
3 for in any particular year exceeds the aggregate amount of tax credits  
4 allowed for such year under this section, such excess shall be treated  
5 as having been applied for on the first day of the subsequent year.

6 (6) Claim of credit. A taxpayer shall not be allowed to claim this  
7 credit to the extent the basis of the calculation of this credit has  
8 been claimed for another tax credit under this chapter.

9 § 4. The labor law is amended by adding a new section 25-d to read as  
10 follows:

11 § 25-d. Power to administer the small business tax credit for disabled  
12 persons tax credit program. (a) The commissioner is authorized to estab-  
13 lish and administer the small business tax credit for disabled persons  
14 to provide tax incentives to small business employers for employing  
15 individuals with disabilities. The commissioner is authorized to allo-  
16 cate up to five million dollars of tax credits annually.

17 (b) Definitions. (1) The term "qualified employer" means an employer  
18 that has been certified by the commissioner to participate in the small  
19 business tax credit for disabled persons tax credit program and that  
20 employs one or more qualified employees.

21 (2) The term "qualified employee" means an individual:

22 (i) who has any physical, mental or medical impairment resulting from  
23 anatomical, physiological, genetic or neurological conditions which  
24 prevents the exercise of a normal bodily function or is demonstrable by  
25 medically accepted clinical or laboratory diagnostic techniques;

26 (ii) who has worked for the qualified employer in a full-time or part-  
27 time position that pays wages that are equivalent to the wages paid for  
28 similar jobs, with appropriate adjustments for experience and training,  
29 and for which no other employee has been terminated, or where the  
30 employer has not otherwise reduced its workforce by involuntary termi-  
31 nations with the intention of filling the vacancy by creating a new  
32 hire;

33 (iii) who has not worked for an entity related to the qualified  
34 employer in the past twenty-four months; and

35 (iv) is employed in New York at a location in New York state.

36 (c) A qualified employer shall be entitled to a tax credit. The tax  
37 credits shall be claimed by the qualified employer as specified in  
38 subdivision fifty-five of section two hundred ten-B and subsection (kkk)  
39 of section six hundred six of the tax law.

40 (d) To participate in the small business tax credit for disabled  
41 persons tax credit program, an employer must submit an application (in a  
42 form prescribed by the commissioner) to the commissioner. The commis-  
43 sioner shall establish guidelines that specify requirements for employ-  
44 ers to participate in the program including criteria for certifying  
45 qualified employees. Any regulations that the commissioner determines  
46 are necessary may be adopted on an emergency basis notwithstanding  
47 anything to the contrary in section two hundred two of the state admin-  
48 istrative procedure act. Such requirements may include the types of  
49 industries that the employers are engaged in.

50 (e) If, after reviewing the application submitted by an employer, the  
51 commissioner determines that such employer is eligible to participate in  
52 the small business tax credit for disabled persons tax credit program,  
53 the commissioner shall issue the employer a preliminary certificate of  
54 eligibility that establishes the employer as a qualified employer. The  
55 certificate of eligibility shall specify the maximum amount of small  
56 business tax credit for disabled persons that the employer will be

1 allowed to claim. At the end of the taxable year, a qualified employer  
2 must obtain a final certificate of eligibility from the commissioner to  
3 file with a return claiming the credit. The final certificate must  
4 contain the certificate's taxable year to which the credit applies, the  
5 maximum amount of the credit allowed, the qualified employer's name and  
6 employer identification number, the employer's business address where  
7 the claimed employees were employed, the social security numbers of  
8 claimed employees and their hire and termination dates, verification  
9 that the claimed employees have met the statutory definition of "quali-  
10 fied employee", and each employee's total hours worked each quarter,  
11 hourly wage, and full-time or part-time status.

12 § 5. This act shall take effect immediately and shall apply to taxable  
13 years beginning on or after January 1, 2021 and shall expire and be  
14 deemed repealed December 31, 2026.