STATE OF NEW YORK

540--B

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. KAPLAN -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to establishing a tax credit for any equipment or product purchased by a small business that is used to comply with a COVID-19 health and safety plan

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

Section 1. Section 210-B of the tax law is amended by adding a new subdivision 58 to read as follows:

58. Sales tax paid on materials for COVID-19 health and safety plan compliance. (1) A taxpayer that is a small business shall be allowed a credit for sales tax paid during the eligibility period for any equipment or product, including materials used in the construction of physical barriers, including but not limited to plastic shielding walls, strip curtains, cubicle walls, plexiglass or similar materials, or other impermeable dividers or partitions, purchased by such small business in order to be in compliance with a COVID-19 health and safety plan. The eligibility period shall be the period of time beginning on May fifteenth, two thousand twenty and ending with the end of the declared COVID-19 state of emergency as set out pursuant to executive order two hundred two of two thousand twenty and as continued in each subsequent executive order.

(2) 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. However, if the amount of credit allowed under this subdivision for any taxable year reduces the

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

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tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit thus not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

(3) For purposes of this subdivision, the term "small business" shall mean a business with one hundred or fewer employees.

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

(nnn) Sales tax paid on materials for COVID-19 health and safety plan compliance. (1) A taxpayer who owns a small business shall be allowed a credit for sales tax paid during the eligibility period for any equipment or product, including materials used in the construction of physical barriers, including but not limited to plastic shielding walls, strip curtains, cubicle walls, plexiglass or similar materials, or other impermeable dividers or partitions, purchased by such small business in order to be in compliance with a COVID-19 health and safety plan. The eligibility period shall be the period of time beginning on May fifteenth, two thousand twenty and ending with the end of the declared COVID-19 state of emergency as set out pursuant to executive order two hundred two of two thousand twenty and as continued in each subsequent executive order.

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

(3) For purposes of this subsection, the term "small business" shall mean a business with one hundred or fewer employees.

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

(xlix) Sales tax paid on materials for COVID-19 health and safety plan compliance under subsection (nnn)	Sales tax paid on materials for COVID-19 health and safety plan compliance under subdivision fifty-eight of section two hundred ten-B

§ 4. This act shall take effect immediately, and shall apply to taxable years beginning on and after January 1, 2021; provided that the commissioner of taxation and finance shall be authorized on and after the date this act shall have become a law to take steps necessary to implement the provisions of this act on its effective date.