

# STATE OF NEW YORK

2958--C

2023-2024 Regular Sessions

## IN ASSEMBLY

February 1, 2023

Introduced by M. of A. WOERNER, SAYEGH, BURDICK, LEVENBERG, CRUZ, BORES, SEAWRIGHT, FAHY, STIRPE, SHIMSKY, McMAHON, REYES, THIELE, SILLITTI, SEPTIMO, NOVAKHOV, BRABENEC, HAWLEY, MAHER, McDONOUGH, SIMON, JONES, RAGA, GUNTHER, EPSTEIN, SLATER, J. A. GIGLIO, BYRNES, ANGELINO, BURGOS, KELLES, SIMONE -- Multi-Sponsored by -- M. of A. STECK -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, 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 providing 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:

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

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

5 § 24-d. Payroll credit for compensation of journalists. (a) In gener-  
6 al. An eligible news journalist employer which is subject to tax under  
7 article nine-A or twenty-two of this chapter shall be allowed a credit  
8 against such tax, to be computed as provided in this section, for each  
9 calendar quarter an amount equal to the applicable percentage of wages  
10 paid by such employer to news journalists for such calendar quarter.

11 (b) Limitations. (1) The amount of wages paid with respect to any  
12 individual which may be taken into account under subdivision (a) of this  
13 section during any calendar quarter by the eligible news journalist  
14 employer shall not exceed twelve thousand five hundred dollars. Credit  
15 is allowed for individuals paid in excess of this amount but shall be

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

LBD02644-09-3

1 limited to a portion of the wages paid up to twelve thousand five  
2 hundred dollars per quarter.

3 (2) The provisions of this section shall only apply to the first twen-  
4 ty calendar quarters beginning after the effective date of this section.

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

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

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

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

22 (1) "Applicable percentage" means fifty percent.

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

26 (B) All persons treated as a single employer under subsection (a) or  
27 (b) of section 52 of the Internal Revenue Code of 1986, or subsection  
28 (m) or (o) of section 414 of such Code, shall be treated as one employer  
29 for purposes of this paragraph; provided that each FCC licensed broad-  
30 cast station or qualifying publication which serves a separate market  
31 shall be treated as a separate and single news journalist employer for  
32 the purposes of this tax credit.

33 (3) (A) "Qualifying broadcast station" means, with respect to any  
34 calendar quarter, any employer which:

35 (i) provides local community news, which is broadcast during the  
36 calendar quarter and has been broadcast during each of the four calendar  
37 quarters preceding such calendar quarter;

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

40 (iii) is not a disqualified organization;

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

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

45 (B) For purposes of this paragraph each FCC licensed broadcast station  
46 servicing a separate market shall be treated as a separate and single news  
47 journalist employer.

48 (4) "News journalist" means, with respect to any eligible news jour-  
49 nalist for any calendar quarter, any full time employee who (A) provides  
50 qualified services for an average of not less than thirty hours per week  
51 for each week during which such employee is employed by the eligible  
52 news journalist employer during the calendar quarter, and (B) resides  
53 within the designated broadcast market or fifty miles of the local  
54 community with respect to the qualifying publication or qualifying  
55 broadcast station with respect to which the qualified services are  
56 provided.

1 (5) "Qualified services" means services which consist of gathering,  
2 preparing, directing the recording of, producing, collecting, photo-  
3 graphing, recording, writing, editing, reporting, presenting or  
4 publishing original news for dissemination to the local community.

5 (6) "Qualifying publication" means, with respect to any calendar quar-  
6 ter, any print or digital publication:

7 (A) which provides local community news, which is published during the  
8 calendar quarter and has been published during each of the four calendar  
9 quarters preceding such calendar quarter;

10 (B) is not a disqualified organization;

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

13 (D) which is covered by media liability insurance for such calendar  
14 quarter; and

15 (E) which publishes the owner's name pursuant to section three hundred  
16 thirty of the general business law, provided that a digital publication  
17 shall publish the information required by such section on the website of  
18 such publication.

19 (7) (A) "Local community" means, with respect to any qualifying publi-  
20 cation, a geographically contiguous area that does not exceed the bound-  
21 aries of:

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

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

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

30 (B) A digital publication shall be considered to be primarily distrib-  
31 uted in the area where such publication is intended to be primarily  
32 consumed.

33 (8) "Disqualified organization" means:

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

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

38 (C) any organization that is controlled, directly or indirectly, by  
39 one or more organizations described in subparagraph (A) or (B) of this  
40 paragraph.

41 (d) Maximum amount of credits. The maximum amount of tax credits  
42 allowed under this section, subdivision sixty of section two hundred  
43 ten-B and subsection (w) of section six hundred six of this chapter in  
44 any calendar year shall be one million dollars per eligible news jour-  
45 nalist employer.

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

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

51 (2) to provide for the reconciliation of such advance payment with the  
52 amount advanced at the time of filing the return of tax for the applica-  
53 ble calendar quarter or taxable year; and

54 (3) with respect to the application of the credit under subdivision  
55 (a) of this section to third-party payors (including professional  
56 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 60.

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

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

60. 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.

§ 4. 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.

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

<u>(li) Payroll credit for compensation of journalists under subsection (w)</u>	<u>Amount of credit for the sum of payroll credit for compensation of journalists under subdivision sixty of section two hundred ten-B</u>
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§ 6. This act shall take effect immediately and shall apply to tax years commencing on and after January 1, 2024; provided that:

(a) this act shall expire and be deemed repealed January 1, 2029; 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, 2029.

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