

STATE OF NEW YORK

8258

2021-2022 Regular Sessions

IN ASSEMBLY

August 25, 2021

Introduced by M. of A. McDONOUGH -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing tax credits for local newspaper subscriptions, newspaper payrolls, and local media advertising; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Section 606 of the tax law is amended by adding a new
2 subsection (nnn) to read as follows:

3 (nnn) Local newspaper subscription tax credit. (1) Allowance of cred-
4 it. A taxpayer with a subscription to a local newspaper during the taxa-
5 ble year shall be allowed a credit against the tax imposed by this arti-
6 cle in an amount not to exceed two hundred fifty dollars.

7 (2) Definitions. (A) For the purposes of this subsection, "local news-
8 paper" shall mean any print or digital publication if: (i) the primary
9 content of such publication is original content derived from primary
10 sources and relating to news and current events;

11 (ii) at least fifty-one percent of the readers of such publication,
12 including both print and digital versions, reside in:

13 a. a single county within this state, or

14 b. a single area with a two hundred mile radius;

15 (iii) at least fifty percent of such publication's content is original
16 and is created or produced by persons receiving compensation for their
17 services from such publication;

18 (iv) the publication employs at least one local news journalist who
19 resides in such county or single area; and

20 (v) the publication employs not greater than two hundred employees.

21 The requirements of clauses (i) through (v) of this subparagraph shall
22 not be treated as met unless such requirements are met at all times

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

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1 during the period beginning on the date which is two years before the
2 effective date of this subsection.

3 (B) In the case of any print or digital publication which is published
4 by any tax exempt organization, such publication shall be treated as a
5 local newspaper only if:

6 (i) the publication of print and digital publications is the primary
7 activity of such organization, and

8 (ii) any person making a charitable contribution to such organization
9 may elect to treat such contribution as an amount paid or incurred for a
10 subscription to which this subsection applies in lieu of treating such
11 contribution as a charitable contribution.

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

14 (ooo) Newspaper payroll tax credit. (1) General. A taxpayer shall be
15 allowed a credit against the tax imposed by this article for each quar-
16 ter during the taxable year in an amount equal to the applicable
17 percentage of the qualified journalism compensation paid to each indi-
18 vidual for such quarter.

19 (2) Amount of credit. (A) The amount of qualified journalism compen-
20 sation paid with respect to any individual which may be taken into
21 account under paragraph one of this subsection during any quarter during
22 the taxable year by the eligible newspaper employer shall not exceed
23 twelve thousand five hundred dollars.

24 (B) The credit allowed by paragraph one of this subsection with
25 respect to any quarter during the taxable year shall not exceed the
26 applicable employment taxes on the wages paid with respect to the
27 employment of all the employees of the eligible newspaper employer for
28 such quarter.

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

34 (3) Definitions. For purposes of this subsection, the following terms
35 shall have the following meanings:

36 (A) "Applicable percentage" shall mean:

37 (i) for taxable years beginning in two thousand twenty-two, each of
38 the first four quarters during the taxable year to which this subsection
39 applies, fifty percent; and

40 (ii) for taxable years beginning after two thousand twenty-two, each
41 quarter during the taxable year thereafter, thirty percent.

42 (B) "Eligible newspaper employer" shall mean, with respect to any
43 quarter during the taxable year, any employer if: (i) substantially all
44 of the gross receipts of such employer for such quarter are derived from
45 the trade or business of printing or publishing print or digital publi-
46 cations the primary content of which is original content derived from
47 primary sources and relating to news and current events;

48 (ii) at least fifty-one percent of the readers of which reside in:

49 a. a single county within this state; or

50 b. a single area with a two hundred mile radius;

51 (iii) at least fifty percent of such publication's content is original
52 and is created or produced by persons receiving compensation for their
53 services from such publication;

54 (iv) the publication employs at least one local news journalist who
55 resides in such county or single area; and

56 (v) the publication employs not greater than two hundred employees.

The requirements of clauses (i) through (v) of this subparagraph shall not be treated as met unless such requirements are met at all times during the period beginning on the date which is two years before the effective date of this subsection.

(C) "Qualified journalism compensation" shall mean:

(i) wages paid by an eligible newspaper employer to an employee for service as a journalist; and

(ii) in the case of remuneration paid to an individual who is not an employee of the employer, such remuneration as would be described in subparagraph (A) of this paragraph if such individual were such an employee.

(D) "Journalist" shall mean any individual who regularly gathers, prepares, collects, photographs, records, writes, edits, reports, or publishes news or information that concerns local, national, or international events or other matters of public interest for dissemination to the public.

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

(ppp) Local media advertising tax credit. (1) General. A taxpayer determined to be an eligible small business shall be allowed a credit against the tax imposed by this article for any taxable year in an amount equal to the applicable percentage of the qualified local media advertising expenses paid or incurred by such taxpayer during such taxable year.

(2) Amount of credit. The credit allowed under paragraph one of this subsection to any taxpayer for any taxable year shall not exceed:

(A) for taxable years beginning in two thousand twenty-two, five thousand dollars, and

(B) for taxable years beginning after two thousand twenty-two, two thousand five hundred dollars.

(3) Definitions. For the purposes of this subsection, the following terms shall have the following meanings:

(A) "Applicable percentage" shall mean:

(i) for taxable years beginning in two thousand twenty-two, eighty percent, and

(ii) for taxable years beginning after two thousand twenty-two, fifty percent.

(B) "Eligible small business" shall mean any person for any taxable year if the average number of full-time employees employed by such person during such taxable year was less than one thousand employees.

(C) "Qualified local media advertising expenses" shall mean amounts paid or incurred in the ordinary course of a trade or business for advertising in a local newspaper as defined in subparagraph (A) of paragraph two of subsection (nnn) of this section or a broadcast of a local radio or television station.

(D) "Local radio or television station" shall mean any broadcast radio or television station licensed by the federal communications commission to serve a local community.

(4) Denial of double benefit. No deduction shall be allowed for any qualified local media advertising expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under paragraph one of this subsection.

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

(xlvii) Local newspaper subscription tax credit under subsection (nnn) Amount of credit under subdivision fifty-eight of section two hundred ten-B

§ 5. 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) Newspaper payroll tax credit under subsection (ooo) Amount of credit under subdivision fifty-nine of section two hundred ten-B

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

(l) Local media advertising tax credit under subsection (ppp) Amount of credit under subdivision sixty of section two hundred ten-B

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

58. Local newspaper subscription tax credit. (a) Allowance of credit. A taxpayer with a subscription to a local newspaper during the taxable year shall be allowed a credit against the tax imposed by this article in an amount not to exceed two hundred fifty dollars.

(b) Definitions. (1) For the purposes of this subdivision, "local newspaper" shall mean any print or digital publication if: (i) if the primary content of such publication is original content derived from primary sources and relating to news and current events;

(ii) at least fifty-one percent of the readers of such publication, including both print and digital versions, reside in:

(A) a single county within this state, or

(B) a single area with a two hundred mile radius;

(iii) at least fifty percent of such publication's content is original and is created or produced by persons receiving compensation for their services from such publication;

(iv) the publication employs at least one local news journalist who resides in such county or single area; and

(v) the publication employs not greater than two hundred employees.

The requirements of clauses (i) through (v) of this subparagraph shall not be treated as met unless such requirements are met at all times during the period beginning on the date which is two years before the effective date of this subdivision.

(2) In the case of any print or digital publication which is published by any tax exempt organization, such publication shall be treated as a local newspaper only if:

(i) the publication of print and digital publications is the primary activity of such organization, and

(ii) any person making a charitable contribution to such organization may elect to treat such contribution as an amount paid or incurred for a subscription to which this subdivision applies in lieu of treating such contribution as a charitable contribution.

§ 8. Section 210-B of the tax law is amended by adding a new subdivision 59 to read as follows:

59. Newspaper payroll tax credit. (a) General. A taxpayer shall be allowed a credit against the tax imposed by this article for each quar-

1 ter during the taxable year in an amount equal to the applicable
2 percentage of the qualified journalism compensation paid to each indi-
3 vidual for such quarter.

4 (b) Amount of credit. (1) The amount of qualified journalism compen-
5 sation paid with respect to any individual which may be taken into
6 account under paragraph (a) of this subdivision during any quarter
7 during the taxable year by the eligible newspaper employer shall not
8 exceed twelve thousand five hundred dollars.

9 (2) The credit allowed by paragraph (a) of this subdivision with
10 respect to any quarter during the taxable year shall not exceed the
11 applicable employment taxes on the wages paid with respect to the
12 employment of all the employees of the eligible newspaper employer for
13 such quarter.

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

19 (c) Definitions. For purposes of this subdivision, the following terms
20 shall have the following meanings:

21 (1) "Applicable percentage" shall mean:

22 (i) for taxable years beginning in two thousand twenty-two, each of
23 the first four quarters during the taxable year to which this subdivi-
24 sion applies, fifty percent; and

25 (ii) for taxable years beginning after two thousand twenty-two, each
26 quarter during the taxable year thereafter, thirty percent.

27 (2) "Eligible newspaper employer" shall mean, with respect to any
28 quarter during the taxable year, any employer if: (i) substantially all
29 of the gross receipts of such employer for such quarter are derived from
30 the trade or business of printing or publishing print or digital publi-
31 cations the primary content of which is original content derived from
32 primary sources and relating to news and current events;

33 (ii) at least fifty-one percent of the readers of which reside in:

34 (A) a single county within this state; or

35 (B) a single area with a two hundred mile radius;

36 (iii) at least fifty percent of such publication's content is original
37 and is created or produced by persons receiving compensation for their
38 services from such publication;

39 (iv) the publication employs at least one local news journalist who
40 resides in such county or single area; and

41 (v) the publication employs not greater than two hundred employees.

42 The requirements of clauses (i) through (v) of this subparagraph shall
43 not be treated as met unless such requirements are met at all times
44 during the period beginning on the date which is two years before the
45 effective date of this subdivision.

46 (3) "Qualified journalism compensation" shall mean:

47 (i) wages paid by an eligible newspaper employer to an employee for
48 service as a journalist; and

49 (ii) in the case of remuneration paid to an individual who is not an
50 employee of the employer, such remuneration as would be described in
51 subparagraph one of this paragraph if such individual were such an
52 employee.

53 (4) "Journalist" shall mean any individual who regularly gathers,
54 prepares, collects, photographs, records, writes, edits, reports, or
55 publishes news or information that concerns local, national, or interna-

1 tional events or other matters of public interest for dissemination to
2 the public.

3 § 9. Section 210-B of the tax law is amended by adding a new subdivi-
4 sion 60 to read as follows:

5 60. Local media advertising tax credit. (a) General. A taxpayer deter-
6 mined to be an eligible small business shall be allowed a credit against
7 the tax imposed by this article for any taxable year in an amount equal
8 to the applicable percentage of the qualified local media advertising
9 expenses paid or incurred by such taxpayer during such taxable year.

10 (b) Amount of credit. The credit allowed under paragraph (a) of this
11 subdivision to any taxpayer for any taxable year shall not exceed:

12 (1) for taxable years beginning in two thousand twenty-two, five thou-
13 sand dollars, and

14 (2) for taxable years beginning after two thousand twenty-two, two
15 thousand five hundred dollars.

16 (c) Definitions. For the purposes of this subdivision, the following
17 terms shall have the following meanings:

18 (1) "Applicable percentage" shall mean:

19 (i) for taxable years beginning in two thousand twenty-two, eighty
20 percent, and

21 (ii) for taxable years beginning after two thousand twenty-two, fifty
22 percent.

23 (2) "Eligible small business" shall mean any person for any taxable
24 year if the average number of full-time employees employed by such
25 person during such taxable year was less than one thousand employees.

26 (3) "Qualified local media advertising expenses" shall mean amounts
27 paid or incurred in the ordinary course of a trade or business for
28 advertising in a local newspaper as defined in subparagraph one of para-
29 graph (b) of subdivision fifty-eight of this section or a broadcast of a
30 local radio or television station.

31 (4) "Local radio or television station" shall mean any broadcast radio
32 or television station licensed by the federal communications commission
33 to serve a local community.

34 (d) Denial of double benefit. No deduction shall be allowed for any
35 qualified local media advertising expenses otherwise allowable as a
36 deduction for the taxable year which is equal to the amount of the cred-
37 it determined for such taxable year under paragraph (a) of this subdivi-
38 sion.

39 § 10. This act shall take effect immediately and shall apply to taxa-
40 ble years commencing on and after January 1, 2022; provided, however,
41 that the provisions of sections one, three, four, six, seven and nine of
42 this act shall expire on December 31, 2027, when upon such date the
43 provisions of such sections shall be deemed repealed.