# STATE OF NEW YORK

2958--A

2023-2024 Regular Sessions

# IN ASSEMBLY

February 1, 2023

Introduced by M. of A. WOERNER, SAYEGH, BURDICK -- 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 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:

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

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

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

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

(2) The provisions of this section shall only apply to the first twenty calendar quarters beginning after the effective date of this section.

(3) The credit allowed by subdivision (a) of this section with respect to any calendar quarter shall not exceed the applicable employment taxes (reduced by any credits allowed under subsections (e) and (f) of section

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

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3111 of the Internal Revenue Code of 1986, sections 7001 and 7003 of the Families First Coronavirus Response Act, and section 2301 of the CARES Act) on the wages paid with respect to the employment of all the employees of the eligible news journalist employer for such calendar quarter.

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

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

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

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

(1) "Applicable percentage" means fifty percent.

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

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

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

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

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

(iii) is not a disqualified organization;

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

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

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

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

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

(6) "Qualifying publication" means, with respect to any calendar quarter, any print or digital publication:

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

(B) is not a disqualified organization;

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

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

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

(7) (A) "Local community" means, with respect to any qualifying publication, a geographically contiguous area that does not exceed the boundaries of:

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

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

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

(B) A digital publication shall be considered to be primarily distributed in the area where such publication is intended to be primarily consumed.

(8) "Disqualified organization" means:

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

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

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

(d) Maximum amount of credits. The maximum amount of tax credits allowed under this section, subdivision fifty-nine of section two hundred ten-B and subsection (w) of section six hundred six of this chapter in any calendar year shall be one million dollars per eligible news journalist employer.

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

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

(2) to provide for the reconciliation of such advance payment with the amount advanced at the time of filing the return of tax for the applicable calendar quarter or taxable year; and

(3) with respect to the application of the credit under subdivision (a) of this section to third-party payors (including professional 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 59.

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

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

59. 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 (l) to read as follows:

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| (l) Payroll credit for compensation of journalists under subsection (w) | Amount of credit for the sum of payroll credit for compensation of journalists under subdivision fifty-nine of section two hundred ten-B |

§ 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.

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