



**Office of Addiction
Services and Supports**

**Recovery Friendly Workplace
Tax Credit
Legislative Authority**

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Legislative Authority – Appendix A

Section 1. The mental hygiene law is amended by adding a new section 32.38 to read as follows:

§ 32.38 The recovery tax credit program.

(a) Authorization. The commissioner is authorized to and shall establish and administer the recovery tax credit program to provide tax incentives to certified employers for employing eligible individuals in recovery from a substance use disorder in part-time and full-time positions in the state. The commissioner is authorized to allocate up to two million dollars of tax credits annually for the recovery tax credit program beginning in the year two thousand twenty.

(b) Definitions. 1. The term "certified employer" means an employer that has received a certificate of tax credit from the commissioner after the commissioner has determined that the employer:

(i) provides a recovery supportive environment for their employees evidenced by a formal working relationship with a local recovery or treatment provider certified by the office to provide support for employers including any necessary assistance in the hiring process of eligible individuals in recovery from a substance use disorder and training for employers or supervisors; and

(ii) fulfills the eligibility criteria set forth in this section and by the commissioner to participate in the recovery tax credit program established in this section.

2. The term "eligible individual" means an individual with a substance use disorder as that term is defined in section 1.03 of this chapter who is in a state of wellness where there is an abatement of signs and symptoms that characterize active addiction and has demonstrated to the qualified employer's satisfaction, pursuant to guidelines established by the office, that he or she has completed a course of treatment or is currently in receipt of treatment for such substance use disorder. A relapse in an individual's state of wellness shall not make the individual ineligible, so long as such individual shows a continued commitment to recovery that aligns with an individual's relapse prevention plan, discharge plan, and/or recovery plan.

(c) Application and approval process. 1. To participate in the program established by this section, an employer must, in a form prescribed by the commissioner, apply annually to the office by January fifteenth to claim credit based on eligible individuals employed during the preceding calendar year. As part of such application, an employer must:

(i) Agree to allow the department of taxation and finance to share its tax information with the office of alcoholism and substance abuse services. However, any information shared because of this agreement shall not be available for disclosure or inspection under the state freedom of information law.

(ii) Allow the office of alcoholism and substance abuse services and its agents access to limited and specific information necessary to monitor compliance with program eligibility

requirements. Such information shall be confidential and only used for the stated purpose of this section.

(iii) Demonstrate that the employer has satisfied program eligibility requirements and provided all the information necessary, including the number of hours worked by any eligible individual, for the commissioner to compute an actual amount of credit allowed.

2. (i) After reviewing the application and finding it sufficient, the commissioner shall issue a certificate of tax credit by March thirty-first. Such certificate shall include, but not be limited to, the name and employer identification number of the certified employer, the amount of credit that the certified employer may claim, and any other information the commissioner of taxation and finance determines is necessary.

(ii) In determining the amount of credit that any employer may claim, the commissioner shall review all claims submitted for credit by employers and, to the extent that the total amount claimed by employers exceeds the amount allocated for the program in that calendar year, shall issue credits on a pro-rata basis corresponding to each claimant's share of the total claimed amount.

(d) Eligibility. A certified employer shall be entitled to a tax credit equal to the product of one dollar and the number of hours worked by each eligible individual during such eligible individual's period of employment. The credit shall not be allowed unless the eligible individual has worked in state for a minimum of five hundred hours for the certified employer, and the credit cannot exceed two thousand dollars per eligible individual employed by the certified employer in the state. The certified employer may claim a credit for each eligible employee starting on the day the employee is hired and ends on December thirty-first of the immediately succeeding calendar year or the last day of the employee's employment by the certified employer, whichever comes first. If an employee has worked in excess of five hundred hours between the date of hiring and December thirty-first of that year, an employer can elect to compute and claim a credit for such employee in that year based on the hours worked by December thirty-first. Alternatively, the employer may elect to include such individual in the computation of the credit in the year immediately succeeding the year in which the employee was hired. In such case, the credit shall be computed on the basis of all hours worked by such eligible individual from the date of hire to the earlier of the last day of employment or December thirty-first of the succeeding year. However, in no event may an employee generate credit for hours worked in excess of two thousand hours. An employer may claim credit only once with respect to any eligible individual and may not aggregate hours of two or more employees to reach the minimum number of hours.

(e) Duties of the commissioner. The commissioner shall annually provide to the commissioner of the department of taxation and finance information about the program including, but not limited to, the number of certified employers then participating in the program, unique identifying information for each certified employer, the number of eligible individuals employed

by each certified employer, unique identifying information for each eligible individual employed by the certified employers, the number of hours worked by such eligible individuals, the total dollar amount of claims for credit, and the dollar amount of credit granted to each certified employer.

(f) Certified employer's taxable year. If the certified employer's taxable year is a calendar year, the employer shall be entitled to claim the credit as shown on the certificate of tax credit on the calendar year return for which the certificate of tax credit was issued. If the certified employer's taxable year is a fiscal year, the employer shall be entitled to claim the credit as shown on the certificate of tax credit on the return for the fiscal year that includes the last day of the calendar year covered by the certificate of tax credit.

(g) Cross references. For application of the credit provided for in this section, see the following provisions of the tax law:

1. Article 9-A: Section 210-B, subdivision 53.
2. Article 22: Section 606, subsection (jjj).
3. Article 33: Section 1511, subdivision (dd).

§ 2. Section 210-B of the tax law is amended by adding a new subdivision 53 to read as follows:

53. Recovery tax credit. (a) Allowance of credit. A taxpayer that is a certified employer pursuant to section 32.38 of the mental hygiene law that has received a certificate of tax credit from the commissioner of the office of alcoholism and substance abuse services shall be allowed a credit against the tax imposed by this article equal to the amount shown on such certificate of tax credit. A taxpayer that is a partner in a partnership or member of a limited liability company that has been certified by the commissioner of the office of alcoholism and substance abuse services as a qualified employer pursuant to section 32.38 of the mental hygiene law shall be allowed its pro rata share of the credit earned by the partnership or limited liability company.

(b) Application of credit. The credit allowed under this subdivision for any taxable year may not reduce the tax due for that year to less than the amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of the credit allowed under this subdivision for any taxable year reduces the tax to that amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit not deductible in that taxable year will 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, no interest will be paid thereon.

(c) Tax return requirement. The taxpayer shall be required to attach to its tax return, in the form prescribed by the commissioner, proof of receipt of its certificate of tax credit issued by the commissioner of the office of alcoholism and substance abuse services pursuant to

section 32.38 of the mental hygiene law. § 3. Subparagraph (B) of paragraph 1 of subdivision (i) of section 606 of the tax law is amended by adding a new clause (xliv) to read as follows:

(xliv) Recovery tax credit under Amount of credit under subsection (jjj) subdivision fifty-three of section two hundred ten-B

§ 4. Section 606 of the tax law is amended by adding a new subsection (jjj) to read as follows:

(jjj) Recovery tax credit. (1) Allowance of credit. A taxpayer that is a qualified employer pursuant to section 32.38 of the mental hygiene law that has received a certificate of tax credit from the commissioner of the office of alcoholism and substance abuse services shall be allowed a credit against the tax imposed by this article equal to the amount shown on such certificate of tax credit. A taxpayer that is a partner in a partnership, member of a limited liability company or shareholder in an S corporation that has been certified by the commissioner of the office of alcoholism and substance abuse services as a qualified employer pursuant to section 32.38 of the mental hygiene law shall be allowed its pro rata share of the credit earned by the partnership, limited liability company or S corporation.

(2) Overpayment. If the amount of the credit allowed under this subsection for any taxable year exceeds the taxpayer's tax for the taxable year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, no interest will be paid thereon.

(3) Tax return requirement. The taxpayer shall be required to attach to its tax return, in the form prescribed by the commissioner, proof of receipt of its certificate of tax credit issued by the commissioner of the office of alcoholism and substance abuse services pursuant to section 32.38 of the mental hygiene law.

§ 5. Section 1511 of the tax law is amended by adding a new subdivision (dd) to read as follows:

(dd) Recovery tax credit. (1) Allowance of credit. A taxpayer that is a qualified employer pursuant to section 32.38 of the mental hygiene law that has received a certificate of tax credit from the commissioner of the office of alcoholism and substance abuse services shall be allowed a credit against the tax imposed by this article equal to the amount shown on such certificate of tax credit. A taxpayer that is a partner in a partnership or member of a limited liability company that has been certified by the commissioner of the office of alcoholism and substance abuse services as a qualified employer pursuant to section 32.38 of the mental hygiene law shall be allowed its pro rata share of the credit earned by the partnership or limited liability company.

(2) 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 minimum tax fixed by paragraph four of subdivision (a) of section fifteen hundred two of this article or by section fifteen hundred two-a of this article, whichever is applicable. However, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount, then any amount of credit thus not deductible in such taxable 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.

(3) Tax return requirement. The taxpayer shall be required to attach to its tax return in the form prescribed by the commissioner, proof of receipt of its certificate of tax credit issued by the commissioner of the office of alcoholism and substance abuse services pursuant to section 32.38 of the mental hygiene law.

§ 6. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2020 and shall apply to those eligible individuals hired after this act shall take effect.