STATE OF NEW YORK

6749

2021-2022 Regular Sessions

IN ASSEMBLY

March 29, 2021

Introduced by M. of A. SALKA -- 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 for the purchase of on-farm anaerobic digesters or other farm-related equipment that is used in the process of turning farm waste into methane for commercial use

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

Section 1. The tax law is amended by adding two new sections 28-a and 187-q to read as follows:

§ 28-a. Methane production equipment credit. (a) General. A taxpayer subject to tax under article nine, nine-A or twenty-two of this chapter shall be allowed a one-time credit against such tax pursuant to the provisions referenced in subdivision (b) of this section. The credit (or pro rata share of the credit in the case of a partnership) for the purchase and implementation at a farm located in New York state of on-farm anaerobic digesters or other farm-related equipment that is used in the process of turning farm waste into methane for use by the taxpayer or other commercial use shall be the full-value of the equipment at the time of purchase. The tax credit allowed pursuant to this section shall apply to taxable years beginning on and after January first, two thousand twenty-two.

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

(1) Article 9: Section 187-q.

(2) Article 9-A: Section 210-B, subdivision 28.

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

§ 187-q. Methane production equipment credit. A taxpayer shall be allowed a credit to be computed as provided in section twenty-eight-a of this chapter against the tax imposed by this article. Provided, however, that the amount of such credit allowed against the tax imposed by section one hundred eighty-four of this article shall be the excess of the amount of such credit over the amount of any credit allowed by this section against the tax imposed by section one hundred eighty-three of

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

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this article. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three of this article. If, however, the amount of the credit allowed under this section for any taxable year reduces the tax to such amount, 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 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 tax credit allowed pursuant to this section shall apply to taxable years beginning on and after January first, two thousand twenty-two.

§ 2. Section 210-B of the tax law is amended by adding a new subdivision 28 to read as follows:

28. Methane production equipment credit. A taxpayer shall be allowed a credit, to be computed as provided in section twenty-eight-a of this chapter against the tax imposed by this article. 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. However, if the amount of credit allowed 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, 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. The tax credit allowed pursuant to this section shall apply to taxable years beginning on and after January first, two thousand twenty-two.

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

(xlvi) Methane production equipment credit under subsection (kkk)	Amount of credit under subdivision twenty-eight of section two hundred ten-B

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

(kkk) Methane production equipment credit. A taxpayer shall be allowed a credit to be computed as provided in section twenty-eight-a of this chapter against the tax imposed by this article. If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such 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, that no interest shall be paid thereon. The tax credit allowed pursuant to this section shall apply to taxable years beginning on and after January first, two thousand twenty-two.

§ 5. This act shall take effect immediately and shall apply to tax years commencing on and after January 1, 2022. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.