

# STATE OF NEW YORK

9705

## IN SENATE

May 22, 2024

Introduced by Sen. BAILEY -- 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 MWBE or SDVOBE subcontractor 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 60 to read as follows:

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

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

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

23 (iii) The term "state contract" shall mean a contract for the purchase  
24 by the state of goods, property, or services or for the construction of  
25 any building or structure for the state, which contract is executed by  
26 any department, board, bureau, commission, or agency of the state, or by  
27 any officer, official, employee, or agent thereof.

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

LBD14557-03-4

1 (c) Contractor prohibition. A contractor shall not discharge a  
2 contract with a subcontractor and hire a qualifying subcontractor solely  
3 for the purpose of qualifying for this credit unless the previous  
4 contractor has been removed for reasons not under the control of the  
5 contractor.

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

10 (e) Carryovers. The credit allowed under this subdivision for any  
11 taxable year shall not reduce the tax due for such year to less than the  
12 amount prescribed in paragraph (d) of subdivision one of section two  
13 hundred ten of this article. However, if the amount of credit allowable  
14 under this subdivision for any taxable year reduces the tax to such  
15 amount or if the taxpayer otherwise pays tax based on the fixed dollar  
16 minimum amount, any amount of credit not deductible in such taxable year  
17 may be carried over to the following three years and may be deducted  
18 from the taxpayer's tax for such year or years.

19 § 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
20 of the tax law is amended by adding a new clause (li) to read as  
21 follows:

22 <u>(li) MWBE or SDVOBE</u>	<u>Amount of credit under subdivision</u>
23 <u>subcontractor tax</u>	<u>sixty of section two hundred ten-B</u>
24 <u>credit under subsection (ppp)</u>	

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

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

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

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

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

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

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

5 (5) Application of credit. If the amount of the credit allowable under  
6 this subsection for any taxable year exceeds the taxpayer's tax for such  
7 year, the excess shall be treated as an overpayment of tax to be credit-  
8 ed or refunded as provided in section six hundred eighty-six of this  
9 article, provided, however, that no interest shall be paid thereon.

10 § 4. This act shall take effect immediately.