

# STATE OF NEW YORK

9262--A

## IN ASSEMBLY

February 22, 2024

Introduced by M. of A. PRETLOW -- read once 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 establishing a MWBE or SDVOBE subcontractor tax credit

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

1 Section 1. Section 210-B of the tax law is amended by adding a new  
2 subdivision 60 to read as follows:

3 60. MWBE or SDVOBE subcontractor tax credit. (a) Allowance of credit.  
4 For taxable years beginning on or after January first, two thousand  
5 twenty-five, an eligible taxpayer shall be allowed a credit, to be  
6 computed as provided in this subdivision, against the tax imposed by  
7 this article, for awarding a professional services, trades, or supplier  
8 subcontract to a qualified subcontractor in furtherance of a state  
9 contract. The taxpayer may claim the credit in the year in which payment  
10 is made by the eligible taxpayer to the qualified subcontractor for the  
11 performance of such subcontract. If the taxpayer claims the credit  
12 allowed under this section, the taxpayer may not use the awarding of a  
13 subcontract to a qualified subcontractor that is the basis for this  
14 credit in the basis of any other credit allowed under this article.

15 (b) Definitions. (i) The term "qualified subcontractor" shall mean a  
16 minority or woman-owned business enterprise certified pursuant to arti-  
17 cle fifteen-A of the executive law or a service-disabled veteran-owned  
18 business enterprise certified pursuant to article three of the veterans'  
19 services law that maintains their headquarters within New York state.

20 (ii) The term "eligible taxpayer" shall mean a contractor that awards  
21 a subcontract to a qualifying subcontractor in furtherance of a state  
22 contract.

23 (iii) The term "state contract" shall mean a contract for the purchase  
24 by the state of goods, property, or services or for the construction of  
25 any building or structure for the state, which contract is executed by  
26 any department, board, bureau, commission, or agency of the state, or by  
27 any officer, official, employee, or agent thereof.

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

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1 (c) Contractor prohibition. A contractor shall not discharge a  
 2 contract with a subcontractor and hire a qualifying subcontractor solely  
 3 for the purpose of qualifying for this credit unless the previous  
 4 contractor has been removed for reasons not under the control of the  
 5 contractor.

6 (d) Amount of credit. The amount of credit shall be thirty-five  
 7 percent of the total amount of payments made by the eligible taxpayer to  
 8 a qualifying subcontractor in the taxable year in which such credit is  
 9 claimed.

10 (e) Carryovers. The credit allowed under this subdivision for any  
 11 taxable year shall not reduce the tax due for such year to less than the  
 12 amount prescribed in paragraph (d) of subdivision one of section two  
 13 hundred ten of this article. However, if the amount of credit allowable  
 14 under this subdivision for any taxable year reduces the tax to such  
 15 amount or if the taxpayer otherwise pays tax based on the fixed dollar  
 16 minimum amount, any amount of credit not deductible in such taxable year  
 17 may be carried over to the following three years and may be deducted  
 18 from the taxpayer's tax for such year or years.

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

22 <u>(li) MWBE or SDVOBE</u>	<u>Amount of credit under subdivision</u>
23 <u>subcontractor tax</u>	<u>sixty of section two hundred ten-B</u>
24 <u>credit under subsection (ppp)</u>	

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

27 (ppp) MWBE or SDVOBE subcontractor tax credit. (1) Allowance of cred-  
 28 it. For taxable years beginning on or after January first, two thousand  
 29 twenty-five, an eligible taxpayer shall be allowed a credit, to be  
 30 computed as provided in this section, against the tax imposed by this  
 31 article, for awarding a professional services, trades, or supplier  
 32 subcontract to a qualified subcontractor in furtherance of a state  
 33 contract. The taxpayer may claim the credit in the year in which payment  
 34 is made by the eligible taxpayer to the qualified subcontractor for the  
 35 performance of such subcontract. If the taxpayer claims the credit  
 36 allowed under this subsection, the taxpayer may not use the awarding of  
 37 a subcontract to a qualified subcontractor that is the basis for this  
 38 credit in the basis of any other credit allowed under this article.

39 (2) Definitions. (A) The term "qualified subcontractor" shall mean a  
 40 minority or woman-owned business enterprise certified pursuant to arti-  
 41 cle fifteen-A of the executive law or a service-disabled veteran-owned  
 42 business enterprise certified pursuant to article three of the veterans'  
 43 services law.

44 (B) The term "eligible taxpayer" shall mean a contractor that awards a  
 45 subcontract to a qualifying subcontractor in furtherance of a state  
 46 contract.

47 (C) The term "state contract" shall mean a contract for the purchase  
 48 by the state of goods, property, or services or for the construction of  
 49 any building or structure for the state, which contract is executed by  
 50 any department, board, bureau, commission, or agency of the state, or by  
 51 any officer, official, employee, or agent thereof or on New York state  
 52 capital infrastructure projects where a public benefit is derived  
 53 through license or utilization of state-owned lands.

54 (3) Contractor prohibition. A contractor shall not discharge a  
 55 contract with a subcontractor and hire a qualifying subcontractor solely  
 56 for the purpose of qualifying for this credit.

1 (4) Amount of credit. The amount of credit shall be thirty-five  
2 percent of the total amount of payments made by the eligible taxpayer to  
3 a qualifying subcontractor in the taxable year in which such credit is  
4 claimed.

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

10 § 4. This act shall take effect immediately.