STATE OF NEW YORK

4254

2023-2024 Regular Sessions

IN ASSEMBLY

February 13, 2023

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:

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

(ooo) Local newspaper subscription tax credit. (1) 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.

(2) Definitions. (A) For the purposes of this subsection, "local newspaper" shall mean any print or digital publication if: (i) 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

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

LBD07926-01-3

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

(B) 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 subsection applies in lieu of treating such contribution as a charitable contribution.

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

(ppp) Newspaper payroll tax credit. (1) General. A taxpayer shall be allowed a credit against the tax imposed by this article for each quarter during the taxable year in an amount equal to the applicable percentage of the qualified journalism compensation paid to each individual for such quarter.

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

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

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

(3) Definitions. For 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-four, each of the first four quarters during the taxable year to which this subsection applies, fifty percent; and

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

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

(ii) at least fifty-one percent of the readers of which 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 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 (qqq) to read as follows:

(qqq) 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-four, five thousand dollars, and

(B) for taxable years beginning after two thousand twenty-four, 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-four, eighty percent, and

(ii) for taxable years beginning after two thousand twenty-four, 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 (l) to read as follows:

(l) Local newspaper subscription Amount of credit

tax credit under subsection (ooo)	under subdivision fifty-nine 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 (li) to read as follows:

(li) Newspaper payroll tax credit under subsection (ppp)	Amount of credit under subdivision sixty 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 (lii) to read as follows:

(lii) Local media advertising tax credit under subsection (qqq)	Amount of credit under subdivision sixty-one of section two hundred ten-B

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

59. 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 60 to read as follows:

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

ter during the taxable year in an amount equal to the applicable percentage of the qualified journalism compensation paid to each individual for such quarter.

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

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

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

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

(1) "Applicable percentage" shall mean:

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

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

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

(ii) at least fifty-one percent of the readers of which 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.

(3) "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 one of this paragraph if such individual were such an employee.

(4) "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 interna-

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

§ 9. Section 210-B of the tax law is amended by adding a new subdivision 61 to read as follows:

61. Local media advertising tax credit. (a) 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.

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

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

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

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

(1) "Applicable percentage" shall mean:

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

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

(2) "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.

(3) "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 one of paragraph (b) of subdivision fifty-eight of this section or a broadcast of a local radio or television station.

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

(d) 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 (a) of this subdivision.

§ 10. This act shall take effect immediately and shall apply to taxable years commencing on and after January 1, 2024; provided, however, that the provisions of sections one, three, four, six, seven and nine of this act shall expire on December 31, 2029, when upon such date the provisions of such sections shall be deemed repealed.