

STATE OF NEW YORK

1434--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

Introduced by M. of A. MAGNARELLI, COOK, REYES -- Multi-Sponsored by --
M. of A. ABBATE, GUNTHER -- read once and referred to the Committee
on Ways and Means -- reported and referred to the Committee on Ways
and Means -- committee discharged, bill amended, ordered reprinted as
amended and recommitted to said committee

AN ACT to amend the tax law, in relation to providing credits against
the tax imposed upon employers providing certain day care services to
the children of its employees

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

Section 1. Section 210-B of the tax law is amended by adding a new
subdivision 55 to read as follows:

55. Employer day care credit. (a) A taxpayer shall be allowed a credit
against the tax imposed by this article to the extent of twenty percent
of the expenses incurred during a taxable year by the taxpayer in making
available day care services to the children and wards of employees and
in training persons employed by the taxpayer or by a third party provid-
er rendering such services. A taxpayer may make such services available
as follows:

(1) pursuant to a written contract with a third party provider;

(2) by reimbursing an employee for expenses incurred by the employee
for such services; or

(3) by providing on-site or near-site day care services.

In no event shall the amount of such credit exceed the amount of tax
otherwise due pursuant to this article for any taxable year.

(b) (1) No such credit shall be allowed to a taxpayer who unfairly
discriminates against any employee on the basis of race, creed, reli-
gion, sex, national origin, age, disability, or marital status in making
available day care services.

(2) A taxpayer may give a preference to children or wards of employees
for whom obtaining or maintaining gainful employment is contingent upon

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

LBD01713-03-1

1 the availability of day care services for such children or wards, in
2 providing services qualifying for a credit hereunder.

3 (c) No such credit shall be allowed to a taxpayer unless the facility
4 or program rendering day care services is licensed by and subject to the
5 regulations of the department of family assistance or the human
6 resources administration governing day care facilities in New York city.

7 (d) No such credit shall be allowed to a taxpayer if the facility or
8 program rendering day care services admits, during regular school hours,
9 children who are subject to the provisions of the education law with
10 regard to compulsory school attendance.

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

13 (ee) Employer day care credit. (1) A taxpayer shall be allowed a cred-
14 it against the tax imposed by this article to the extent of twenty
15 percent of the expenses incurred during the taxable year by the taxpayer
16 in making available day care services to the children and wards of
17 employees and in training persons employed by the taxpayer or by a third
18 party provider rendering such services. A taxpayer may make such
19 services available as follows:

20 (A) pursuant to a written contract with a third party provider;

21 (B) by reimbursing an employee for expenses incurred by the employee
22 for such services; or

23 (C) by providing on-site or near-site day care services.

24 In no event shall the amount of such credit exceed the amount of tax
25 otherwise due pursuant to this article for any taxable year.

26 (2) (A) No such credit shall be allowed to a taxpayer who unfairly
27 discriminates against any employee on the basis of race, creed, reli-
28 gion, sex, national origin, age, disability or marital status in making
29 available day care services.

30 (B) A taxpayer may give a preference to children or wards of day care
31 dependent employees for whom obtaining or maintaining gainful employment
32 is contingent upon the availability of day care services for such chil-
33 dren or wards, in providing services qualifying for a credit hereunder.

34 (3) No such credit shall be allowed to a taxpayer unless the facility
35 or program rendering day care services is licensed by and subject to the
36 regulations of the department of family assistance or the human
37 resources administration governing day care facilities in New York city.

38 (4) No such credit shall be allowed to a taxpayer if the facility or
39 program rendering day care services admits, during regular school hours,
40 children who are subject to the provisions of the education law with
41 regard to compulsory school attendance.

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

44 (lll) Employer day care credit. (1) A taxpayer shall be allowed a
45 credit against the tax imposed by section six hundred one of this part
46 to the extent of twenty percent of expenses incurred during the taxable
47 year by the taxpayer in making available day care services to the chil-
48 dren and wards of employees and in training persons employed by the
49 taxpayer or by a third party provider rendering such services. A taxpay-
50 er may make such services available as follows:

51 (A) pursuant to a written contract with a third party provider;

52 (B) by reimbursing an employee for expenses incurred by the employee
53 for such services; or

54 (C) by providing on-site or near-site day care services.

55 In no event shall the amount of such credit exceed the amount of tax
56 otherwise due pursuant to this article for any taxable year.

1 (2) (A) No such credit shall be allowed to a taxpayer who unfairly
2 discriminates against any employee on the basis of race, creed, reli-
3 gion, sex, national origin, age, disability or marital status in making
4 available day care services.

5 (B) A taxpayer may give a preference to children or wards of employees
6 for whom obtaining or maintaining gainful employment is contingent upon
7 the availability of day care services for such children or wards, in
8 providing services qualifying for a credit hereunder.

9 (3) No such credit shall be allowed to a taxpayer unless the facility
10 or program rendering day care services is licensed by and subject to the
11 regulations of the department of family assistance or the human
12 resources administration governing day care facilities in New York city.

13 (4) No such credit shall be allowed to a taxpayer if the facility or
14 program rendering day care services admits, during regular school hours,
15 children who are subject to the provisions of the education law with
16 regard to compulsory school attendance.

17 § 4. This act shall take effect immediately and shall apply to taxable
18 years commencing on and after January 1, 2023.