

STATE OF NEW YORK

2290

2021-2022 Regular Sessions

IN SENATE

January 20, 2021

Introduced by Sen. JORDAN -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

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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1 this article. In no event shall the credit under this section be allowed
2 in an amount which will reduce the tax payable to less than the applica-
3 ble minimum tax fixed by section one hundred eighty-three of this arti-
4 cle. If, however, the amount of the credit allowed under this section
5 for any taxable year reduces the tax to such amount, the excess shall be
6 treated as an overpayment of tax to be credited or refunded in accord-
7 ance with the provisions of section six hundred eighty-six of this chap-
8 ter. Provided, however, the provisions of subsection (c) of section one
9 thousand eighty-eight of this chapter notwithstanding, no interest shall
10 be paid thereon. The tax credit allowed pursuant to this section shall
11 apply to taxable years beginning on and after January first, two thou-
12 sand twenty-two.

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

15 28. Methane production equipment credit. A taxpayer shall be allowed a
16 credit, to be computed as provided in section twenty-eight-a of this
17 chapter against the tax imposed by this article. The credit allowed
18 under this subdivision for any taxable year shall not reduce the tax due
19 for such year to less than the fixed dollar minimum amount prescribed in
20 paragraph (d) of subdivision one of section two hundred ten of this
21 article. However, if the amount of credit allowed under this subdivision
22 for any taxable year reduces the tax to such amount or if the taxpayer
23 otherwise pays tax based on the fixed dollar minimum amount, any amount
24 of credit thus not deductible in such taxable year shall be treated as
25 an overpayment of tax to be credited or refunded in accordance with the
26 provisions of section one thousand eighty-six of this chapter.
27 Provided, however, the provisions of subsection (c) of section one thou-
28 sand eighty-eight of this chapter notwithstanding, no interest shall be
29 paid thereon. The tax credit allowed pursuant to this section shall
30 apply to taxable years beginning on and after January first, two thou-
31 sand twenty-two.

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

35 <u>(xlvi) Methane production equipment</u>	<u>Amount of credit under</u>
36 <u>credit under subsection (kkk)</u>	<u>subdivision twenty-eight of</u>
37	<u>section two hundred ten-B</u>

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

40 (kkk) Methane production equipment credit. A taxpayer shall be allowed
41 a credit to be computed as provided in section twenty-eight-a of this
42 chapter against the tax imposed by this article. If the amount of the
43 credit allowed under this subsection for any taxable year shall exceed
44 the taxpayer's tax for such year, the excess shall be treated as an
45 overpayment of tax to be credited or refunded in accordance with the
46 provisions of section six hundred eighty-six of this article, provided,
47 however, that no interest shall be paid thereon. The tax credit allowed
48 pursuant to this section shall apply to taxable years beginning on and
49 after January first, two thousand twenty-two.

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