

# 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:

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

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

16 (2) The credit allowed under this subdivision for any taxable year  
17 shall not reduce the tax due for such year to less than the fixed dollar  
18 minimum amount prescribed in paragraph (d) of subdivision one of  
19 section two hundred ten of this article. However, if the amount of cred-  
20 it 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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1 tax to such amount or if the taxpayer otherwise pays tax based on the  
 2 fixed dollar minimum amount, any amount of credit thus not deductible  
 3 in such taxable year shall be treated as an overpayment of tax to be  
 4 credited or refunded in accordance with the provisions of section one  
 5 thousand eighty-six of this chapter. Provided, however, the provisions  
 6 of subsection (c) of section one thousand eighty-eight of this chap-  
 7 ter notwithstanding, no interest shall be paid thereon.

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

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

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

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

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

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

|  |                                |
|--|--------------------------------|
| 35 <u>(xlix) Sales tax paid on materials</u> | <u>Sales tax paid on</u>       |
| 36 <u>for COVID-19 health and safety</u>     | <u>materials for</u>           |
| 37 <u>plan compliance under</u>              | <u>COVID-19 health</u>         |
| 38 <u>subsection (nnn)</u>                   | <u>and safety plan</u>         |
| 39   | <u>compliance under</u>        |
| 40   | <u>subdivision fifty-eight</u> |
| 41   | <u>of section two</u>          |
| 42   | <u>hundred ten-B</u>           |

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