

STATE OF NEW YORK

22--A

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. KAPLAN, HELMING, HINCHEY, MARTUCCI, MAY, SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business -- recommitted to the Committee on Commerce, Economic Development and Small Business in accordance with Senate Rule 6, sec. 8 -- 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

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

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1 of subparagraph twenty-one of paragraph (a) of subdivision nine of
2 section two hundred eight and paragraph forty-three of subsection (c) of
3 section six hundred twelve of the tax law, unless such amounts are with-
4 drawn and expended for a purpose other than a qualifying purpose.

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

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

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

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

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

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

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

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

52 § 5. Rules and regulations. The department of taxation and finance in
53 consultation with the department of economic development, is hereby
54 authorized to promulgate rules and regulations in accordance with the
55 state administrative procedure act that are necessary to fulfill the
56 purposes of this act. Such regulations shall include but not be limited

1 to deadlines for establishing a small business tax deferred savings
2 account, standard procedures and forms to be utilized in the program,
3 and any other such regulations deemed necessary to promote the full
4 utilization of this program. Such rules and regulations shall be
5 completed within 180 days after the effective date of this act.

6 § 6. This act shall take effect on the first of April next succeeding
7 the date on which it shall have become a law.