New York State
ASSEMBLY
Sheldon Silver – Speaker

Bill No.: A03158 [Search]

☑ **Summary** ☑ **Actions** ☑ **Votes** ☑ **Memo** ☑ **Text** *(Printer friendly text)*

A03158 Summary:

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BILL NO      A03158

SAME AS      SAME AS S00173

SPONSOR      Quart (MS)

COSPNSR      Jaffee, Weprin

MLTSPNSR     Boyland

Amd S606, Tax L
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Provides a maximum $200 tax credit for taxpayer expenses associated with the
development of open source and free software license programs.

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A03158 Actions:

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BILL NO      A03158

01/23/2013 referred to ways and means
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A03158 Votes:

There are no votes for this bill in this legislative session.

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A03158 Memo:

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BILL NUMBER:A3158

TITLE OF BILL:  An act to amend the tax law, in relation to providing a
tax credit to individuals for up to two hundred dollars of expenses
related to the development and posting of an open source or free license
program

PURPOSE OR GENERAL IDEA OF BILL:  The purpose of this bill is to incen-
tivize individuals to develop open source software with a tax credit.

SUMMARY OF SPECIFIC PROVISIONS:

*Section gg(1) amends S 606 of the Tax Law by providing for an open
source tax credit to the creators of open source software.

*Section gg(2) amends S 606 of the Tax Law by providing for the type of
programs that qualify for the open source tax credit.

*Section gg(3) amends S 606 of the Tax Law by providing to whom the open
source tax credit applies.

*Section gg(4) amends S 606 of the Tax Law by providing the limits and
regulations of the tax credit itself

JUSTIFICATION:

"Open source" refers to software that is available to be downloaded by
users free of charge, along with its source code. Anyone who uses
an.open source program can modify and redistribute the program freely.
By allowing open access to source code, open source software enhances a
broader dissemination of knowledge and ideas. Currently, corporations
and self-employed individuals who write open source programs are eligi-
ble for a tax deduction for their costs. However, most open source soft-
ware is written by individuals who don't qualify for this tax credit.
This legislation corrects this by creating a new tax credit that applies
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to the out-of-pocket expenses incurred when writing software.

PRIOR LEGISLATIVE HISTORY:

2012: Referred to Ways and Means
2011: Referred to Ways and Means

FISCAL IMPLICATIONS: Undetermined

EFFECTIVE DATE: Immediately

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A03158 Text:

                    S T A T E   O F   N E W   Y O R K
_____

                                   3158

                         2013-2014 Regular Sessions

                            I N   A S S E M B L Y

                              January 23, 2013
                              _____

       Introduced by M. of A. QUART, JAFFEE, WEPRIN -- Multi-Sponsored by -- M.
         of A. BOYLAND -- read once and referred to the Committee on Ways and
         Means

       AN ACT to amend the tax law, in relation to providing a tax credit to
         individuals for up to two hundred dollars of expenses related to the
         development and posting of an open source or free license program

         THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
       BLY, DO ENACT AS FOLLOWS:

     1   Section 1. Section 606 of the tax law is amended by adding a new
     2 subsection (aaa) to read as follows:
     3   (AAA) OPEN SOURCE OR FREE LICENSE CREDIT. (1) A TAXPAYER SHALL BE
     4 ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBSECTION, AGAINST
     5 THE TAX IMPOSED PURSUANT TO SECTION SIX HUNDRED ONE OF THIS PART. THE
     6 AMOUNT OF CREDIT SHALL EQUAL UP TO TWENTY PERCENT OF THE TOTAL
     7 OUT-OF-POCKET EXPENSES OF THE TAXPAYER USED IN THE DEVELOPMENT OF A
     8 PROGRAM THAT IS PROVIDED TO THE PUBLIC UNDER AN OPEN SOURCE OR FREE
     9 SOFTWARE LICENSE, UP TO A MAXIMUM OF TWO HUNDRED DOLLARS.
    10   (2) FOR THE PURPOSES OF THIS SUBSECTION, A PROGRAM SHALL QUALIFY FOR
    11 THE CREDIT PROVIDED BY THIS SUBSECTION IF THE CODE FOR SUCH PROGRAM HAS
    12 BEEN RELEASED UNDER AN OPEN SOURCE LICENSE RECOGNIZED BY THE OPEN SOURCE
    13 INITIATIVE, OR HAS BEEN RELEASED UNDER A FREE SOFTWARE LICENSE RECOG-
    14 NIZED BY THE FREE SOFTWARE FOUNDATION.
    15   (3) THIS SUBSECTION SHALL APPLY TO ANY INDIVIDUAL FOR ANY TAXABLE YEAR
    16 ONLY IF SUCH INDIVIDUAL ELECTS TO HAVE THIS SECTION APPLY FOR SUCH TAXA-
    17 BLE YEAR. AN ELECTION TO HAVE THIS SECTION APPLY MAY NOT BE MADE FOR ANY
    18 TAXABLE YEAR IF SUCH ELECTION IS IN EFFECT WITH RESPECT TO SUCH INDIVID-
    19 UAL FOR ANY OTHER TAXABLE YEAR AND PERTAINING TO THE SAME PROGRAM OR ANY
    20 PORTION THEREOF.
    21   (4) IN NO EVENT SHALL THE AMOUNT OF THE CREDIT PROVIDED BY THIS
    22 SUBSECTION EXCEED THE TAXPAYER'S TAX FOR THE TAXABLE YEAR. HOWEVER, IF
    23 THE AMOUNT OF CREDIT OTHERWISE ALLOWABLE PURSUANT TO THIS SUBSECTION FOR

         EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
                              [ ] is old law to be omitted.
                                                            LBD00298-01-3

       A. 3158   2

     1 ANY TAXABLE YEAR RESULTS IN SUCH EXCESS AMOUNT, ANY AMOUNT OF CREDIT NOT
     2 DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING
     3 YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR
     4 OR YEARS.
     5   S 2. This act shall take effect immediately and shall apply to taxable
     6 years beginning on and after the first of January next succeeding the
     7 date on which it shall have become a law.

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