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:

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

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

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

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

(iii) The term "state contract" shall mean a contract for the purchase by the state of goods, property, or services or for the construction of any building or structure for the state, which contract is executed by any department, board, bureau, commission, or agency of the state, or by 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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(c) Contractor prohibition. A contractor shall not discharge a contract with a subcontractor and hire a qualifying subcontractor solely for the purpose of qualifying for this credit unless the previous contractor has been removed for reasons not under the control of the contractor.

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

(e) Carryovers. 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. However, if the amount of 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, any amount of credit not deductible in such taxable year may be carried over to the following three years and may be deducted from the taxpayer's tax for such year or years.

§ 2. 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) MWBE or SDVOBE subcontractor tax credit under subsection (ppp)	Amount of credit under subdivision sixty of section two hundred ten-B

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

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

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

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

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

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

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

(5) 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.

§ 4. This act shall take effect immediately.