STATE OF NEW YORK

2105

2023-2024 Regular Sessions

IN SENATE

January 18, 2023

Introduced by Sens. BAILEY, MYRIE, PERSAUD -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to a credit for employment of persons on probation or parole

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

Section 1. The tax law is amended by adding a new section 187-r to read as follows:

§ 187-r. Credit for employment of persons on probation or parole. 1. Allowance of credit. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the taxes imposed by this article, other than the taxes imposed by sections one hundred eighty-six-a and one hundred eighty-six-e of this article, for employing within the state a qualified employee. Provided, however, the amount of credit allowed by this section against the tax imposed by section one hundred eighty-four of this article shall be the excess of the credit computed under this section over the amount of credit allowed by this section against the tax imposed by section one hundred eighty-three of this article.

2. Qualified employee. A qualified employee is an individual who:

(a) has been convicted of a felony under any statute of the United States or any state;

(b) is on probation or parole; and

(c) has worked on a full-time basis for the employer who is claiming the credit for at least one hundred eighty days or four hundred hours.

3. Amount of credit. Except as provided in subdivision four of this section, the amount of credit under this section shall be thirty-five percent of the first six thousand dollars in qualified first-year wages earned by each qualified employee. "Qualified first-year wages" means wages paid or incurred by the taxpayer during the taxable year to quali-

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

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fied employees which are attributable, with respect to any such employee, to services rendered during the one-year period beginning with the day the employee begins work for the taxpayer.

4. Credit where federal work opportunity tax credit applies. With respect to any qualified employee whose qualified first-year wages under subdivision three of this section also constitute qualified first-year wages for purposes of the work opportunity tax credit for vocational rehabilitation referrals under section fifty-one of the internal revenue code, the amount of credit under this section shall be thirty-five percent of the first six thousand dollars in qualified second-year wages earned by each such employee. "Qualified second-year wages" means wages paid or incurred by the taxpayer during the taxable year to qualified employees which are attributable, with respect to any such employee, to services rendered during the one-year period beginning one year after the employee begins work for the taxpayer.

5. Carryover. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three of this article. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

6. Coordination with federal work opportunity tax credit. The provisions of sections fifty-one and fifty-two of the internal revenue code, as such sections applied on October first, nineteen hundred ninety-six, that apply to the work opportunity tax credit for vocational rehabilitation referrals shall apply to the credit under this section to the extent that such sections are consistent with the specific provisions of this section, provided that in the event of a conflict the provisions of this section shall control.

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

59. Credit for employment of persons on probation or parole. (a) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the taxes imposed by this article, for employing within the state a qualified employee.

(b) Qualified employee. A qualified employee is an individual who: (i) has been convicted of a felony under any statute of the United States or any state; (ii) is on probation or parole; and (iii) has worked on a full-time basis for the employer who is claiming the credit for at least one hundred eighty days or four hundred hours.

(c) Amount of credit. Except as provided in paragraph (d) of this subdivision, the amount of credit under this subdivision shall be thirty-five percent of the first six thousand dollars in qualified first-year wages earned by each qualified employee. "Qualified first-year wages" means wages paid or incurred by the taxpayer during the taxable year to qualified employees which are attributable, with respect to any such employee, to services rendered during the one-year period beginning with the day the employee begins work for the taxpayer.

(d) Credit where federal work opportunity tax credit applies. With respect to any qualified employee whose qualified first-year wages under paragraph (c) of this subdivision also constitute qualified first-year wages for purposes of the work opportunity tax credit for vocational rehabilitation referrals under section fifty-one of the internal revenue code, the amount of credit under this subdivision shall be thirty-five

percent of the first six thousand dollars in qualified second-year wages earned by each such employee. "Qualified second-year wages" means wages paid or incurred by the taxpayer during the taxable year to qualified employees which are attributable, with respect to any such employee, to services rendered during the one-year period beginning one year after the employee begins work for the taxpayer.

(e) Carryover. Except as otherwise provided in this paragraph, the credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the fixed dollar minimum amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(f) Coordination with federal work opportunity tax credit. The provisions of sections fifty-one and fifty-two of the internal revenue code, as such sections applied on October first, nineteen hundred nine-ty-six, that apply to the work opportunity tax credit for vocational rehabilitation referrals shall apply to the credit under this subdivi-sion to the extent that such sections are consistent with the specific provisions of this subdivision, provided that in the event of a conflict the provisions of this subdivision shall control.

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

(ooo) Credit for employment of persons on probation or parole. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the taxes imposed by this article, for employing within the state a qualified employee.

(2) Qualified employee. A qualified employee is an individual who: (A) has been convicted of a felony under any statute of the United States or any state; (B) is on probation or parole; and (C) has worked on a full-time basis for the employer who is claiming the credit for at least one hundred eighty days or four hundred hours.

(3) Amount of credit. Except as provided in paragraph four of this subsection, the amount of credit under this subsection shall be thirty-five percent of the first six thousand dollars in qualified first-year wages earned by each qualified employee. "Qualified first-year wages" means wages paid or incurred by the taxpayer during the taxable year to qualified employees which are attributable, with respect to any such employee, to services rendered during the one-year period beginning with the day the employee begins work for the taxpayer.

(4) Credit where federal work opportunity tax credit applies. With respect to any qualified employee whose qualified first-year wages under paragraph three of this subsection also constitute qualified first-year wages for purposes of the work opportunity tax credit for vocational rehabilitation referrals under section fifty-one of the internal revenue code, the amount of credit under this section shall be thirty-five percent of the first six thousand dollars in qualified second-year wages earned by each such employee. "Qualified second-year wages" means wages paid or incurred by the taxpayer during the taxable year to qualified employees which are attributable, with respect to any such employee, to services rendered during the one-year period beginning one year after the employee begins work for the taxpayer.

(5) Carryover. If the amount of credit allowable under this subsection for any taxable year exceeds the taxpayer's tax for such year, any

amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(6) Coordination with federal work opportunity tax credit. The provisions of sections fifty-one and fifty-two of the internal revenue code, as such sections applied on October first, nineteen hundred ninety-six, that apply to the work opportunity tax credit for vocational rehabilitation referrals shall apply to the credit under this subsection to the extent that such sections are consistent with the specific provisions of this subsection, provided that in the event of a conflict the provisions of this subsection shall control.

§ 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) Employment of persons on probation or parole credit; subsection (ooo)	Costs under subdivision fifty-nine of section two hundred ten-B

§ 5. Section 1511 of the tax law is amended by adding a new subdivision (ee) to read as follows:

(ee) Credit for employment of persons on probation or parole. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the taxes imposed by this article, for employing within the state a qualified employee.

(2) Qualified employee. A qualified employee is an individual who: (A) has been convicted of a felony under any statute of the United States or any state; (B) is on probation or parole; and (C) has worked on a full-time basis for the employer who is claiming the credit for at least one hundred eighty days or four hundred hours.

(3) Amount of credit. Except as provided in paragraph four of this subdivision, the amount of credit under this subdivision shall be thirty-five percent of the first six thousand dollars in qualified first-year wages earned by each qualified employee. "Qualified first-year wages" means wages paid or incurred by the taxpayer during the taxable year to qualified employees which are attributable, with respect to any such employee, to services rendered during the one-year period beginning with the day the employee begins work for the taxpayer.

(4) Credit where federal work opportunity tax credit applies. With respect to any qualified employee whose qualified first-year wages under paragraph three of this section also constitute qualified first-year wages for purposes of the work opportunity tax credit for vocational rehabilitation referrals under section fifty-one of the internal revenue code, the amount of credit under this section shall be thirty-five percent of the first six thousand dollars in qualified second-year wages earned by each such employee. "Qualified second-year wages" means wages paid or incurred by the taxpayer during the taxable year to qualified employees which are attributable, with respect to any such employee, to services rendered during the one-year period beginning one year after the employee begins work for the taxpayer.

(5) Carryover. 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 four of subdivision (a) of section fifteen hundred two of this article or the minimum tax prescribed in section fifteen hundred two-a of this article, whichever is applicable. If, however, the amount of credit allowable under this subdivision for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following

year or years and may be deducted from the taxpayer's tax for such year or years.

(6) Coordination with federal work opportunity tax credit. The provisions of sections fifty-one and fifty-two of the internal revenue code, as such sections applied on October first, nineteen hundred ninety-six, that apply to the work opportunity tax credit for vocational rehabilitation referrals shall apply to the credit under this subdivision to the extent that such sections are consistent with the specific provisions of this subdivision, provided that in the event of a conflict the provisions of this subdivision shall control.

§ 6. This act shall take effect immediately, and shall apply to taxable years beginning on and after January 1, 2023.