

# STATE OF NEW YORK

2291--A

2021-2022 Regular Sessions

## IN ASSEMBLY

January 14, 2021

Introduced by M. of A. STERN, DURSO, RA -- Multi-Sponsored by -- M. of A. GOODELL -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the economic development law and the tax law, in relation to authorizing the creation of small business tax-deferred savings accounts

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

1 Section 1. The economic development law is amended by adding a new  
2 section 138-a to read as follows:

3 § 138-a. Small business tax-deferred savings accounts. 1. A "small  
4 business taxpayer" or "small business" shall have the same meaning as  
5 defined in section one hundred thirty-one of this article and shall meet  
6 the requirements of paragraph (f) of subdivision one of section two  
7 hundred ten of the tax law.

8 2. Any small business shall be authorized to establish with any finan-  
9 cial organization a small business tax-deferred savings account and to  
10 make deposits into and withdrawals from such account. For purposes of  
11 this section, "financial organization" shall mean an organization  
12 authorized to do business in the state of New York and (a) which is  
13 licensed or chartered by the department of financial services, (b) is  
14 chartered by an agency of the federal government, or (c) is subject to  
15 the jurisdiction and regulation of the securities and exchange commis-  
16 sion of the federal government.

17 3. The amount deposited into such tax-deferred savings accounts and  
18 any interest earned on such deposits shall be subject to the provisions  
19 of subparagraph twenty-one of paragraph (a) of subdivision nine of  
20 section two hundred eight and paragraph forty-three of subsection (c) of

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

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1 section six hundred twelve of the tax law, unless such amounts are with-  
2 drawn and expended for a purpose other than a qualifying purpose.

3 4. For the purposes of this act, a qualifying purpose shall include  
4 small business taxpayer expenditures (a) for tangible personal property  
5 or other tangible property, including but not limited to buildings  
6 and structural components of buildings, that are principally used in the  
7 ordinary course of the taxpayer's trade or business and (b) other  
8 expenditures deemed appropriate by the department, which will improve  
9 the competitiveness and productivity of a small business and results in  
10 the creation or retention of full-time jobs.

11 5. The monies deposited into such tax-deferred savings accounts during  
12 any taxable year may not exceed five thousand dollars.

13 6. On or before April first, two thousand twenty-three and annually  
14 thereafter, the department, in consultation with the department of taxa-  
15 tion and finance, shall report on the number of small business taxpayers  
16 utilizing this program, the aggregate amount deposited for which a tax  
17 credit was claimed, the average aggregate amount on deposit in small  
18 business savings accounts, the amount of qualifying and non-qualifying  
19 withdrawals, and any other such data deemed necessary and appropriate by  
20 the department.

21 § 2. Paragraph (a) of subdivision 9 of section 208 of the tax law is  
22 amended by adding a new subparagraph 23 to read as follows:

23 (23) any amount deposited into a small business tax-deferred savings  
24 account created pursuant to section one hundred thirty-eight-a of the  
25 economic development law, and any interest earned on such deposits,  
26 provided that any amount withdrawn for a non-qualifying purpose shall be  
27 included in the entire net income for the tax year in which the with-  
28 drawal was made.

29 § 3. Subsection (c) of section 612 of the tax law is amended by adding  
30 a new paragraph 46 to read as follows:

31 (46) any amount deposited into a small business tax-deferred savings  
32 account created pursuant to section one hundred thirty-eight-a of the  
33 economic development law, and any interest earned on such deposits,  
34 provided that any amount withdrawn for a non-qualifying purpose shall be  
35 included in the entire net income for the tax year in which the with-  
36 drawal was made.

37 § 4. The department of taxation and finance, in consultation with the  
38 department of economic development, shall review and analyze all statis-  
39 tical data available for such purposes of determining the economic and  
40 revenue impact associated with this act. Such data shall be included in  
41 an annual report that shall also include, but not be limited to, the  
42 number of small business taxpayers utilizing this program, the average  
43 aggregate amount on deposit, the qualifying expenses claimed, any quali-  
44 fying expenses deemed inappropriate and any other such data deemed  
45 necessary and appropriate by the department. Such annual report shall be  
46 posted on the websites of the department of taxation and finance and the  
47 department of economic development, and transmitted to the governor, the  
48 temporary president of the senate, the senate minority leader, the  
49 speaker of the assembly and the assembly minority leader.

50 § 5. Rules and regulations. The department of taxation and finance in  
51 consultation with the department of economic development, is hereby  
52 authorized to promulgate rules and regulations in accordance with the  
53 state administrative procedure act that are necessary to fulfill the  
54 purposes of this act. Such regulations shall include but not be limited  
55 to deadlines for establishing a small business tax deferred savings  
56 account, standard procedures and forms to be utilized in the program,

1 and any other such regulations deemed necessary to promote the full  
2 utilization of this program. Such rules and regulations shall be  
3 completed within 180 days after the effective date of this act.  
4 § 6. This act shall take effect on the first of April next succeeding  
5 the date on which it shall have become a law.