S T A T E O F N E W Y O R K

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2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. GUNTHER, ORTIZ, PHEFFER, SPANO, ABBATE -- Multi-Sponsored by -- M. of A. DESTITO, SWEENEY -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a credit against tax for wind electric generating equipment installed on farm property

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

Section 1. Section 606 of the tax law is amended by adding a new subsection (g-3) to read as follows:

(G-3) WIND ELECTRIC GENERATING EQUIPMENT CREDIT; FARM PROPERTY. (1) GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO TWENTY-FIVE PERCENT OF QUALIFIED WIND ELECTRIC GENERATING EQUIPMENT EXPENDITURES. THIS CREDIT SHALL NOT EXCEED SEVEN THOUSAND FIVE HUNDRED DOLLARS.

(2) QUALIFIED WIND ELECTRIC GENERATING EQUIPMENT EXPENDITURES. (A) THE TERM "QUALIFIED WIND ELECTRIC GENERATING EQUIPMENT EXPENDITURES" MEANS EXPENDITURES, LIMITED TO THE EXPENDITURE CAP SET FORTH IN SUBPARAGRAPH (B) OF THIS PARAGRAPH, FOR THE PURCHASE OF WIND ELECTRIC GENERATING EQUIPMENT WHICH IS INSTALLED ON FARM PROPERTY WHICH IS (I) LOCATED IN THIS STATE AND (II) USED BY THE TAXPAYER AS HIS OR HER PRINCIPAL PREMISES AT THE TIME THE WIND ELECTRIC GENERATING EQUIPMENT IS PLACED IN SERVICE.

(B) FOR PURPOSES OF SUBPARAGRAPH (A) OF THIS PARAGRAPH, THE TERM "EXPENDITURE CAP" SHALL MEAN THE PRODUCT OF (I) SIX DOLLARS AND (II) THE NUMBER OF WATTS INCLUDED IN THE RATED CAPACITY OF THE WIND ELECTRIC GENERATING EQUIPMENT.

(C) SUCH QUALIFIED EXPENDITURES SHALL INCLUDE EXPENDITURES FOR MATERIALS, LABOR COSTS PROPERLY ALLOCABLE TO ON-SITE PREPARATION, ASSEMBLY AND ORIGINAL INSTALLATION, ARCHITECTURAL AND ENGINEERING SERVICES, AND

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

LBD02078-01-1

DESIGNS AND PLANS DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION OF THE WIND ELECTRIC GENERATING EQUIPMENT.

(D) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER FINANCE CHARGES.

(3) WIND ELECTRIC GENERATING EQUIPMENT. THE TERM "WIND ELECTRIC GENERATING EQUIPMENT" SHALL MEAN EQUIPMENT WHICH, WHEN INSTALLED AT A TAXPAYER'S PREMISES, USES WIND ENERGY FOR THE PURPOSE OF GENERATING ELECTRICITY FOR USE AT SUCH PREMISES AND WHICH HAS A RATED CAPACITY FOR GENERATING ELECTRICITY WHICH DOES NOT EXCEED ONE HUNDRED KILOWATTS.

(4) MULTIPLE TAXPAYERS. WHERE WIND ELECTRIC GENERATING EQUIPMENT IS PURCHASED AND INSTALLED IN A PRINCIPAL PREMISES SHARED BY TWO OR MORE TAXPAYERS, THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR EACH SUCH TAXPAYER SHALL BE PRORATED ACCORDING TO THE PERCENTAGE OF THE TOTAL EXPENDITURE FOR SUCH WIND ELECTRIC GENERATING EQUIPMENT CONTRIBUTED BY EACH TAXPAYER.

(5) GRANTS. FOR PURPOSES OF DETERMINING THE AMOUNT OF THE EXPENDITURE INCURRED IN PURCHASING AND INSTALLING WIND ELECTRIC GENERATING EQUIPMENT, THE AMOUNT OF ANY FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE TAXPAYER, WHICH WAS USED FOR THE PURCHASE AND/OR INSTALLATION OF SUCH EQUIPMENT AND WHICH WAS NOT INCLUDED IN THE FEDERAL GROSS INCOME OF THE TAXPAYER, SHALL NOT BE INCLUDED IN THE AMOUNT OF SUCH EXPENDITURES.

(6) WHEN CREDIT ALLOWED. THE CREDIT PROVIDED FOR HEREIN SHALL BE ALLOWED WITH RESPECT TO THE TAXABLE YEAR, COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, IN WHICH THE WIND ELECTRIC GENERATING EQUIPMENT IS PLACED IN SERVICE.

(7) CARRYOVER OF CREDIT. IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 2. This act shall take effect immediately.