

# STATE OF NEW YORK

432

2023-2024 Regular Sessions

## IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sens. BORRELLO, GALLIVAN, O'MARA -- 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 establishing a first permanent payroll employee 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 59 to read as follows:

3 59. First permanent payroll employee credit. (a) General. A taxpayer  
4 shall be allowed a credit, to be computed as provided in this subdivi-  
5 sion, against the tax imposed by this article for the first full-time,  
6 permanent employee such taxpayer employs, provided that such full-time,  
7 permanent employee is accounted for on such taxpayer's employer payroll  
8 records. Such credit shall be available for each of the three years  
9 succeeding the date a taxpayer employs their first full-time, permanent  
10 employee.

11 (b) Amount of credit. A credit authorized by this subdivision shall be  
12 equal to:

13 (1) in the first year, twenty-five percent of the total cost to employ  
14 a full-time, permanent employee, when such employee is accounted for on  
15 an employer's payroll records and is the first full-time, permanent  
16 employee such taxpayer has hired;

17 (2) in the second year, twenty percent of the total cost to employ a  
18 full-time, permanent employee, when such employee is accounted for on an  
19 employer's payroll records and is the first full-time, permanent employ-  
20 ee such taxpayer has hired; and

21 (3) in the third year, ten percent of the total cost to employ a full-  
22 time, permanent employee, when such employee is accounted for on an

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

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1 employer's payroll records and is the first full-time, permanent employ-  
2 ee such taxpayer has hired.

3 (c) Carryovers. The credit allowed under this subdivision may be  
4 claimed and if not fully used in the initial year for which the credit  
5 is claimed may be carried over, in order, to each of the two succeeding  
6 taxable years. The credit authorized by this subdivision may not be used  
7 to reduce the tax liability of the credit claimant below zero.

8 (d) Definitions. For purposes of this subdivision, the following terms  
9 shall have the following meanings:

10 (1) "Total cost to employ" shall mean base salary, New York state  
11 payroll taxes and the value of employment benefits received.

12 (2) "New York state payroll taxes" shall mean all state taxes paid by  
13 an employer from such employer's own funds and directly related to  
14 employing an employee.

15 (e) Aggregate amount. The aggregate amount of tax credits allowed  
16 pursuant to the authority of this subdivision and subsection (ooo) of  
17 section six hundred six of this chapter shall be fifteen million dollars  
18 each year. Such aggregate amounts of credits shall be allocated by the  
19 commissioner. If the total amount of allocated credits applied for in  
20 any particular year exceeds the aggregate amount of tax credits allowed  
21 for such year under this section, such excess shall be treated as having  
22 been applied for on the first day of the subsequent year.

23 (f) Claim of credit. (1) Taxpayers shall be eligible to claim such  
24 credit beginning in the first taxable year after such taxpayer has  
25 employed their first full-time, permanent employee, as verified on such  
26 taxpayer's payroll records.

27 (2) A taxpayer shall not be allowed to claim this credit to the extent  
28 the basis of the calculation of this credit has been claimed for another  
29 tax credit under this chapter.

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

32 (ooo) First permanent payroll employee credit. (1) General. A taxpayer  
33 shall be allowed a credit, to be computed as provided in this  
34 subsection, against the tax imposed by this article for the first full-  
35 time, permanent employee such taxpayer employs, provided that such full-  
36 time, permanent employee is accounted for on such taxpayer's employer  
37 payroll records. Such credit shall be available for each of the three  
38 years succeeding the date a taxpayer employs their first full-time,  
39 permanent employee.

40 (2) Amount of credit. A credit authorized by this subsection shall be  
41 equal to:

42 (A) in the first year, twenty-five percent of the total cost to employ  
43 a full-time, permanent employee, when such employee is accounted for on  
44 an employer's payroll records and is the first full-time, permanent  
45 employee such taxpayer has hired;

46 (B) in the second year, twenty percent of the total cost to employ a  
47 full-time, permanent employee, when such employee is accounted for on an  
48 employer's payroll records and is the first full-time, permanent employ-  
49 ee such taxpayer has hired; and

50 (C) in the third year, ten percent of the total cost to employ a full-  
51 time, permanent employee, when such employee is accounted for on an  
52 employer's payroll records and is the first full-time, permanent employ-  
53 ee such taxpayer has hired.

54 (3) Carryovers. The credit allowed under this subsection may be  
55 claimed and if not fully used in the initial year for which the credit  
56 is claimed may be carried over, in order, to each of the two succeeding

1 taxable years. The credit authorized by this subsection may not be used  
2 to reduce the tax liability of the credit claimant below zero.

3 (4) Definitions. For purposes of this subsection, the following terms  
4 shall have the following meanings:

5 (A) "Total cost to employ" shall mean base salary, New York state  
6 payroll taxes and the value of employment benefits received.

7 (B) "New York state payroll taxes" shall mean all state taxes paid by  
8 an employer from such employer's own funds and directly related to  
9 employing an employee.

10 (5) Aggregate amount. The aggregate amount of tax credits allowed  
11 pursuant to the authority of this subsection and subdivision fifty-nine  
12 of section two hundred ten-B of this chapter shall be fifteen million  
13 dollars each year. Such aggregate amounts of credits shall be allocated  
14 by the commissioner. If the total amount of allocated credits applied  
15 for in any particular year exceeds the aggregate amount of tax credits  
16 allowed for such year under this section, such excess shall be treated  
17 as having been applied for on the first day of the subsequent year.

18 (6) Claim of credit. (A) Taxpayers shall be eligible to claim such  
19 credit beginning in the first taxable year after such taxpayer has  
20 employed their first full-time, permanent employee, as verified on such  
21 taxpayer's payroll records.

22 (B) A taxpayer shall not be allowed to claim this credit to the extent  
23 the basis of the calculation of this credit has been claimed for another  
24 tax credit under this chapter.

25 § 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
26 of the tax law is amended by adding a new clause (1) to read as follows:

|  |   |
|--|---|
| 27 <u>(1) First permanent payroll</u>      | <u>Amount of credit under subdivision</u> |
| 28 <u>employee credit under subsection</u> | <u>fifty-nine of section two hundred</u>  |
| 29 <u>(ooo)</u>                            | <u>ten-B</u>                              |

30 § 4. This act shall take effect immediately and shall apply to taxable  
31 years commencing on and after January 1, 2024.