

936--B

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

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Introduced by M. of A. KAVANAGH, GUNTHER, LUPARDO, PEOPLES-STOKES, CAMARA, SCHIMMINGER, COLTON, JAFFEE, MILLMAN, HOOPER, TITONE, HEVESI, GALEF, CROUCH -- Multi-Sponsored by -- M. of A. GLICK, SCHIMEL, WEISENBERG -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to establishing a tax credit for alternative energy systems and generating equipment

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

1 Section 1. The tax law is amended by adding a new section 28-a to read
2 as follows:
3 S 28-A. CREDIT FOR ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIP-
4 MENT. (A) GENERAL. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE-A, TWEN-
5 TY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER, WHOSE BUSINESS IS
6 NOT SUBSTANTIALLY ENGAGED IN THE COMMERCIAL GENERATION, DISTRIBUTION,
7 TRANSMISSION OR SERVICING OF ENERGY OR ENERGY PRODUCTS, AND WHO EMPLOYS
8 ONE OR MORE FULL-TIME EMPLOYEES, EXCLUDING GENERAL EXECUTIVE OFFICERS
9 (IN THE CASE OF A CORPORATION), SHALL BE ALLOWED A CREDIT AGAINST SUCH
10 TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (E) OF THIS
11 SECTION. THE CREDIT SHALL BE ALLOWED FOR QUALIFIED EXPENDITURES WHICH
12 MEET THE ELIGIBILITY CRITERIA, IF ANY, PRESCRIBED BY THE DEPARTMENT, IN
13 CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE
14 NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, DISBURSED IN
15 NEW YORK STATE.
16 (B) DEFINITIONS. FOR THE PURPOSES OF THIS SECTION: (1) THE TERM
17 "SOLAR AND WIND ENERGY SYSTEM EQUIPMENT" SHALL REFER TO A SYSTEM WHICH

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

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1 SHALL MEET THE ELIGIBILITY REQUIREMENTS SET BY THE DEPARTMENT OF ENVI-
2 RONMENTAL CONSERVATION AND THE NEW YORK STATE ENERGY AND RESEARCH AND
3 DEVELOPMENT AUTHORITY WHICH SERVES AS:

4 (I) SOLAR ELECTRIC GENERATING EQUIPMENT WHICH SHALL MEAN AN ARRANGE-
5 MENT OR COMBINATION OF COMPONENTS UTILIZING SOLAR RADIATION TO PRODUCE
6 ENERGY DESIGNED TO PROVIDE HEATING, COOLING, HOT WATER OR ELECTRICITY.
7 SUCH ARRANGEMENT OR COMPONENTS SHALL NOT INCLUDE EQUIPMENT THAT IS PART
8 OF A NON-SOLAR ENERGY SYSTEM OR WHICH USES ANY SORT OF RECREATIONAL
9 FACILITY OR EQUIPMENT AS A STORAGE MEDIUM.

10 (II) A WIND ENERGY SYSTEM, WHICH SHALL MEAN AN ARRANGEMENT OR COMBINA-
11 TION OF COMPONENTS DESIGNED TO GENERATE AND PROVIDE ELECTRICITY OR
12 MECHANICAL ENERGY THROUGH THE PROCESS OF CONVERTING FORCE PROVIDED BY
13 WIND INTO MECHANICAL AND/OR ELECTRICAL ENERGY, AND STORING OR DISTRIBUT-
14 ING SUCH ENERGY.

15 (2) THE TERM "FUEL CELL ELECTRIC GENERATING EQUIPMENT" SHALL REFER TO
16 ON-SITE ELECTRICITY GENERATION SYSTEMS, LOCATED IN REAL PROPERTY LOCATED
17 IN NEW YORK STATE UTILIZING PROTON EXCHANGE MEMBRANE FUEL CELLS OR
18 MOLTEN CARBONATE FUEL CELL TECHNOLOGIES. "FUEL CELL" MEANS A DEVICE
19 THAT PRODUCES ELECTRICITY DIRECTLY FROM HYDROGEN OR HYDROCARBON FUEL
20 THROUGH A NON-COMBUSTIVE ELECTROCHEMICAL PROCESS.

21 (3) THE TERM "GEOTHERMAL RESOURCE TRANSFER SYSTEM" MEANS A SYSTEM
22 TRANSFERRING ENERGY THROUGH THE USE OF A RESOURCE IN NEW YORK STATE
23 INCLUDING:

24 (I) ALL PRODUCTS OF GEOTHERMAL PROCESSES EMBRACING INDIGENOUS STEAM,
25 HOT WATER, AND HOT BRINES;

26 (II) STEAM AND OTHER GASES, HOT WATER AND HOT BRINES RESULTING FROM
27 WATER, GAS, OR OTHER FLUIDS ARTIFICIALLY INTRODUCED INTO GEOTHERMAL
28 FORMATIONS;

29 (III) HEAT OR OTHER ASSOCIATED ENERGY FOUND IN GEOTHERMAL FORMATIONS;
30 AND

31 (IV) ANY BYPRODUCTS DERIVED FROM THEM, WHERE "BYPRODUCT" MEANS ANY
32 MINERAL OR MINERALS (EXCLUSIVE OF OIL, HYDROCARBON GAS, AND HELIUM)
33 WHICH ARE FOUND IN SOLUTION OR IN ASSOCIATION WITH OTHER GEOTHERMAL
34 RESOURCES AND WHICH HAVE A VALUE OF LESS THAN SEVENTY-FIVE PERCENT OF
35 THE VALUE OF THE GEOTHERMAL STEAM OR ARE NOT, BECAUSE OF QUANTITY, QUAL-
36 ITY, OR TECHNICAL DIFFICULTIES IN EXTRACTION AND PRODUCTION, OF SUFFI-
37 CIENT VALUE TO WARRANT EXTRACTION AND PRODUCTION BY THEMSELVES.

38 (4) THE TERM "FARM WASTE ELECTRIC GENERATING EQUIPMENT" MEANS EQUIP-
39 MENT THAT GENERATES ELECTRIC ENERGY FROM BIOGAS PRODUCED BY THE ANAERO-
40 BIC DIGESTION OF AGRICULTURAL WASTE, SUCH AS LIVESTOCK MANURE, FARMING
41 WASTES AND FOOD PROCESSING WASTES WITH A RATED CAPACITY OF NOT MORE THAN
42 FIVE HUNDRED KILOWATTS, THAT IS:

43 (I) MANUFACTURED, INSTALLED, AND OPERATED IN ACCORDANCE WITH APPLICA-
44 BLE GOVERNMENT AND INDUSTRY STANDARDS;

45 (II) CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED IN CONJUNCTION WITH
46 AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES;

47 (III) OPERATED IN COMPLIANCE WITH ANY STANDARDS AND REQUIREMENTS
48 ESTABLISHED UNDER THIS SECTION;

49 (IV) FUELED AT A MINIMUM OF NINETY PERCENT ON AN ANNUAL BASIS BY
50 BIOGAS PRODUCED FROM THE ANAEROBIC DIGESTION OF AGRICULTURAL WASTE SUCH
51 AS LIVESTOCK MANURE MATERIALS, CROP RESIDUES, AND FOOD PROCESSING WASTE;
52 AND

53 (V) FUELED BY BIOGAS GENERATED BY ANAEROBIC DIGESTION WITH AT LEAST
54 FIFTY PERCENT BY WEIGHT OF ITS FEEDSTOCK BEING LIVESTOCK MANURE MATERI-
55 ALS ON AN ANNUAL BASIS.

(5) THE TERM "CREDIT ALLOWANCE YEAR" MEANS THE FIRST TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT MAY BE CLAIMED PURSUANT TO THE INITIAL CREDIT COMPONENT CERTIFICATE ISSUED PURSUANT TO SUBDIVISION (D) OF THIS SECTION.

(6) THE TERM "TAXABLE YEAR" MEANS THE TAXABLE YEAR OF A BUSINESS TAXPAYER FILING A NEW YORK STATE TAX RETURN UNDER ARTICLE NINE-A, TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER. IF THE BUSINESS DOES NOT HAVE A TAXABLE YEAR BECAUSE IT IS EXEMPT FROM TAXATION OR OTHERWISE IS NOT REQUIRED TO FILE SUCH A RETURN UNDER ANY OF SUCH STATUTES, THE TERM "TAXABLE YEAR" MEANS (I) THE BUSINESS'S FEDERAL TAXABLE YEAR, OR (II) IF THE BUSINESS DOES NOT HAVE A FEDERAL TAXABLE YEAR, THE GIVEN CALENDAR YEAR.

(7) "QUALIFIED EXPENDITURES" SHALL BE REMITTED COSTS FOR MATERIALS, LABOR COSTS PROPERLY ALLOCABLE TO ON-SITE PREPARATION, ASSEMBLY AND ORIGINAL INSTALLATION, ARCHITECTURAL AND ENGINEERING SERVICES, AND DESIGNS AND PLANS DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION OF SOLAR AND WIND ENERGY SYSTEM EQUIPMENT, SOLAR ELECTRIC GENERATING EQUIPMENT, FUEL CELL ELECTRIC GENERATING EQUIPMENT, GEOTHERMAL RESOURCE TRANSFER SYSTEM EQUIPMENT AND/OR FARM WASTE ELECTRIC GENERATING EQUIPMENT DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION OF SUCH EQUIPMENT INTENDED FOR THE ORIGINAL USE OF SAID TAXPAYER, AT, OR DIRECTLY RELATED TO, A PROPERTY IN NEW YORK STATE THAT OPERATES AS THE SITUS OF A BUSINESS ENTITY OF SAID TAXPAYER. SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER FINANCE CHARGES WHETHER SUCH CHARGES ACCRUE AS A RESULT OF LEASE OR OWNERSHIP OF SUCH EQUIPMENT. FOR PURPOSES OF DETERMINING THE EXPENSES SERVING AS QUALIFIED EXPENDITURES UNDER THIS SECTION, ANY AMOUNT OF FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE TAXPAYER USED FOR THE PURCHASE AND/OR INSTALLATION OF SUCH EQUIPMENT AND WHICH IS NOT INCLUDED IN THE FEDERAL GROSS INCOME OF THE TAXPAYER SHALL NOT SERVE AS A QUALIFYING EXPENDITURE.

(C) ALLOWANCE OF CREDIT. (1) QUALIFIED ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT EXPENSES. QUALIFIED ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT EXPENSES ARE THOSE QUALIFIED EXPENDITURES GENERATED FROM THE PURCHASE AND INSTALLATION OF ELIGIBLE EQUIPMENT AS ENUMERATED IN SUBDIVISION (B) OF THIS SECTION.

(2) CREDIT FOR SOLAR AND WIND ENERGY SYSTEM EQUIPMENT. THE AMOUNT OF CREDIT FOR THE PURCHASE AND INSTALLATION OF ELIGIBLE SOLAR AND WIND ENERGY SYSTEM EQUIPMENT SHALL BE FIFTY PERCENT OF THE QUALIFIED EXPENSES FOR TAXPAYERS UNDER ARTICLE NINE-A, THIRTY-TWO OR THIRTY-THREE, AND FORTY-FIVE PERCENT OF THE QUALIFIED EXPENSES FOR TAXPAYERS UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER, INCURRED IN PURCHASING AND INSTALLING ANY SUCH SYSTEM OR COMBINATION THEREOF.

(3) CREDIT FOR FUEL CELL ELECTRIC GENERATING EQUIPMENT, GEOTHERMAL RESOURCE TRANSFER SYSTEM EQUIPMENT AND/OR FARM WASTE ELECTRIC GENERATING EQUIPMENT. THE AMOUNT OF CREDIT FOR THE PURCHASE AND INSTALLATION OF ELIGIBLE FUEL CELL ELECTRIC GENERATING EQUIPMENT AND/OR GEOTHERMAL RESOURCE TRANSFER SYSTEM EQUIPMENT SHALL BE FORTY-FIVE PERCENT OF THE QUALIFIED EXPENSES FOR TAXPAYERS UNDER ARTICLE NINE, NINE-A, THIRTY-TWO OR THIRTY-THREE, AND FORTY PERCENT OF THE QUALIFIED EXPENSES FOR TAXPAYERS UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER, INCURRED IN PURCHASING AND INSTALLING ANY SUCH SYSTEM.

(4) MULTIPLE TAXPAYERS. WHERE QUALIFYING EXPENDITURES ARE ACCUMULATED FROM THE CONSTRUCTION AND/OR THE INSTALLATION OF QUALIFYING ALTERNATIVE SYSTEMS AND GENERATING EQUIPMENT ARE SHARED BY TWO OR MORE TAXPAYERS, THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SECTION SHALL BE PRORATED

1 ACCORDING TO THE PERCENTAGE OF THE TOTAL EXPENDITURE FOR SUCH EQUIPMENT
2 CONTRIBUTED BY EACH TAXPAYER.

3 (D) CREDIT QUALIFICATION. (1) REALIZATION OF CREDIT. CREDITS EARNED
4 UNDER THIS SECTION SHALL BE QUALIFYING EXPENDITURES INCURRED AFTER JANU-
5 ARY FIRST, TWO THOUSAND FIFTEEN, THAT ACCREDIT TO THE TAXPAYER'S CREDIT
6 ALLOWANCE YEAR AND EACH SUBSEQUENT TAXABLE YEAR ACCORDING TO THE
7 PROVISIONS OF SUBDIVISION (C) OF THIS SECTION.

8 (2) CREDIT COMPONENT CERTIFICATE. A TAXPAYER WHO WISHES TO MAKE AN
9 INITIAL CLAIM FOR CREDITS UNDER THIS SECTION SHALL SUBMIT AN APPLICATION
10 FOR A CREDIT COMPONENT CERTIFICATE TO THE DIRECTOR OF THE NEW YORK STATE
11 ENERGY RESEARCH AND DEVELOPMENT AUTHORITY UPON THE SUCCESSFUL INSTALLA-
12 TION AND OPERATION FOR AT LEAST THREE CONTINUOUS MONTHS OF ELIGIBLE
13 EQUIPMENT THAT RATE AS QUALIFIED EXPENDITURES. THE PRESIDENT OF THE NEW
14 YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, IN CONSULTATION
15 WITH THE COMMISSIONER AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVA-
16 TION, SHALL PRESCRIBE THE REQUIREMENTS FOR THE ACCEPTANCE OF SUCH APPLI-
17 CATION, BUT AT A MINIMUM THE APPLICATION SHALL LIST THE AMOUNT OF QUALI-
18 FYING EXPENDITURES, THE RATING CAPACITY IN KILOWATT HOURS OF SUCH
19 EQUIPMENT, AND THE ANTICIPATED REDUCTION IN THE USE OF CONVENTIONAL
20 ENERGY GENERATION SOURCES REALIZED THROUGH THE USE OF SUCH EQUIPMENT.
21 SUCH APPLICATION SHALL REQUIRE A FEE OF FIFTY DOLLARS FOR EACH FIVE
22 MILLION DOLLARS OF GROSS RECEIPTS LISTED BY THE TAXPAYER FOR THE TAXABLE
23 YEAR IMMEDIATELY PRECEDING THE INITIAL CREDIT ALLOWANCE YEAR AFTER THE
24 FIRST FIVE MILLION DOLLARS IN GROSS RECEIPTS FOR SUCH TAXABLE YEAR. ANY
25 EXPANSION OF ALTERNATIVE RATED CAPACITY ADHERING TO INCREASED QUALIFYING
26 EXPENDITURES BEYOND SUCH EXPENDITURES UTILIZED IN A PRIOR ACCEPTED
27 APPLICATION SHALL REQUIRE AN ADDITIONAL APPLICATION FOR FURTHER CREDIT
28 CLAIMS UNDER THIS SECTION.

29 (3) ISSUANCE OF CERTIFICATE. THE PRESIDENT OF THE NEW YORK STATE ENER-
30 GY RESEARCH AND DEVELOPMENT AUTHORITY SHALL REVIEW APPLICATIONS FILED
31 UNDER THIS SECTION TO VERIFY AN ELIGIBLE BUSINESS'S CLAIMED BENEFITS
32 UNDER THIS SECTION. THE PRESIDENT SHALL SUPPLY TO EACH COMPANY A CERTIF-
33 ICATE MARKING THE APPROVAL OF QUALIFYING EXPENSES FOR APPLICATION TO THE
34 COMMISSIONER FOR CREDITS UNDER THIS SECTION WITHIN NINETY DAYS OF THE
35 RECEIPT OF SUCH APPLICATION. A COPY OF THIS CERTIFICATE SHALL BE
36 ATTACHED TO ANY RETURNS SUCH TAXPAYER IS REQUIRED TO FILE UNDER THIS
37 CHAPTER. IF ANY EXPENSES USED AS PART OF THE CREDIT BASE OF QUALIFYING
38 EXPENDITURES ARE DENIED FOR SUCH CREDIT CLAIM BY THE PRESIDENT OF THE
39 NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, SUCH DENIAL
40 SHALL BE REPORTED TO THE TAXPAYER AND THE COMMISSIONER WITH A DETAILED
41 EXPLANATION OF THE RATIONALE FOR SUCH DENIAL.

42 (4) REVOCATION OF BENEFITS. IN ADDITION TO ANY OTHER PENALTIES ENUMER-
43 ATED UNDER THIS CHAPTER, A VIOLATION OF THE TERMS OF THIS SUBDIVISION OR
44 ANY WILLFUL MISREPRESENTATION OF ANY OF THE TERMS OF THIS SECTION MAY
45 RESULT IN THE RESCINDING OF THE CERTIFICATE ISSUED UNDER THIS PARAGRAPH
46 AND A RECAPTURE OF CURRENT AND PREVIOUSLY RECEIVED BENEFITS. THE PRESI-
47 DENT OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY
48 SHALL REPORT TO THE COMMISSIONER ANY DETERMINATIONS OF VIOLATIONS OF THE
49 TERMS OF THIS SECTION. THE COMMISSIONER AND THE COMMISSIONER OF ENVI-
50 RONMENTAL CONSERVATION SHALL MAKE RECOMMENDATIONS TO THE PRESIDENT OF
51 THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY FOR THE
52 RESCINDING OF ANY CERTIFICATE ISSUED PURSUANT TO THIS SECTION THAT THE
53 COMMISSIONER OF ENVIRONMENTAL CONSERVATION DETERMINES RESULTS FROM A
54 WILLFUL FALSE CLAIM OF THE CAPABILITIES OR AMOUNT OF QUALIFYING EXPENDI-
55 TURES OF SOLAR AND WIND ENERGY SYSTEM EQUIPMENT AND FUEL CELL ELECTRIC
56 GENERATING EQUIPMENT.

(5) EARLY DISPOSITION. THE DISCONTINUED USE OF ANY SOLAR AND WIND ENERGY SYSTEM EQUIPMENT, FUEL CELL ELECTRIC GENERATING EQUIPMENT, GEOTHERMAL RESOURCE TRANSFER SYSTEM EQUIPMENT OR FARM WASTE ELECTRIC GENERATING EQUIPMENT WITHIN FIVE YEARS OF THE CREDIT ALLOWANCE YEAR SHALL RESULT IN THE RECAPTURE OF CURRENT AND PREVIOUSLY RECEIVED BENEFITS UNLESS SUCH DISPOSITION IS DUE TO THE INOPERATIVENESS OF SUCH EQUIPMENT BEYOND ANY REASONABLE CONTROL OR EFFORTS OF THE TAXPAYER OR THE REPLACEMENT OF SUCH EQUIPMENT BY MORE EFFICIENT AND TECHNICALLY ADVANCED ALTERNATIVE ENERGY SYSTEMS APPROVED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION AND THE PRESIDENT OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY. SUCH EARLY DISPOSITION SHALL NOT INCLUDE THE TRANSFER OF OWNERSHIP INTEREST OF THE PROPERTY SUCH EQUIPMENT OPERATES WITHIN UNLESS THE TRANSFER RESULTS IN THE CESSATION OF THE OPERATION OF SUCH EQUIPMENT WITHIN FIVE YEARS OF THE CREDIT ALLOWANCE YEAR. THE TAXPAYER SHALL ANNUALLY ATTEST TO THE PRESIDENT OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY THAT SUCH EQUIPMENT REMAINS IN QUALIFYING USE.

(E) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

- (1) ARTICLE 9-A: SECTION 210, SUBDIVISION 48
- (2) ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (XX)
- (3) ARTICLE 32: SECTION 1456, SUBSECTION (AA)
- (4) ARTICLE 33: SECTION 1511, SUBDIVISION (DD).

S 2. Section 210 of the tax law is amended by adding a new subdivision 48 to read as follows:

48. ALTERNATIVE ENERGY SYSTEMS AND GENERATING 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 HIGHER AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH 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.

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

| | |
|--|---|
| (XXXVII) CREDIT FOR ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT UNDER SUBSECTION (XX) | QUALIFYING EXPENDITURES UNDER SUBDIVISION FORTY-EIGHT OF SECTION TWO HUNDRED TEN |
|--|---|

S 4. Subsections (yy) and (zz) of section 606 of the tax law, as relettered by section 5 of part H of chapter 1 of the laws of 2003, are relettered subsections (yyy) and (zzz) and a new subsection (xx) is added to read as follows:

(XX) ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. (1) ALLOWANCE OF 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.

(2) APPLICATION OF CREDIT. 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.

S 5. Section 1456 of the tax law is amended by adding a new subsection (aa) to read as follows:

(AA) ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. (1) ALLOWANCE OF 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.

(2) THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL 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 WILL BE PAID THEREON.

S 6. Section 1511 of the tax law is amended by adding a new subdivision (dd) to read as follows:

(DD) ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL 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 WILL BE PAID THEREON.

S 7. This act shall take effect immediately and shall apply to taxable years commencing on and after January 1, 2015.