

STATE OF NEW YORK

3505--A

2021-2022 Regular Sessions

IN SENATE

January 29, 2021

Introduced by Sens. BAILEY, MYRIE, PERSAUD -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to a credit for employment of persons on probation or parole

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 187-t to
2 read as follows:

3 § 187-t. Credit for employment of persons on probation or parole. 1.
4 Allowance of credit. A taxpayer shall be allowed a credit, to be
5 computed as hereinafter provided, against the taxes imposed by this
6 article, other than the taxes imposed by sections one hundred eighty-
7 six-a and one hundred eighty-six-e of this article, for employing within
8 the state a qualified employee. Provided, however, the amount of credit
9 allowed by this section against the tax imposed by section one hundred
10 eighty-four of this article shall be the excess of the credit computed
11 under this section over the amount of credit allowed by this section
12 against the tax imposed by section one hundred eighty-three of this
13 article.

14 2. Qualified employee. A qualified employee is an individual who:
15 (a) has been convicted of a felony under any statute of the United
16 States or any state;

17 (b) is on probation or parole; and
18 (c) has worked on a full-time basis for the employer who is claiming
19 the credit for at least one hundred eighty days or four hundred hours.

20 3. Amount of credit. Except as provided in subdivision four of this
21 section, the amount of credit under this section shall be thirty-five
22 percent of the first six thousand dollars in qualified first-year wages
23 earned by each qualified employee. "Qualified first-year wages" means

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

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1 wages paid or incurred by the taxpayer during the taxable year to quali-
2 fied employees which are attributable, with respect to any such employ-
3 ee, to services rendered during the one-year period beginning with the
4 day the employee begins work for the taxpayer.

5 4. Credit where federal work opportunity tax credit applies. With
6 respect to any qualified employee whose qualified first-year wages under
7 subdivision three of this section also constitute qualified first-year
8 wages for purposes of the work opportunity tax credit for vocational
9 rehabilitation referrals under section fifty-one of the internal revenue
10 code, the amount of credit under this section shall be thirty-five
11 percent of the first six thousand dollars in qualified second-year wages
12 earned by each such employee. "Qualified second-year wages" means wages
13 paid or incurred by the taxpayer during the taxable year to qualified
14 employees which are attributable, with respect to any such employee, to
15 services rendered during the one-year period beginning one year after
16 the employee begins work for the taxpayer.

17 5. Carryover. In no event shall the credit under this section be
18 allowed in an amount which will reduce the tax payable to less than the
19 applicable minimum tax fixed by section one hundred eighty-three of this
20 article. If, however, the amount of credit allowable under this section
21 for any taxable year reduces the tax to such amount, any amount of cred-
22 it not deductible in such taxable year may be carried over to the
23 following year or years and may be deducted from the taxpayer's tax for
24 such year or years.

25 6. Coordination with federal work opportunity tax credit. The
26 provisions of sections fifty-one and fifty-two of the internal revenue
27 code, as such sections applied on October first, nineteen hundred nine-
28 ty-six, that apply to the work opportunity tax credit for vocational
29 rehabilitation referrals shall apply to the credit under this section to
30 the extent that such sections are consistent with the specific
31 provisions of this section, provided that in the event of a conflict the
32 provisions of this section shall control.

33 § 2. Section 210-B of the tax law is amended by adding a new subdivi-
34 sion 58 to read as follows:

35 58. Credit for employment of persons on probation or parole. (a)
36 Allowance of credit. A taxpayer shall be allowed a credit, to be
37 computed as hereinafter provided, against the taxes imposed by this
38 article, for employing within the state a qualified employee.

39 (b) Qualified employee. A qualified employee is an individual who:
40 (i) has been convicted of a felony under any statute of the United
41 States or any state; (ii) is on probation or parole; and (iii) has
42 worked on a full-time basis for the employer who is claiming the credit
43 for at least one hundred eighty days or four hundred hours.

44 (c) Amount of credit. Except as provided in paragraph (d) of this
45 subdivision, the amount of credit under this subdivision shall be thir-
46 ty-five percent of the first six thousand dollars in qualified first-
47 year wages earned by each qualified employee. "Qualified first-year
48 wages" means wages paid or incurred by the taxpayer during the taxable
49 year to qualified employees which are attributable, with respect to any
50 such employee, to services rendered during the one-year period beginning
51 with the day the employee begins work for the taxpayer.

52 (d) Credit where federal work opportunity tax credit applies. With
53 respect to any qualified employee whose qualified first-year wages under
54 paragraph (c) of this subdivision also constitute qualified first-year
55 wages for purposes of the work opportunity tax credit for vocational
56 rehabilitation referrals under section fifty-one of the internal revenue

code, the amount of credit under this subdivision shall be thirty-five percent of the first six thousand dollars in qualified second-year wages earned by each such employee. "Qualified second-year wages" means wages paid or incurred by the taxpayer during the taxable year to qualified employees which are attributable, with respect to any such employee, to services rendered during the one-year period beginning one year after the employee begins work for the taxpayer.

(e) Carryover. Except as otherwise provided in this paragraph, the credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the fixed dollar minimum amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(f) Coordination with federal work opportunity tax credit. The provisions of sections fifty-one and fifty-two of the internal revenue code, as such sections applied on October first, nineteen hundred ninety-six, that apply to the work opportunity tax credit for vocational rehabilitation referrals shall apply to the credit under this subdivision to the extent that such sections are consistent with the specific provisions of this subdivision, provided that in the event of a conflict the provisions of this subdivision shall control.

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

(nnn) Credit for employment of persons on probation or parole. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the taxes imposed by this article, for employing within the state a qualified employee.

(2) Qualified employee. A qualified employee is an individual who: (A) has been convicted of a felony under any statute of the United States or any state; (B) is on probation or parole; and (C) has worked on a full-time basis for the employer who is claiming the credit for at least one hundred eighty days or four hundred hours.

(3) Amount of credit. Except as provided in paragraph four of this subsection, the amount of credit under this subsection shall be thirty-five percent of the first six thousand dollars in qualified first-year wages earned by each qualified employee. "Qualified first-year wages" means wages paid or incurred by the taxpayer during the taxable year to qualified employees which are attributable, with respect to any such employee, to services rendered during the one-year period beginning with the day the employee begins work for the taxpayer.

(4) Credit where federal work opportunity tax credit applies. With respect to any qualified employee whose qualified first-year wages under paragraph three of this subsection also constitute qualified first-year wages for purposes of the work opportunity tax credit for vocational rehabilitation referrals under section fifty-one of the internal revenue code, the amount of credit under this section shall be thirty-five percent of the first six thousand dollars in qualified second-year wages earned by each such employee. "Qualified second-year wages" means wages paid or incurred by the taxpayer during the taxable year to qualified employees which are attributable, with respect to any such employee, to services rendered during the one-year period beginning one year after the employee begins work for the taxpayer.

1 (5) Carryover. If the amount of credit allowable under this subsection
2 for any taxable year exceeds the taxpayer's tax for such year, any
3 amount of credit not deductible in such taxable year may be carried over
4 to the following year or years and may be deducted from the taxpayer's
5 tax for such year or years.

6 (6) Coordination with federal work opportunity tax credit. The
7 provisions of sections fifty-one and fifty-two of the internal revenue
8 code, as such sections applied on October first, nineteen hundred nine-
9 ty-six, that apply to the work opportunity tax credit for vocational
10 rehabilitation referrals shall apply to the credit under this subsection
11 to the extent that such sections are consistent with the specific
12 provisions of this subsection, provided that in the event of a conflict
13 the provisions of this subsection shall control.

14 § 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
15 of the tax law is amended by adding a new clause (xlix) to read as
16 follows:

17 <u>(xlix) Employment of persons</u>	<u>Costs under subdivision</u>
18 <u>on probation or parole credit;</u>	<u>fifty-eight of section</u>
19 <u>subsection (nnn)</u>	<u>two hundred ten-B</u>

20 § 5. Section 1511 of the tax law is amended by adding a new subdivi-
21 sion (ee) to read as follows:

22 (ee) Credit for employment of persons on probation or parole. (1)
23 Allowance of credit. A taxpayer shall be allowed a credit, to be
24 computed as hereinafter provided, against the taxes imposed by this
25 article, for employing within the state a qualified employee.

26 (2) Qualified employee. A qualified employee is an individual who:
27 (A) has been convicted of a felony under any statute of the United
28 States or any state; (B) is on probation or parole; and (C) has worked
29 on a full-time basis for the employer who is claiming the credit for at
30 least one hundred eighty days or four hundred hours.

31 (3) Amount of credit. Except as provided in paragraph four of this
32 subdivision, the amount of credit under this subdivision shall be thir-
33 ty-five percent of the first six thousand dollars in qualified first-
34 year wages earned by each qualified employee. "Qualified first-year
35 wages" means wages paid or incurred by the taxpayer during the taxable
36 year to qualified employees which are attributable, with respect to any
37 such employee, to services rendered during the one-year period beginning
38 with the day the employee begins work for the taxpayer.

39 (4) Credit where federal work opportunity tax credit applies. With
40 respect to any qualified employee whose qualified first-year wages under
41 paragraph three of this section also constitute qualified first-year
42 wages for purposes of the work opportunity tax credit for vocational
43 rehabilitation referrals under section fifty-one of the internal revenue
44 code, the amount of credit under this section shall be thirty-five
45 percent of the first six thousand dollars in qualified second-year wages
46 earned by each such employee. "Qualified second-year wages" means wages
47 paid or incurred by the taxpayer during the taxable year to qualified
48 employees which are attributable, with respect to any such employee, to
49 services rendered during the one-year period beginning one year after
50 the employee begins work for the taxpayer.

51 (5) Carryover. The credit allowed under this subdivision for any
52 taxable year shall not reduce the tax due for such year to less than the
53 amount prescribed in paragraph four of subdivision (a) of section
54 fifteen hundred two of this article or the minimum tax prescribed in
55 section fifteen hundred two-a of this article, whichever is applicable.
56 If, however, the amount of credit allowable under this subdivision for

1 any taxable year reduces the tax to such amount, any amount of credit
2 not deductible in such taxable year may be carried over to the following
3 year or years and may be deducted from the taxpayer's tax for such year
4 or years.

5 (6) Coordination with federal work opportunity tax credit. The
6 provisions of sections fifty-one and fifty-two of the internal revenue
7 code, as such sections applied on October first, nineteen hundred nine-
8 ty-six, that apply to the work opportunity tax credit for vocational
9 rehabilitation referrals shall apply to the credit under this subdivi-
10 sion to the extent that such sections are consistent with the specific
11 provisions of this subdivision, provided that in the event of a conflict
12 the provisions of this subdivision shall control.

13 § 6. This act shall take effect immediately, and shall apply to taxa-
14 ble years beginning on and after January 1, 2021.