

4710

2013-2014 Regular Sessions

I N S E N A T E

April 18, 2013

Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the tax law, in relation to establishing a tax credit for alternative energy systems and generating equipment

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

1 Section 1. The tax law is amended by adding a new section 28-a to read
2 as follows:
3 S 28-A. CREDIT FOR ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIP-
4 MENT. (A) GENERAL. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE-A, TWEN-
5 TY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER, WHOSE BUSINESS IS
6 NOT SUBSTANTIALLY ENGAGED IN THE COMMERCIAL GENERATION, DISTRIBUTION,
7 TRANSMISSION OR SERVICING OF ENERGY OR ENERGY PRODUCTS, AND WHO EMPLOYS
8 ONE OR MORE FULL-TIME EMPLOYEES, EXCLUDING GENERAL EXECUTIVE OFFICERS
9 (IN THE CASE OF A CORPORATION), SHALL BE ALLOWED A CREDIT AGAINST SUCH
10 TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (E) OF THIS
11 SECTION. THE CREDIT SHALL BE ALLOWED FOR QUALIFIED EXPENDITURES WHICH
12 MEET THE ELIGIBILITY CRITERIA, IF ANY, PRESCRIBED BY THE DEPARTMENT, IN
13 CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE
14 NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, DISBURSED IN
15 NEW YORK STATE.
16 (B) DEFINITIONS. FOR THE PURPOSES OF THIS SECTION: (1) THE TERM
17 "SOLAR AND WIND ENERGY SYSTEM EQUIPMENT" SHALL REFER TO A SYSTEM WHICH
18 SHALL MEET THE ELIGIBILITY REQUIREMENTS SET BY THE DEPARTMENT OF ENVI-
19 RONMENTAL CONSERVATION AND THE NEW YORK STATE ENERGY AND RESEARCH AND
20 DEVELOPMENT AUTHORITY WHICH SERVES AS:
21 (I) SOLAR ELECTRIC GENERATING EQUIPMENT WHICH SHALL MEAN AN ARRANGE-
22 MENT OR COMBINATION OF COMPONENTS UTILIZING SOLAR RADIATION TO PRODUCE
23 ENERGY DESIGNED TO PROVIDE HEATING, COOLING, HOT WATER OR ELECTRICITY.
24 SUCH ARRANGEMENT OR COMPONENTS SHALL NOT INCLUDE EQUIPMENT THAT IS PART

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

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1 OF A NON-SOLAR ENERGY SYSTEM OR WHICH USES ANY SORT OF RECREATIONAL
2 FACILITY OR EQUIPMENT AS A STORAGE MEDIUM.

3 (II) A WIND ENERGY SYSTEM, WHICH SHALL MEAN AN ARRANGEMENT OR COMBINA-
4 TION OF COMPONENTS DESIGNED TO GENERATE AND PROVIDE ELECTRICITY OR
5 MECHANICAL ENERGY THROUGH THE PROCESS OF CONVERTING FORCE PROVIDED BY
6 WIND INTO MECHANICAL AND/OR ELECTRICAL ENERGY, AND STORING OR DISTRIBUT-
7 ING SUCH ENERGY.

8 (2) THE TERM "FUEL CELL ELECTRIC GENERATING EQUIPMENT" SHALL REFER TO
9 ON-SITE ELECTRICITY GENERATION SYSTEMS, LOCATED IN REAL PROPERTY LOCATED
10 IN NEW YORK STATE UTILIZING PROTON EXCHANGE MEMBRANE FUEL CELLS OR
11 MOLTEN CARBONATE FUEL CELL TECHNOLOGIES. "FUEL CELL" MEANS A DEVICE
12 THAT PRODUCES ELECTRICITY DIRECTLY FROM HYDROGEN OR HYDROCARBON FUEL
13 THROUGH A NON-COMBUSTIVE ELECTROCHEMICAL PROCESS.

14 (3) THE TERM "GEOTHERMAL RESOURCE TRANSFER SYSTEM" MEANS A SYSTEM
15 TRANSFERRING ENERGY THROUGH THE USE OF A RESOURCE IN NEW YORK STATE
16 INCLUDING:

17 (I) ALL PRODUCTS OF GEOTHERMAL PROCESSES EMBRACING INDIGENOUS STEAM,
18 HOT WATER, AND HOT BRINES;

19 (II) STEAM AND OTHER GASES, HOT WATER AND HOT BRINES RESULTING FROM
20 WATER, GAS, OR OTHER FLUIDS ARTIFICIALLY INTRODUCED INTO GEOTHERMAL
21 FORMATIONS;

22 (III) HEAT OR OTHER ASSOCIATED ENERGY FOUND IN GEOTHERMAL FORMATIONS;
23 AND

24 (IV) ANY BYPRODUCTS DERIVED FROM THEM, WHERE "BYPRODUCT" MEANS ANY
25 MINERAL OR MINERALS (EXCLUSIVE OF OIL, HYDROCARBON GAS, AND HELIUM)
26 WHICH ARE FOUND IN SOLUTION OR IN ASSOCIATION WITH OTHER GEOTHERMAL
27 RESOURCES AND WHICH HAVE A VALUE OF LESS THAN SEVENTY-FIVE PERCENT OF
28 THE VALUE OF THE GEOTHERMAL STEAM OR ARE NOT, BECAUSE OF QUANTITY, QUAL-
29 ITY, OR TECHNICAL DIFFICULTIES IN EXTRACTION AND PRODUCTION, OF SUFFI-
30 CIENT VALUE TO WARRANT EXTRACTION AND PRODUCTION BY THEMSELVES.

31 (4) THE TERM "FARM WASTE ELECTRIC GENERATING EQUIPMENT" MEANS EQUIP-
32 MENT THAT GENERATES ELECTRIC ENERGY FROM BIOGAS PRODUCED BY THE ANAERO-
33 BIC DIGESTION OF AGRICULTURAL WASTE, SUCH AS LIVESTOCK MANURE, FARMING
34 WASTES AND FOOD PROCESSING WASTES WITH A RATED CAPACITY OF NOT MORE THAN
35 FIVE HUNDRED KILOWATTS, THAT IS:

36 (I) MANUFACTURED, INSTALLED, AND OPERATED IN ACCORDANCE WITH APPLICA-
37 BLE GOVERNMENT AND INDUSTRY STANDARDS;

38 (II) CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED IN CONJUNCTION WITH
39 AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES;

40 (III) OPERATED IN COMPLIANCE WITH ANY STANDARDS AND REQUIREMENTS
41 ESTABLISHED UNDER THIS SECTION;

42 (IV) FUELED AT A MINIMUM OF NINETY PERCENT ON AN ANNUAL BASIS BY
43 BIOGAS PRODUCED FROM THE ANAEROBIC DIGESTION OF AGRICULTURAL WASTE SUCH
44 AS LIVESTOCK MANURE MATERIALS, CROP RESIDUES, AND FOOD PROCESSING WASTE;
45 AND

46 (V) FUELED BY BIOGAS GENERATED BY ANAEROBIC DIGESTION WITH AT LEAST
47 FIFTY PERCENT BY WEIGHT OF ITS FEEDSTOCK BEING LIVESTOCK MANURE MATERI-
48 ALS ON AN ANNUAL BASIS.

49 (5) THE TERM "CREDIT ALLOWANCE YEAR" MEANS THE FIRST TAXABLE YEAR WITH
50 RESPECT TO WHICH THE CREDIT MAY BE CLAIMED PURSUANT TO THE INITIAL CRED-
51 IT COMPONENT CERTIFICATE ISSUED PURSUANT TO SUBDIVISION (D) OF THIS
52 SECTION.

53 (6) THE TERM "TAXABLE YEAR" MEANS THE TAXABLE YEAR OF A BUSINESS
54 TAXPAYER FILING A NEW YORK STATE TAX RETURN UNDER ARTICLE NINE-A, TWEN-
55 TY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER. IF THE BUSINESS DOES
56 NOT HAVE A TAXABLE YEAR BECAUSE IT IS EXEMPT FROM TAXATION OR OTHERWISE

1 IS NOT REQUIRED TO FILE SUCH A RETURN UNDER ANY OF SUCH STATUTES, THE
2 TERM "TAXABLE YEAR" MEANS (I) THE BUSINESS'S FEDERAL TAXABLE YEAR, OR
3 (II) IF THE BUSINESS DOES NOT HAVE A FEDERAL TAXABLE YEAR, THE GIVEN
4 CALENDAR YEAR.

5 (7) "QUALIFIED EXPENDITURES" SHALL BE REMITTED COSTS FOR MATERIALS,
6 LABOR COSTS PROPERLY ALLOCABLE TO ON-SITE PREPARATION, ASSEMBLY AND
7 ORIGINAL INSTALLATION, ARCHITECTURAL AND ENGINEERING SERVICES, AND
8 DESIGNS AND PLANS DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION
9 OF SOLAR AND WIND ENERGY SYSTEM EQUIPMENT, SOLAR ELECTRIC GENERATING
10 EQUIPMENT, FUEL CELL ELECTRIC GENERATING EQUIPMENT, GEOTHERMAL RESOURCE
11 TRANSFER SYSTEM EQUIPMENT AND/OR FARM WASTE ELECTRIC GENERATING EQUIP-
12 MENT DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION OF SUCH EQUIP-
13 MENT INTENDED FOR THE ORIGINAL USE OF SAID TAXPAYER, AT, OR DIRECTLY
14 RELATED TO, A PROPERTY IN NEW YORK STATE THAT OPERATES AS THE SITUS OF A
15 BUSINESS ENTITY OF SAID TAXPAYER. SUCH QUALIFIED EXPENDITURES SHALL NOT
16 INCLUDE INTEREST OR OTHER FINANCE CHARGES WHETHER SUCH CHARGES ACCRUE AS
17 A RESULT OF LEASE OR OWNERSHIP OF SUCH EQUIPMENT. FOR PURPOSES OF
18 DETERMINING THE EXPENSES SERVING AS QUALIFIED EXPENDITURES UNDER THIS
19 SECTION, ANY AMOUNT OF FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE
20 TAXPAYER USED FOR THE PURCHASE AND/OR INSTALLATION OF SUCH EQUIPMENT AND
21 WHICH IS NOT INCLUDED IN THE FEDERAL GROSS INCOME OF THE TAXPAYER SHALL
22 NOT SERVE AS A QUALIFYING EXPENDITURE.

23 (C) ALLOWANCE OF CREDIT. (1) QUALIFIED ALTERNATIVE ENERGY SYSTEMS AND
24 GENERATING EQUIPMENT EXPENSES. QUALIFIED ALTERNATIVE ENERGY SYSTEMS AND
25 GENERATING EQUIPMENT EXPENSES ARE THOSE QUALIFIED EXPENDITURES GENERATED
26 FROM THE PURCHASE AND INSTALLATION OF ELIGIBLE EQUIPMENT AS ENUMERATED
27 IN SUBDIVISION (B) OF THIS SECTION.

28 (2) CREDIT FOR SOLAR AND WIND ENERGY SYSTEM EQUIPMENT. THE AMOUNT OF
29 CREDIT FOR THE PURCHASE AND INSTALLATION OF ELIGIBLE SOLAR AND WIND
30 ENERGY SYSTEM EQUIPMENT SHALL BE FIFTY PERCENT OF THE QUALIFIED EXPENSES
31 FOR TAXPAYERS UNDER ARTICLE NINE-A, THIRTY-TWO OR THIRTY-THREE, AND
32 FORTY-FIVE PERCENT OF THE QUALIFIED EXPENSES FOR TAXPAYERS UNDER ARTICLE
33 TWENTY-TWO OF THIS CHAPTER, INCURRED IN PURCHASING AND INSTALLING ANY
34 SUCH SYSTEM OR COMBINATION THEREOF.

35 (3) CREDIT FOR FUEL CELL ELECTRIC GENERATING EQUIPMENT, GEOTHERMAL
36 RESOURCE TRANSFER SYSTEM EQUIPMENT AND/OR FARM WASTE ELECTRIC GENERATING
37 EQUIPMENT. THE AMOUNT OF CREDIT FOR THE PURCHASE AND INSTALLATION OF
38 ELIGIBLE FUEL CELL ELECTRIC GENERATING EQUIPMENT AND/OR GEOTHERMAL
39 RESOURCE TRANSFER SYSTEM EQUIPMENT SHALL BE FORTY-FIVE PERCENT OF THE
40 QUALIFIED EXPENSES FOR TAXPAYERS UNDER ARTICLE NINE, NINE-A, THIRTY-TWO
41 OR THIRTY-THREE, AND FORTY PERCENT OF THE QUALIFIED EXPENSES FOR TAXPAY-
42 ERS UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER, INCURRED IN PURCHASING AND
43 INSTALLING ANY SUCH SYSTEM.

44 (4) MULTIPLE TAXPAYERS. WHERE QUALIFYING EXPENDITURES ARE ACCUMULATED
45 FROM THE CONSTRUCTION AND/OR THE INSTALLATION OF QUALIFYING ALTERNATIVE
46 SYSTEMS AND GENERATING EQUIPMENT ARE SHARED BY TWO OR MORE TAXPAYERS,
47 THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SECTION SHALL BE PRORATED
48 ACCORDING TO THE PERCENTAGE OF THE TOTAL EXPENDITURE FOR SUCH EQUIPMENT
49 CONTRIBUTED BY EACH TAXPAYER.

50 (D) CREDIT QUALIFICATION. (1) REALIZATION OF CREDIT. CREDITS EARNED
51 UNDER THIS SECTION SHALL BE QUALIFYING EXPENDITURES INCURRED AFTER JANU-
52 ARY FIRST, TWO THOUSAND FOURTEEN, THAT ACCREDIT TO THE TAXPAYER'S CREDIT
53 ALLOWANCE YEAR AND EACH SUBSEQUENT TAXABLE YEAR ACCORDING TO THE
54 PROVISIONS OF SUBDIVISION (C) OF THIS SECTION.

55 (2) CREDIT COMPONENT CERTIFICATE. A TAXPAYER WHO WISHES TO MAKE AN
56 INITIAL CLAIM FOR CREDITS UNDER THIS SECTION SHALL SUBMIT AN APPLICATION

1 FOR A CREDIT COMPONENT CERTIFICATE TO THE DIRECTOR OF THE NEW YORK STATE
2 ENERGY RESEARCH AND DEVELOPMENT AUTHORITY UPON THE SUCCESSFUL INSTALLA-
3 TION AND OPERATION FOR AT LEAST THREE CONTINUOUS MONTHS OF ELIGIBLE
4 EQUIPMENT THAT RATE AS QUALIFIED EXPENDITURES. THE PRESIDENT OF THE NEW
5 YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, IN CONSULTATION
6 WITH THE COMMISSIONER AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVA-
7 TION, SHALL PRESCRIBE THE REQUIREMENTS FOR THE ACCEPTANCE OF SUCH APPLI-
8 CATION, BUT AT A MINIMUM THE APPLICATION SHALL LIST THE AMOUNT OF QUALI-
9 FYING EXPENDITURES, THE RATING CAPACITY IN KILOWATT HOURS OF SUCH
10 EQUIPMENT, AND THE ANTICIPATED REDUCTION IN THE USE OF CONVENTIONAL
11 ENERGY GENERATION SOURCES REALIZED THROUGH THE USE OF SUCH EQUIPMENT.
12 SUCH APPLICATION SHALL REQUIRE A FEE OF FIFTY DOLLARS FOR EACH FIVE
13 MILLION DOLLARS OF GROSS RECEIPTS LISTED BY THE TAXPAYER FOR THE TAXABLE
14 YEAR IMMEDIATELY PRECEDING THE INITIAL CREDIT ALLOWANCE YEAR AFTER THE
15 FIRST FIVE MILLION DOLLARS IN GROSS RECEIPTS FOR SUCH TAXABLE YEAR. ANY
16 EXPANSION OF ALTERNATIVE RATED CAPACITY ADHERING TO INCREASED QUALIFYING
17 EXPENDITURES BEYOND SUCH EXPENDITURES UTILIZED IN A PRIOR ACCEPTED
18 APPLICATION SHALL REQUIRE AN ADDITIONAL APPLICATION FOR FURTHER CREDIT
19 CLAIMS UNDER THIS SECTION.

20 (3) ISSUANCE OF CERTIFICATE. THE PRESIDENT OF THE NEW YORK STATE ENER-
21 GY RESEARCH AND DEVELOPMENT AUTHORITY SHALL REVIEW APPLICATIONS FILED
22 UNDER THIS SECTION TO VERIFY AN ELIGIBLE BUSINESS'S CLAIMED BENEFITS
23 UNDER THIS SECTION. THE PRESIDENT SHALL SUPPLY TO EACH COMPANY A CERTIF-
24 ICATE MARKING THE APPROVAL OF QUALIFYING EXPENSES FOR APPLICATION TO THE
25 COMMISSIONER FOR CREDITS UNDER THIS SECTION WITHIN NINETY DAYS OF THE
26 RECEIPT OF SUCH APPLICATION. A COPY OF THIS CERTIFICATE SHALL BE
27 ATTACHED TO ANY RETURNS SUCH TAXPAYER IS REQUIRED TO FILE UNDER THIS
28 CHAPTER. IF ANY EXPENSES USED AS PART OF THE CREDIT BASE OF QUALIFYING
29 EXPENDITURES ARE DENIED FOR SUCH CREDIT CLAIM BY THE PRESIDENT OF THE
30 NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, SUCH DENIAL
31 SHALL BE REPORTED TO THE TAXPAYER AND THE COMMISSIONER WITH A DETAILED
32 EXPLANATION OF THE RATIONALE FOR SUCH DENIAL.

33 (4) REVOCATION OF BENEFITS. IN ADDITION TO ANY OTHER PENALTIES ENUMER-
34 ATED UNDER THIS CHAPTER, A VIOLATION OF THE TERMS OF THIS SUBDIVISION OR
35 ANY WILLFUL MISREPRESENTATION OF ANY OF THE TERMS OF THIS SECTION MAY
36 RESULT IN THE RESCINDING OF THE CERTIFICATE ISSUED UNDER THIS PARAGRAPH
37 AND A RECAPTURE OF CURRENT AND PREVIOUSLY RECEIVED BENEFITS. THE PRESI-
38 DENT OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY
39 SHALL REPORT TO THE COMMISSIONER ANY DETERMINATIONS OF VIOLATIONS OF THE
40 TERMS OF THIS SECTION. THE COMMISSIONER AND THE COMMISSIONER OF ENVI-
41 RONMENTAL CONSERVATION SHALL MAKE RECOMMENDATIONS TO THE PRESIDENT OF
42 THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY FOR THE
43 RESCINDING OF ANY CERTIFICATE ISSUED PURSUANT TO THIS SECTION THAT THE
44 COMMISSIONER OF ENVIRONMENTAL CONSERVATION DETERMINES RESULTS FROM A
45 WILLFUL FALSE CLAIM OF THE CAPABILITIES OR AMOUNT OF QUALIFYING EXPENDI-
46 TURES OF SOLAR AND WIND ENERGY SYSTEM EQUIPMENT AND FUEL CELL ELECTRIC
47 GENERATING EQUIPMENT.

48 (5) EARLY DISPOSITION. THE DISCONTINUED USE OF ANY SOLAR AND WIND
49 ENERGY SYSTEM EQUIPMENT, FUEL CELL ELECTRIC GENERATING EQUIPMENT, GEOTH-
50 ERMAL RESOURCE TRANSFER SYSTEM EQUIPMENT OR FARM WASTE ELECTRIC GENERAT-
51 ING EQUIPMENT WITHIN FIVE YEARS OF THE CREDIT ALLOWANCE YEAR SHALL
52 RESULT IN THE RECAPTURE OF CURRENT AND PREVIOUSLY RECEIVED BENEFITS
53 UNLESS SUCH DISPOSITION IS DUE TO THE INOPERATIVENESS OF SUCH EQUIPMENT
54 BEYOND ANY REASONABLE CONTROL OR EFFORTS OF THE TAXPAYER OR THE REPLACE-
55 MENT OF SUCH EQUIPMENT BY MORE EFFICIENT AND TECHNICALLY ADVANCED ALTER-
56 NATIVE ENERGY SYSTEMS APPROVED BY THE COMMISSIONER OF ENVIRONMENTAL

1 CONSERVATION AND THE PRESIDENT OF THE NEW YORK STATE ENERGY RESEARCH AND
2 DEVELOPMENT AUTHORITY. SUCH EARLY DISPOSITION SHALL NOT INCLUDE THE
3 TRANSFER OF OWNERSHIP INTEREST OF THE PROPERTY SUCH EQUIPMENT OPERATES
4 WITHIN UNLESS THE TRANSFER RESULTS IN THE CESSATION OF THE OPERATION OF
5 SUCH EQUIPMENT WITHIN FIVE YEARS OF THE CREDIT ALLOWANCE YEAR. THE
6 TAXPAYER SHALL ANNUALLY ATTEST TO THE PRESIDENT OF THE NEW YORK STATE
7 ENERGY RESEARCH AND DEVELOPMENT AUTHORITY THAT SUCH EQUIPMENT REMAINS IN
8 QUALIFYING USE.

9 (E) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN
10 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

11 (1) ARTICLE 9-A: SECTION 210, SUBDIVISION 47

12 (2) ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (WW)

13 (3) ARTICLE 32: SECTION 1456, SUBSECTION (AA)

14 (4) ARTICLE 33: SECTION 1511, SUBDIVISION (DD).

15 S 2. Section 210 of the tax law is amended by adding a new subdivision
16 47 to read as follows:

17 47. ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. A
18 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN
19 SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS
20 ARTICLE. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
21 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER
22 AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS
23 SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVI-
24 SION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF
25 CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN
26 OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE
27 PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED,
28 HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHT-
29 Y-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THER-
30 EON.

31 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
32 of the tax law is amended by adding a new clause (xxxvi) to read as
33 follows:

| | |
|-----------------------------------|-------------------------------|
| 34 (XXXVI) CREDIT FOR ALTERNATIVE | QUALIFYING EXPENDITURES |
| 35 ENERGY SYSTEMS AND | UNDER SUBDIVISION FORTY-SEVEN |
| 36 GENERATING EQUIPMENT | OF SECTION TWO HUNDRED |
| 37 UNDER SUBSECTION (WW) | TEN |

38 S 4. Section 606 of the tax law is amended by adding a new subsection
39 (ww) to read as follows:

40 (WW) ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. (1)
41 ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE
42 COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST
43 THE TAX IMPOSED BY THIS ARTICLE.

44 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER
45 THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR
46 SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
47 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX
48 HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST
49 SHALL BE PAID THEREON.

50 S 5. Section 1456 of the tax law is amended by adding a new subsection
51 (aa) to read as follows:

52 (AA) ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. (1)
53 ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE
54 COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST
55 THE TAX IMPOSED BY THIS ARTICLE.

1 (2) THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR WILL
2 NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED
3 BY PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-
4 FIVE OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER
5 THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY
6 AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREAT-
7 ED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE
8 WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER.
9 PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOU-
10 SAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE
11 PAID THEREON.

12 S 6. Section 1511 of the tax law is amended by adding a new subdivi-
13 sion (dd) to read as follows:

14 (DD) ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. (1)
15 ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE
16 COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST
17 THE TAXES IMPOSED BY THIS ARTICLE.

18 (2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
19 FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
20 THAN THE MINIMUM TAX FIXED BY THIS ARTICLE. HOWEVER, IF THE AMOUNT OF
21 CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE
22 TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH
23 TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
24 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
25 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
26 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
27 NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

28 S 7. This act shall take effect immediately and shall apply to taxa-
29 ble years commencing on and after January 1, 2014.