

1120

2009-2010 Regular Sessions

I N S E N A T E

January 26, 2009

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and
when printed to be committed to the Committee on Investigations and
Government Operations

AN ACT to amend the tax law, in relation to the alternative fuels credit

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

1 Section 1. Subsection (p) of section 606 of the tax law, as amended by
2 section 16 of part W1 of chapter 109 of the laws of 2006, is amended to
3 read as follows:
4 (p) Alternative fuels credit. (1) General. A taxpayer shall be allowed
5 a credit, to be computed as hereinafter provided, against the tax
6 imposed by this article, for QUALIFIED HYBRID VEHICLES AND alternative
7 fuel vehicle refueling property placed in service during the taxable
8 year.
9 (2) Alternative fuel vehicle refueling property. The credit under this
10 subsection for clean-fuel vehicle refueling property shall equal fifty
11 percent of the cost of any such property
12 (A) which is located in this state and
13 (B) for which a credit is allowed under section thirty C of the inter-
14 nal revenue code [but not including alternative fuel vehicle refueling
15 property relating to a qualified hybrid vehicle as such vehicle is
16 defined in subparagraph (B) of paragraph three of this subsection].
17 (3) QUALIFIED HYBRID VEHICLE. THE CREDIT UNDER THIS SUBSECTION FOR
18 QUALIFIED HYBRID VEHICLES SHALL BE DETERMINED AS FOLLOWS BASED ON THE
19 BASELINE FUEL ECONOMY (COMBINED CITY AND HIGHWAY FUEL ECONOMY LABEL
20 VALUE) FOR THE TWO THOUSAND FOUR MODEL YEAR BY VEHICLE TYPE AND SIZE FOR
21 SUCH HYBRID VEHICLE, AS DETERMINED PURSUANT TO THE DESCRIPTION SET FORTH
22 IN APPENDICES A AND F OF THE "LIGHT-DUTY AUTOMOTIVE TECHNOLOGY AND FUEL
23 ECONOMY TRENDS: 1975 THROUGH 2004" (EPA420-R-04-001, APRIL 2004) BY THE
24 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

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

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1 (A) FIVE HUNDRED DOLLARS IF THE BASELINE FUEL ECONOMY OF SUCH HYBRID
2 VEHICLE IS TEN PERCENT OR MORE BUT LESS THAN TWENTY PERCENT HIGHER THAN
3 SUCH CLASS,

4 (B) ONE THOUSAND DOLLARS IF THE BASELINE FUEL ECONOMY OF SUCH HYBRID
5 VEHICLE IS TWENTY PERCENT OR MORE BUT LESS THAN FORTY PERCENT HIGHER
6 THAN SUCH VEHICLE TYPE,

7 (C) ONE THOUSAND FIVE HUNDRED DOLLARS IF THE BASELINE FUEL ECONOMY OF
8 SUCH HYBRID VEHICLE IS FORTY PERCENT OR MORE BUT LESS THAN SIXTY PERCENT
9 HIGHER THAN SUCH VEHICLE TYPE,

10 (D) TWO THOUSAND DOLLARS IF THE BASELINE FUEL ECONOMY OF SUCH HYBRID
11 VEHICLE IS SIXTY PERCENT OR MORE BUT LESS THAN EIGHTY PERCENT HIGHER
12 THAN SUCH VEHICLE TYPE, AND

13 (E) TWO THOUSAND FIVE HUNDRED DOLLARS IF THE BASELINE FUEL ECONOMY OF
14 SUCH HYBRID VEHICLE IS EIGHTY PERCENT OR MORE THAN SUCH VEHICLE TYPE.

15 FOR ALL CARS AND LIGHT TRUCKS, THE CREDIT SHALL BE BASED ON THE VEHI-
16 CLE TYPE AND SIZE, AS DETERMINED PURSUANT TO THE VEHICLE CLASSIFICATION
17 DESCRIPTION SET FORTH IN APPENDIX A OF THE "LIGHT-DUTY AUTOMOTIVE TECH-
18 NOLOGY AND FUEL ECONOMY TRENDS: 1975 THROUGH 2004" (EPA420-R-04-001,
19 APRIL 2004) BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. BASE-
20 LINE FUEL ECONOMY FOR EACH VEHICLE TYPE AND SIZE SHALL BE BASED UPON
21 TWO THOUSAND SIX MODEL YEAR VEHICLES IN APPENDIX F OF SUCH REPORT. THE
22 BASELINE FUEL ECONOMY VALUES SHALL BE THE ADJUSTED UNITED STATES ENVI-
23 RONMENTAL PROTECTION AGENCY FUEL ECONOMY LABEL VALUES FOR COMBINED CITY
24 AND HIGHWAY DRIVING, NOT THE UNADJUSTED VALUES USED FOR CORPORATE AVER-
25 AGE FUEL ECONOMY PURPOSES. THE BASELINE FUEL ECONOMY VALUES FOR EACH
26 VEHICLE TYPE AND SIZE ARE LISTED AS FOLLOWS:

27 VEHICLE TYPE BASELINE FUEL
28 AND SIZE ECONOMY VALUE

29 SMALL CAR 25.9
30 MID-SIZE CAR 24.3
31 LARGE CAR 22.2
32 SMALL WAGON 26.2
33 MID-SIZE WAGON 22.9
34 LARGE WAGON 18.9
35 MID-SIZE VAN 20.4
36 LARGE VAN 16.2
37 SMALL SUV 21.8
38 MID-SIZE SUV 19.2
39 LARGE SUV 16.3
40 SMALL PICKUP 19.5
41 MID-SIZE PICKUP 19.0
42 LARGE PICKUP 16.5

43 FOR PURPOSES OF THIS PARAGRAPH, CAR SHALL HAVE THE SAME MEANING AS
44 PASSENGER AUTOMOBILE AS DEFINED IN TITLE 49, SUBTITLE VI, PART C, CHAP-
45 TER 329, SECTION 32901, PARAGRAPH (A), SUBPARAGRAPH 16 OF THE UNITED
46 STATES CODE, AND LIGHT TRUCK SHALL HAVE THE SAME MEANING AS LIGHT TRUCK
47 AS DEFINED IN PARAGRAPH (A) OF SECTION 523.5 OF PART 523 OF TITLE 49 OF
48 THE CODE OF FEDERAL REGULATIONS.

49 THE COMMISSIONER IS HEREBY AUTHORIZED TO REQUEST, AS NEEDED, A WRIT-
50 TEN REPORT FROM THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION DETAILING:

51 (I) WHICH MOTOR VEHICLES (IDENTIFIED BY SIZE, TYPE, CONFIGURATION,
52 MAKE, MODEL AND MODEL YEAR) MEET THE REQUIREMENTS OF A QUALIFIED HYBRID
53 VEHICLE AS DEFINED IN SUBPARAGRAPH (B) OF PARAGRAPH FOUR OF THIS
54 SUBSECTION; AND (II) FOR EACH MODEL OF MOTOR VEHICLE THAT SO QUALIFIES,
55 THE AMOUNT OF THE CREDIT ALLOWED FOR SUCH QUALIFIED HYBRID VEHICLE
56 UNDER THIS PARAGRAPH IDENTIFIED BY SIZE, TYPE, CONFIGURATION, MAKE,

1 MODEL AND MODEL YEAR. SUCH REPORT SHALL INCLUDE DOCUMENTATION SUBSTAN-
2 TIATING THE DETERMINATIONS MADE IN SUCH REPORT, WHICH REPORT THE
3 DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL PROVIDE TO THE COMMIS-
4 SIONER, AFTER CONSULTATION WITH THE NEW YORK STATE ENERGY RESEARCH AND
5 DEVELOPMENT AUTHORITY, NO LATER THAN THIRTY DAYS AFTER RECEIVING THE
6 COMMISSIONER'S REQUEST.

7 (4) Definitions. (A) The term "alternative fuel vehicle refueling
8 property" means any such property which is qualified within the meaning
9 of section thirty C of the internal revenue code[, but such term shall
10 not include alternative fuel vehicle refueling property relating to a
11 qualified hybrid vehicle as such vehicle is defined in subparagraph (B)
12 of this paragraph].

13 (B) The term "qualified hybrid vehicle" means a motor vehicle[, as
14 defined in section one hundred twenty-five of the vehicle and traffic
15 law,,] that:

16 (i) draws propulsion energy from ONBOARD SOURCES OF STORED ENERGY,
17 WHICH ARE both:

18 (a) an internal combustion [engine (]or heat engine [that uses] USING
19 combustible fuel[]]; and

20 (b) [an] A RECHARGEABLE energy storage [device] SYSTEM; and

21 (ii) employs a regenerative vehicle braking system that recovers waste
22 energy to charge such energy storage device[.]; AND

23 (III) IS CERTIFIED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION TO
24 MEET THE ABOVE CRITERIA.

25 [(4)] (5) Carryovers. If the amount of credit allowable under this
26 subsection shall exceed the taxpayer's tax for such year, the excess may
27 be carried over to the following year or years and may be deducted from
28 the taxpayer's tax for such year or years.

29 [(5)] (6) Credit recapture. (A) Vehicles.

30 (i) If, within three full years from the date a qualified hybrid vehi-
31 cle or a vehicle of which alternative fuel vehicle property is a part is
32 placed in service, such qualified hybrid vehicle or vehicle of which
33 alternative fuel vehicle property is a part ceases to be qualified, a
34 recapture amount must be added back in the tax year in which such cessa-
35 tion occurs.

36 (ii) Cessation of qualification. [(I)] A qualified hybrid vehicle
37 ceases to be qualified if

38 (a) it is modified by the taxpayer so that it no longer meets the
39 requirements of a qualified hybrid vehicle as defined in subparagraph
40 (B) of paragraph [three] FOUR of this subsection.

41 (b) the taxpayer receiving the credit under this subsection sells or
42 disposes of the vehicle and knows or has reason to know that the vehicle
43 will be so modified.

44 (B) Alternative fuel vehicle refueling property. (i) If, at any time
45 before the end of its recovery period, alternative fuel vehicle refuel-
46 ing property ceases to be qualified, a recapture amount must be added
47 back in the year in which such cessation occurs.

48 (ii) Cessation of qualification. Clean-fuel vehicle refueling property
49 ceases to be qualified if

50 (I) the property no longer qualifies as property described in section
51 thirty C of the internal revenue code, or

52 (II) fifty percent or more of the use of the property in a taxable
53 year is other than in a trade or business in this state, or

54 (III) the taxpayer receiving the credit under this subsection sells or
55 disposes of the property and knows or has reason to know that the prop-

1 erty will be used in a manner described in item (I) or (II) of this
2 clause.
3 (iii) Recapture amount. The recapture amount is equal to the credit
4 allowable under this subsection multiplied by a fraction, the numerator
5 of which is the total recovery period for the property minus the number
6 of recovery years prior to, but not including, the recapture year, and
7 the denominator of which is the total recovery period.
8 [(6)] (7) Termination. The credit allowed by paragraph two of this
9 subsection shall not apply in taxable years beginning after December
10 thirty-first, two thousand ten.
11 S 2. This act shall take effect January 1, 2010, provided that the
12 commissioner of taxation and finance shall be authorized on and after
13 the date this act shall have become a law to adopt and amend any rules
14 or regulations and issue any procedures, forms or instructions necessary
15 to implement the provisions of this act on its effective date.