

2013 NY S 6359, Enacted - Interim

New York

SUMMARY: Enacts into law major components of legislation necessary to implement the revenue budget for the 2014-2015 state fiscal year to include business taxation, STAR taxation, racing fees, earned income credit, personal minimum tax, gift and trust taxation, brownfield development tax credits, hazardous waste generator fees, farmers and fruit growers franchise tax, telecommunication excise tax, alternative fuels tax exemption, motor vehicles fuel excise tax, sport exhibition tax, and self-employment tax.~SAME AS:

Legislative History and Analysis

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

01/21/2014 INTRODUCED.

01/21/2014 To SENATE Committee on FINANCE.

02/12/2014 Amended in SENATE Committee on FINANCE.

02/21/2014 Amended in SENATE Committee on FINANCE.

03/14/2014 Amended in SENATE Committee on FINANCE.

03/28/2014 Amended in SENATE Committee on FINANCE.

03/31/2014 From SENATE Committee on FINANCE.

03/31/2014 Passed SENATE. *****To ASSEMBLY.

03/31/2014 To ASSEMBLY Committee on WAYS AND MEANS.

03/31/2014 From ASSEMBLY Committee on WAYS AND MEANS.

03/31/2014 Substituted for A 8559.

03/31/2014 Passed ASSEMBLY.

03/31/2014 *****To GOVERNOR.

03/31/2014 Signed by GOVERNOR.

03/31/2014 Chapter No. 59

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session: New York 237th Annual Legislative Session

cite: 2013 NY S 6359

Enacted - Interim

March 31, 2014

Office of the Governor

STATE OF NEW YORK

S. 6359--D A. 8559--D

SENATE - ASSEMBLY

January 21, 2014

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed

employer qualification for the New York youth works tax credit; and to amend the labor law, in relation to the New York youth works tax credit (Part U); to amend chapter 109 of the laws of 2006 amending the tax law and other laws relating to providing exemptions, reimbursements and credits from various taxes for certain alternative fuels, in relation to extending the alternative fuels tax exemptions for two years (Part V); to amend chapter 63 of the laws of 2000, amending the tax law and other laws relating to modifying the distribution of funds from the motor vehicle fuel excise tax and the vehicle and traffic law, in relation to simplifying the methodology for distribution of motor vehicle receipts (Part W); to amend the tax law, in relation to the estate tax; to repeal section 2 of chapter 1013 of the laws of 1962, amending the tax law relating to imposing a tax on the transfer of estates of decedents dying on or after April first, nineteen hundred sixty-three, relating to an appendix of applicable internal revenue code provisions, and to repeal article 26-B of the tax law, relating to the generation skipping transfer tax (Part X); intentionally omitted (Part Y); to amend the tax law, in relation to vendor fees paid to vendor tracks (Part Z); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part AA); to amend the tax law, in relation to capital awards to vendor tracks (Part BB); intentionally omitted (Part CC); to amend the tax law, in relation to conforming the due dates for the metropolitan commuter transportation mobility tax for taxpayers with income from self-employment with the due dates for the personal income tax (Part DD); to amend the state finance law, the upstate New York gaming economic development act of 2013 and the tax law, in relation to moneys appropriated or transferred from the commercial gaming revenue fund (Part EE); to amend the tax law, the education law, the general municipal law, and the real property tax law, in relation to a real property tax freeze (Part FF); to amend the tax law, in relation to the temporary exemption from sales and use taxes for premises used for commercial office space in lower Manhattan; and to amend part C of chapter 2 of the laws of 2005 amending the tax law relating to exemptions from sales and use taxes, in relation to the effectiveness thereof (Subpart A); to amend the real property tax law and the administrative code of the city of New York, in relation to extending a real property tax abatement program for certain commercial properties in cities having a population of one million or more and in relation to extending a special reduction under the commercial rent tax in the city of New York (Subpart B); to amend the real property tax law and the administrative code of the city of New York, in relation to applications for tax abatements for industrial and commercial construction work on properties in a city of one million or more persons (Subpart C); to amend the general city law and the administrative code of the city of New York, in relation to extending the relocation and employment assistance program and the Lower Manhattan relocation and employment assistance program (Subpart D); to amend the general city law and the administrative code of the city of New York, in relation to extending the special rebates and discounts provided pursuant to the energy cost savings program and the Lower Manhattan energy program (Subpart E); to amend the administrative code of the city of New York, in relation to the amount of special reduction allowed (Subpart F); and to amend the real property tax law and the administrative code of the city of New York, in relation to a real estate tax abatement program for certain commercial, industrial and manufacturing properties in a city of one million or more persons (Subpart G) (Part GG); to amend the tax law, in relation to a musical and theatrical production credit; and providing for the repeal of such provisions upon expiration thereof (Part HH); to amend the tax law, in relation to the sale of food and beverages through vending machines (Part II); to amend the tax law, in relation to requiring that services eligible for the empire state film production tax credit take place in certain counties (Part JJ); to amend the tax law and the administrative code of the city of New York, in relation to exempting the proceeds from service award programs for volunteer firefighters and ambulance workers from personal income taxes (Part KK); to amend the tax law, in relation to the regions and rate of the prepaid sales tax on fuels (Part LL); to amend the labor law and the tax law, in relation to the creation of

the workers with disabilities tax credit program; and providing for the repeal of such provisions upon expiration thereof (Part MM); to amend the real property tax law, in relation to permitting senior citizens whose spouses are deceased to substitute a more recent year's income for purposes of determining eligibility for the enhanced exemption for school tax relief (Part NN); and to amend the tax law and the racing, pari-mutuel wagering and breeding law, in relation to health insurance for jockeys (Part OO)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2014-2015 state fiscal year. Each component is wholly contained within a Part identified as Parts A through OO. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

SECTIONS NOT PERTAINING TO THE COMMERCIAL INCENTIVE HAVE BEEN OMITTED.

Section 17. The tax law is amended by adding a new section 210-B to read as follows:

SECTIONS NOT PERTAINING TO THE COMMERCIAL INCENTIVE HAVE BEEN OMITTED.

23. Empire state commercial production credit. (a) Allowance of credit. A taxpayer that is eligible pursuant to provisions of section twenty-eight 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 fixed dollar minimum 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, fifty percent of 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. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon. The balance of such credit not credited or refunded in such taxable year may be carried over to the immediately succeeding taxable year and may be deducted from the taxpayer's tax for such year. The excess, if any, of the amount of credit over the tax for such succeeding year 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. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

(c) Expiration of credit. The credit allowed under this subdivision shall not be applicable to taxable years beginning on or after December thirty-first, two thousand seventeen.

SECTIONS NOT PERTAINING TO THE COMMERCIAL INCENTIVE HAVE BEEN OMITTED.

Section 45. Paragraph 3 of subdivision (a) and subdivision (c) of section 28 of the tax law, as added by section 2 of part V of chapter 62 of the laws of 2006, are amended to read as follows:

(3) No qualified production costs used by a taxpayer either as the basis for the allowance of the

credit provided for under this section or used in the calculation of the credit provided for under this section shall be used by such taxpayer to claim any other credit allowed pursuant to this chapter.

Notwithstanding any provisions of this section to the contrary, a corporation or partnership, which otherwise qualifies as a qualified commercial production company, and is similar in operation and in ownership to a business entity or entities taxable, or previously taxable, under section one hundred eighty-three, one hundred eighty-four or one hundred eighty-five of article nine; article nine-A ~~, article thirty-two~~ or thirty-three of this chapter or which would have been subject to tax under article twenty-three of this chapter (as such article was in effect on January first, nineteen hundred eighty) **or which would have been subject to tax under article thirty-two of this chapter (as such article was in effect on December thirty-first, two thousand fourteen)** or the income or losses of which is or was includable under article twenty-two of this chapter shall not be deemed a new or separate business, and therefore shall not be eligible for empire state commercial production benefits, if it was not formed for a valid business purpose, as such term is defined in clause (D) of subparagraph one of paragraph (o) of subdivision nine of section two hundred eight of this chapter and was formed solely to gain empire state commercial production credit benefits.

(c) Cross-references. For application of the credit provided for in this section, see the following provision of this chapter:

(1) article 9-A: section ~~210~~ **210-B** : subdivision ~~38~~ **23** .

(2) article 22: section 606: subsection (jj).

Section 46. Subdivision (d) of section 28 of the tax law, as added by section 1 of part X of chapter 62 of the laws of 2006, is amended to read as follows:

(d) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) Article 9: Section 187-c.

(2) Article 9-A: Section ~~210~~ **210-B** , subdivision ~~38~~ **24** .

(3) Article 22: Section 606, subsections (i) and (jj).

SECTIONS NOT PERTAINING TO THE COMMERCIAL INCENTIVE HAVE BEEN OMITTED.

Section 86. Subdivision (b) of section 1201-a of the tax law, as amended by section 5 of part Y of chapter 62 of the laws of 2006, is amended to read as follows:

(b) Empire state film production credit. Any city in this state having a population of one million or more, acting through its local legislative body, is hereby authorized to adopt and amend local laws to allow a credit against the general corporation tax and the unincorporated business tax imposed pursuant to the authority of chapter seven hundred seventy-two of the laws of nineteen hundred sixty-six which shall be substantially identical to the credit allowed under section twenty-four of this chapter, except that (A) the percentage of qualified production costs used to calculate such credit shall be five percent, (B) whenever such section twenty-four references the state, such words shall be read as referencing the city, (C) such credit shall be allowed only to a taxpayer which is a qualified film production company, and (D) the effective date of such credit shall be July first, two thousand six. Such credit shall be applied in a manner consistent with the credit allowed under subdivision ~~thirty-six~~ **twenty** of section two hundred ~~ten~~ **ten-B** of this chapter except as may be necessary to take into account differences between the general corporation tax and the unincorporated business tax.

Section 87. Subdivision (c) of section 1201-a of the tax law, as amended by chapter 300 of the laws of 2007, is amended to read as follows:

(c) Empire state commercial production credit. Any city in this state having a population of one million or more, acting through its local legislative body, is hereby authorized to adopt and amend local laws to allow a credit against the general corporation tax and the unincorporated business

tax imposed pursuant to the authority of chapter seven hundred seventy-two of the laws of nineteen hundred sixty-six which shall be substantially identical to the credit allowed under the provisions of section twenty-eight of this chapter, except that (A) the percentage of qualified production costs used to calculate such credit shall be five percent, (B) whenever such section twenty-eight references the state, such words shall be read as referencing the city, (C) such credit shall be allowed only to a taxpayer that is a qualified commercial production company, and (D) the effective date of such credit shall be as provided in local laws. Such credit shall be applied in a manner consistent with the credit allowed under subdivision ~~thirty-eight~~ **twenty-three** of section two hundred ~~ten~~ **ten-B** of this chapter except as may be necessary to take into account differences between the general corporation tax and unincorporated business tax.

SECTIONS NOT PERTAINING TO THE COMMERCIAL INCENTIVE HAVE BEEN OMITTED.

PART O

Section 1. Paragraph 1 of subdivision (a) of section 28 of the tax law, as amended by section 1 of part I of chapter 59 of the laws of 2012, is amended to read as follows:

(1) A taxpayer which is a qualified commercial production company, or which is a sole proprietor of a qualified commercial production company, and which is subject to tax under article nine-A or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (c) of this section, to be computed as provided in this section. Provided, however, to be eligible for such credit, at least seventy-five percent of the production costs (excluding post production costs) paid or incurred directly and predominantly in the actual filming or recording of the qualified commercial must be costs incurred in New York state. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand ~~fifteen~~ **seventeen** .

Section 2. Subparagraph (iii) of paragraph 2 of subdivision (a) of section 28 of the tax law, as amended by section 2 of part I of chapter 59 of the laws of 2012, is amended to read as follows:

(iii) The state annually will disburse three million of the total seven million in tax credits to all eligible production companies who film or record a qualified commercial outside of the metropolitan commuter transportation district as defined in section twelve hundred sixty-two of the public authorities law; provided, however, that if, after **July thirty-first** the state reviews all applications from eligible production companies who film or record a qualified commercial outside of the metropolitan commuter district for a given year, tax credits remain unallocated under this subparagraph, those credits shall be allotted to the credits set forth in subparagraph (i) of this paragraph for use consistent with the purposes of such subparagraph. The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of five percent of the qualified production costs paid or incurred in the production of a qualified commercial, provided that the qualified production costs paid or incurred are attributable to the use of tangible property or the performance of services within the state in the production of such qualified commercial. To be eligible for said credit the total qualified production costs of a qualified production company must be greater than ~~two~~ **one** hundred thousand dollars in the aggregate during the calendar year. Such credit will be applied to qualified production costs exceeding ~~two~~ **one** hundred thousand dollars in a calendar year.

Section 3. Paragraph (a) of subdivision 38 of section 210 of the tax law, as amended by section 3 of part I of chapter 59 of the laws of 2012, is amended to read as follows:

(a) Allowance of credit. A taxpayer that is eligible pursuant to provisions of section twenty-eight of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand ~~fifteen~~ **seventeen** .

Section 4. Paragraph 1 of subsection (jj) of section 606 of the tax law, as amended by section 4 of part I of chapter 59 of the laws of 2012, is amended to read as follows:

(1) Allowance of credit. A taxpayer that is eligible pursuant to the provisions of section twenty-eight of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand ~~fifteen~~ **seventeen** .

Section 5. This act shall take effect immediately.

SECTIONS NOT PERTAINING TO THE COMMERCIAL INCENTIVE HAVE BEEN OMITTED.

PART S

SECTIONS NOT PERTAINING TO THE COMMERCIAL INCENTIVE HAVE BEEN OMITTED.

Section 6. The closing paragraph of subdivision (a) of section 28 of the tax law, as added by section 2 of part V of chapter 62 of the laws of 2006, is amended to read as follows:

(4) Notwithstanding any provisions of this section to the contrary, a corporation or partnership, which otherwise qualifies as a qualified commercial production company, and is similar in operation and in ownership to a business entity or entities taxable, or previously taxable, under section one hundred eighty-three ~~→~~ **or** one hundred eighty-four or **former section** one hundred eighty-five of article nine; article nine-A, article thirty-two or thirty-three of this chapter or which would have been subject to tax under article twenty-three of this chapter (as such article was in effect on January first, nineteen hundred eighty) or the income or losses of which is or was includable under article twenty-two of this chapter shall not be deemed a new or separate business, and therefore shall not be eligible for empire state commercial production benefits, if it was not formed for a valid business purpose, as such term is defined in clause (D) of subparagraph one of paragraph (o) of subdivision nine of section two hundred eight of this chapter and was formed solely to gain empire state commercial production credit benefits.

SECTIONS NOT PERTAINING TO THE COMMERCIAL INCENTIVE HAVE BEEN OMITTED.

Section 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through OO of this act shall be as specifically set forth in the last section of such Parts.