STATE OF NEW YORK

9116

IN ASSEMBLY

February 7, 2024

Introduced by M. of A. RIVERA -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to authorizing the election of qualified transportation fringe benefits

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 49 to read as follows:

§ 49. Election of qualified transportation fringe benefits. (a) Definitions. For the purposes of this section, the following terms shall have the following meanings:

(1) "bikesharing arrangements" means a rental operation at which bicycles, as defined in section one hundred two of the vehicle and traffic law; bicycles with electric assist, as defined in section one hundred two-C of the vehicle and traffic law; or electric scooters, as defined in section one hundred fourteen-e of the vehicle and traffic law, are made available to pick up and drop off for point-to-point use within a defined geographic area;

(2) "employer" means an entity, including but not limited to a corporation, nonprofit organization, partnership, joint venture, common trust fund, limited association, pool or working agreement, local government, or limited liability company, that employs three or more persons in this state;

(3) "local government" means the same as such term is defined in section three hundred eight of the real property tax law;

(4) "qualified transportation fringe benefits" means:

(A) any qualified transportation fringe benefit as that term is defined in 26 U.S.C. § 132(f);

(B) TNC prearranged trips, as defined in section sixteen hundred ninety-one of the vehicle and traffic law, or rides provided by bikesharing arrangements or ridesharing arrangements for use by an employee in traveling between the employee's residence, the employee's place of employment, or a mass transit facility that connects the employee to the employee's residence or place of employment; or

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

LBD14349-01-4

(C) membership in any transportation network company, ridesharing, or bikesharing membership program;

(5) "ridesharing" means the vehicular transportation of passengers traveling together primarily to and from such passengers' places of business or work or traveling together on a regularly scheduled basis with a commonality of purposes if the vehicle used in such transportation is not operated for profit by an entity primarily engaged in the transportation business and if no charge is made therefore other than that reasonably calculated to recover the direct and indirect costs of the "ridesharing arrangement", including, but not limited to, a reasonable incentive to maximize occupancy of the vehicle. "Ridesharing" shall include "ridesharing arrangements" commonly known as carpools and vanpools, but shall not include school transportation vehicles operated by elementary and secondary schools when they are operated for the transportation of children to or from school or on school-related events.

(b) Election of qualified transportation fringe benefits in lieu of taxable dollar compensation for certain employees. For taxable years beginning on and after January first, two thousand twenty-five, any employer may offer employees the opportunity to use pre-tax earnings for the purchase of qualified transportation fringe benefits.

(c) Rules and regulations. The department may promulgate rules and regulations necessary to implement and administer this section.

§ 2. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2025.