

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. CAHILL, REILLY -- read once and referred to the
Committee on Ways and Means

AN ACT to amend the tax law, in relation to restoring the fuel cell tax
credit

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

1 Section 1. Subdivision 1 of section 187-n of the tax law, as amended
2 by section 1 of part C-1 of chapter 57 of the laws of 2009, is amended
3 to read as follows:
4 (1) Allowance of credit. [For taxable years beginning before January
5 first, two thousand nine, a] A taxpayer whose business is not substan-
6 tially engaged in the commercial generation, distribution, transmission,
7 or servicing of energy or energy products shall be allowed a credit
8 against the taxes imposed by sections one hundred eighty-three, one
9 hundred eighty-four and one hundred eighty-five of this article, equal
10 to its qualified fuel cell electric generating equipment expenditures.
11 Provided, however, that the amount of such credit allowable against the
12 tax imposed by section one hundred eighty-four of this article shall be
13 the excess of the amount of such credit over the amount of any credit
14 allowed by this section against the tax imposed by section one hundred
15 eighty-three of this article. This credit shall not exceed one thousand
16 five hundred dollars per generating unit with respect to any taxable
17 year. The credit provided for herein shall be allowed with respect to
18 the taxable year in which the fuel cell electric generating equipment is
19 placed in service.
20 S 2. Paragraph (a) of subdivision 37 of section 210 of the tax law, as
21 amended by section 2 of part C-1 of chapter 57 of the laws of 2009, is
22 amended to read as follows:
23 (a) Allowance of credit. [For taxable years beginning before January
24 first, two thousand nine, a] A taxpayer shall be allowed a credit

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

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1 against the tax imposed by this article, equal to its qualified fuel
2 cell electric generating equipment expenditures. This credit shall not
3 exceed one thousand five hundred dollars per generating unit with
4 respect to any taxable year. The credit provided for herein shall be
5 allowed with respect to the taxable year in which the fuel cell electric
6 generating equipment is placed in service.

7 S 3. Paragraph 1 of subsection (g-2) of section 606 of the tax law, as
8 amended by section 3 of part C-1 of chapter 57 of the laws of 2009, is
9 amended to read as follows:

10 (1) General. [For taxable years beginning before January first, two
11 thousand nine, an] AN individual taxpayer shall be allowed a credit
12 against the tax imposed by this article equal to twenty percent of qual-
13 ified fuel cell electric generating equipment expenditures. This credit
14 shall not exceed one thousand five hundred dollars per generating unit
15 with respect to any taxable year. The credit provided for herein shall
16 be allowed with respect to the taxable year in which the fuel cell elec-
17 tric generating equipment is placed in service.

18 S 4. Paragraph 1 of subsection (t) of section 1456 of the tax law, as
19 amended by section 4 of part C-1 of chapter 57 of the laws of 2009, is
20 amended to read as follows:

21 (1) Allowance of credit. [For taxable years beginning before January
22 first, two thousand nine, a] A taxpayer shall be allowed a credit
23 against the tax imposed by this article, equal to its qualified fuel
24 cell electric generating equipment expenditures. This credit shall not
25 exceed one thousand five hundred dollars per generating unit with
26 respect to any taxable year. The credit provided for in this subsection
27 shall be allowed with respect to the taxable year in which the fuel cell
28 electric generating equipment is placed in service.

29 S 5. Paragraph 1 of subdivision (x) of section 1511 of the tax law, as
30 amended by section 5 of part C-1 of chapter 57 of the laws of 2009, is
31 amended to read as follows:

32 (1) Allowance of credit. [For taxable years beginning before January
33 first, two thousand nine, a] A taxpayer shall be allowed a credit
34 against the tax imposed by this article, equal to its qualified fuel
35 cell electric generating equipment expenditures. This credit shall not
36 exceed one thousand five hundred dollars per generating unit with
37 respect to any taxable year. The credit provided for in this subdivision
38 shall be allowed with respect to the taxable year in which the fuel cell
39 electric generating equipment is placed in service.

40 S 6. Subdivision (a) of section 20 of the tax law, as amended by
41 section 6 of part C-1 of chapter 57 of the laws of 2009, is amended to
42 read as follows:

43 (a) Allowance of credit. [For taxable years beginning before January
44 first, two thousand nine, a] A taxpayer subject to tax under article
45 nine, nine-A, twenty-two, thirty-two or thirty-three of this chapter
46 shall be allowed a credit against such tax, pursuant to the provisions
47 referenced in subdivision (d) of this section. The credit shall be
48 allowed where a taxpayer has made a certified contribution of at least
49 ten million dollars to a qualified transportation improvement project in
50 a prior taxable year. The credit shall be equal to six percent of the
51 taxpayer's increased qualified business facility payroll for the taxable
52 year. The aggregate of all credit amounts allowed to the taxpayer pursu-
53 ant to this section with respect to a certified contribution shall not
54 exceed the amount of such certified contribution.

55 S 7. Clauses (xiv) and (xxv) of subparagraph (B) of paragraph 1 of
56 subsection (i) of section 606 of the tax law, as amended by section 7 of

1 part C-1 of chapter 57 of the laws of 2009, are amended to read as
2 follows:

3 (xiv) Credit for transportation	[For taxable years beginning
4 improvement contributions under	before January first, two thousand
5 subsection (z)	nine, amount] AMOUNT
6	of credit under subdivision
7	thirty-two of section
8	two hundred ten or subsection
9	(n) of section fourteen
10	hundred fifty-six
11 (xxv) Credit for qualified fuel	[For taxable years beginning before
12 cell electric generating	January first, two thousand nine,
13 equipment expenditures	amount] AMOUNT of credit
14 under subsection (g-2)	under subdivision thirty-seven of
15	section two hundred ten or
16	subsection (t) of section fourteen
17	hundred fifty-six
18 S 8. This act shall take effect immediately and shall be deemed to	
19 have been in full force and effect on and after January 1, 2011.	