STATE OF NEW YORK

8585

2021-2022 Regular Sessions

IN ASSEMBLY

December 13, 2021

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

AN ACT to amend the tax law, in relation to providing a tax credit for the cost of subscriptions that support local newspapers and other local media and a payroll tax credit for compensation of journalists; and to provide for the repeal of such provisions upon expiration thereof

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

Section 1. This act shall be known and may be cited as the "local journalism sustainability act".

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

(nnn) Credit for qualifying publication subscriptions. (1) Allowance of credit. For taxable years beginning on or after January first, two thousand twenty-two, a credit for qualifying publication subscriptions shall be allowed to a resident individual of the state against the tax imposed by this article in an amount equal to the applicable percentage of amounts paid or incurred for subscriptions to one or more qualifying publications for the personal use of the taxpayer.

(2) Application of credit. The credit allowed under paragraph one of this subsection to any taxpayer for any taxable year shall not exceed two hundred fifty dollars per tax year and shall be subject to the applicable percentages described in this subdivision.

(3) Definitions. As used in this subsection, the following terms shall have the following meanings:

(A) "Applicable percentage" means: (i) in the first taxable year to which this section applies, eighty percent of the total cost of the subscription or subscriptions, and (ii) in any subsequent taxable year, fifty percent of the total cost of the subscription or subscriptions.

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

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(B) "Qualifying publication" means, with respect to any calendar year, any print or digital publication:

(i) the primary purpose of which is to serve a local community by providing local news, which is published during each quarter of the calendar year and has been published during each of the four calendar quarters preceding such calendar year;

(ii) which is covered by media liability insurance for such calendar year;

(iii) which publishes the owner's name pursuant to section three hundred thirty of the general business law, provided that a digital publication shall publish the information required by such section on the website of such publication; and

(iv) which receives services from not more than fifteen hundred persons during such calendar quarter.

(C) (a) "Local community" means, with respect to any qualifying publication, a geographically contiguous area that does not exceed the boundaries of:

(i) the metropolitan or micropolitan statistical area, as defined by the federal Office of Management and Budget, in which the qualifying publication is primarily distributed;

(ii) if such qualifying publication is not primarily distributed in a metropolitan or micropolitan statistical area, the county in which such qualifying publication is primarily distributed; or

(iii) if such qualifying publication is not primarily distributed in a metropolitan or micropolitan statistical area or a county, the state.

(b) A digital publication shall be considered to be primarily distributed in the area where such publication is primarily consumed.

(4) Application to certain organizations exempt from tax. In the case of any print or digital publication that is published by any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of the Internal Revenue Code of 1986, such publication shall be treated as a qualifying publication under this subsection 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 (as defined in section 170(c) of the Internal Revenue Code of 1986) to such organization may elect to treat such contribution as an amount paid or incurred for a subscription to which this subsection applies in lieu of treating such contribution as a charitable contribution for purposes of section 170 of the Internal Revenue Code of 1986.

(5) Limitation. The credit allowable under this subsection shall be allowable for a period of five years from the effective date of this subsection. No credit shall be allowed under this subsection for any amount paid or incurred by the taxpayer in a taxable year commencing after the close of the five-year period. No credit shall be allowed under this subsection for any portion of an amount paid or incurred by a taxpayer in a taxable year for any subscription or extension thereof that extends beyond the close of the five-year period beginning on the effective date of this subsection.

§ 3. The tax law is amended by adding a new section 24-d to read as follows:

§ 24-d. Payroll credit for compensation of journalists. (a) In general. An eligible local news journalist employer which is subject to tax under articles nine-A or twenty-two of this chapter shall be allowed a credit against such tax, to be computed as provided in this section, for each calendar quarter an amount equal to the applicable percentage of

wages paid by such employer to local news journalists for such calendar quarter.

(b) Limitations. (1) The number of local news journalists which may be taken into account under subdivision (a) of this section with respect to any eligible local news journalist employer for any calendar quarter shall not exceed one thousand five hundred.

(2) The amount of wages paid with respect to any individual which may be taken into account under subdivision (a) of this section during any calendar quarter by the eligible local news journalist employer shall not exceed twelve thousand five hundred dollars.

(3) The provisions of this section shall only apply to the first twenty calendar quarters beginning after the effective date of this section.

(4) The credit allowed by subdivision (a) of this section with respect to any calendar quarter shall not exceed the applicable employment taxes (reduced by any credits allowed under subsections (e) and (f) of section 3111 of the Internal Revenue Code of 1986, sections 7001 and 7003 of the Families First Coronavirus Response Act, and section 2301 of the CARES Act) on the wages paid with respect to the employment of all the employees of the eligible newspaper employer for such calendar quarter.

(5) This section shall not apply with respect to any eligible local news journalist employer for any calendar quarter if such employer elects (at such time and in such manner as the commissioner may prescribe) not to have this section apply.

(6) Any wages taken into account in determining the credit allowed under this section shall not be taken into account for purposes of determining any other credit allowed under this chapter.

(7) The credit allowable under this section shall be allowable for a period of five years from the effective date of this section. No credit shall be allowed under this section for any amount paid or incurred by the taxpayer in a taxable year commencing after the close of the five-year period. No credit shall be allowed under this section for any portion of an amount paid or incurred by the taxpayer in a taxable year for any wages that extend beyond the close of the five-year period beginning on the effective date of this section.

(c) Definitions. As used in this section, the following terms shall have the following meanings:

(1) "Applicable percentage" means:

(A) in the case of each of the first four calendar quarters to which this section applies, fifty percent; and

(B) in the case of each calendar quarter thereafter, thirty percent.

(2) (A) "Eligible local news journalist employer" means, with respect to any calendar quarter, any employer which: (i) is an eligible local news organization or a qualifying broadcast station; and (ii) employs local news journalists.

(B) All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986, or subsection (m) or (o) of section 414 of such Code, shall be treated as one employer for purposes of this section.

(3) "Eligible local news organization" means, with respect to any calendar quarter, any employer which:

(A) publishes one or more qualifying publications during the calendar quarter,

(B) is not a disqualified organization; and

(C) did not derive more than fifty percent of its gross receipts for such calendar quarter from disqualified organizations.

(4) "Qualifying broadcast station" means, with respect to any calendar quarter, any employer which:

(A) owns or operates a broadcast station, as defined by section three of the federal communications act of 1934,

(B) is not a disqualified organization;

(C) did not derive more than fifty percent of its gross receipts for such calendar quarter from disqualified organizations; and

(D) discloses its ownership to the public at such times and in such manner as identified by the commissioner.

(5) "Local news journalist" means, with respect to any eligible local news journalist for any calendar quarter, any full time employee who (A) provides qualified services for an average of not less than thirty hours per week for each week during which such employee is employed by the eligible local news journalist employer during the calendar quarter, and (B) resides within fifty miles of the local community with respect to the qualifying publication or qualifying broadcast station with respect to which the qualified services are provided.

(6) "Qualified services" means services which consist of gathering, preparing, directing the recording of, producing, collecting, photographing, recording, writing, editing, reporting, presenting or publishing original local community news for dissemination to the local community.

(7) "Qualifying publication" means, with respect to any calendar quarter, any print or digital publication:

(A) the primary purpose of which is to serve a local community by providing local news, which is published during the calendar quarter and has been published during each of the four calendar quarters preceding such calendar quarter;

(B) which is covered by media liability insurance for such calendar quarter;

(C) which publishes the owner's name pursuant to section three hundred thirty of the general business law, provided that a digital publication shall publish the information required by such section on the website of such publication; and

(D) which receives services from not more than fifteen hundred persons during such calendar quarter.

(8) (A) "Local community" means, with respect to any qualifying publication, a geographically contiguous area that does not exceed the boundaries of:

(i) the metropolitan or micropolitan statistical area, as defined by the federal Office of Management and Budget, in which the qualifying publication is primarily distributed;

(ii) if such qualifying publication is not primarily distributed in a metropolitan or micropolitan statistical area, the county in which such qualifying publication is primarily distributed; or

(iii) if such qualifying publication is not primarily distributed in a metropolitan or micropolitan statistical area or a county, the state.

(B) A digital publication shall be considered to be primarily distributed in the area where such publication is primarily consumed.

(9) "Disqualified organization" means:

(A) any organization described in section 501(c)(4) of the internal revenue code and exempt from tax under section 501(a) of such code;

(B) any organization described in section 527 of the internal revenue code; or

(C) any organization that is controlled, directly or indirectly, by one or more organizations described in subparagraph (i) or (ii) of this paragraph.

(d) Maximum amount of credits. The maximum amount of tax credits allowed under this section, subdivision fifty-five of section two hundred ten-B and subsection (w) of section six hundred six of this chapter in any calendar year shall be one million dollars per eligible newspaper employer.

(e) Administration. The commissioner shall issue such forms, instructions, regulations, and guidance as are necessary:

(1) to allow the advance payment of the credit under subdivision (a) of this section, subject to the limitations provided in this section, based on such information as the commissioner shall require;

(2) to provide for the reconciliation of such advance payment with the amount advanced at the time of filing the return of tax for the applicable calendar quarter or taxable year; and

(3) with respect to the application of the credit under subdivision (a) of this section to third-party payors (including professional employer organizations, certified professional employer organizations, or agents under section 3504 of the Internal Revenue Code of 1986), including regulations or guidance allowing such payors to submit documentation necessary to substantiate the eligible employer status of employers that use such payors.

(f) Treatment of deposits. The commissioner shall waive any penalty under this chapter for any failure to make a deposit of any applicable employment taxes if the commissioner determines that such failure was due to the reasonable anticipation of the credit allowed under this section.

(g) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) article 9-A: section 210-B: subdivision 55.

(2) article 22: section 606: subsections (i) and (w).

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

55. Payroll credit for compensation of journalists. (a) Allowance of credit. A taxpayer who is eligible pursuant to section twenty-four-d of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article.

(b) Application of credit. The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article; provided, however, that if the amount of the credit allowable under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, the excess 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; and provided, further, that the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

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

(w) Payroll credit for compensation of journalists. (1) Allowance of credit. A taxpayer who is eligible pursuant to section twenty-four-d of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article.

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

§ 6. 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:

(xlvi) Payroll credit for compensation of journalists under subsection (w)	**Amount of credit for the sum of payroll credit for compensation of journalists under subdivision fifty-five of section two hundred ten-B**

§ 7. This act shall take effect immediately and shall apply to tax years commencing on and after January 1, 2022; provided that:

(a) this act shall expire and be deemed repealed January 1, 2027; and

(b) the expiration and repeal of this act shall not affect the processing or allowance of any tax credit provided in this act for any tax year commencing prior to January 1, 2027.

Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.