

4073

2013-2014 Regular Sessions

I N A S S E M B L Y

January 30, 2013

Introduced by M. of A. KATZ, JOHNS, HAWLEY, FINCH -- Multi-Sponsored by
-- M. of A. CROUCH, McLAUGHLIN -- read once and referred to the
Committee on Ways and Means

AN ACT to amend the tax law, in relation to creating a sales tax
exemption for green technology companies purchasing manufacturing
equipment; and providing for the repeal of such provisions upon expi-
ration thereof

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

1 Section 1. The tax law is amended by adding a new section 1124 to read
2 as follows:

3 S 1124. EXEMPTION FROM TAX ON MANUFACTURING EQUIPMENT PURCHASES FOR
4 GREEN TECHNOLOGY COMPANIES. (A) QUALIFYING GREEN TECHNOLOGY COMPANIES
5 SHALL BE EXEMPT FROM THE SALES TAXES IMPOSED UNDER THIS ARTICLE WHEN
6 PURCHASING NECESSARY MANUFACTURING EQUIPMENT TO BE USED IN CARRYING ON A
7 GREEN TECHNOLOGY TRADE OR BUSINESS IN ACCORDANCE WITH THE PROVISIONS OF
8 THIS SECTION.

9 (B) TO QUALIFY FOR TAX EXEMPT STATUS ELIGIBLE COMPANIES SHALL APPLY TO
10 THE COMMISSIONER WHO SHALL EVALUATE THE APPLICATION PURSUANT TO THE
11 GUIDELINES IN THIS SECTION AND RENDER A DECISION APPROVING OR DENYING
12 THE APPLICATION. APPLICATIONS SHALL BE SUBMITTED FOR EACH ELIGIBLE
13 PROJECT ON AN INDIVIDUAL BASIS AND SHALL STATE THE TOTAL DOLLAR AMOUNT
14 THAT WILL BE EXPENDED ON THE PURCHASE.

15 (C) THE COMMISSIONER SHALL PUBLISH NOTICE OF THE AVAILABILITY OF
16 PROJECT APPLICATIONS AND DEADLINES FOR SUBMISSION OF PROJECT APPLICA-
17 TIONS TO THE COMMISSIONER AND SHALL EVALUATE PROJECT APPLICATIONS BASED
18 UPON THE FOLLOWING CRITERIA:

19 1. THE EXTENT TO WHICH THE PROJECT DEVELOPS MANUFACTURING FACILITIES,
20 OR PURCHASES EQUIPMENT FOR MANUFACTURING FACILITIES, LOCATED IN NEW
21 YORK.

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

LBD08012-01-3

1 2. THE EXTENT TO WHICH THE ANTICIPATED BENEFIT TO THE STATE FROM THE
2 PROJECT EQUALS OR EXCEEDS THE PROJECTED BENEFIT TO THE PARTICIPATING
3 PARTY FROM THE SALES AND USE TAX EXCLUSION.

4 3. THE EXTENT TO WHICH THE PROJECT WILL CREATE NEW, PERMANENT JOBS IN
5 NEW YORK.

6 4. TO THE EXTENT FEASIBLE, THE EXTENT TO WHICH THE PROJECT, OR THE
7 PRODUCT PRODUCED BY THE PROJECT, RESULTS IN A REDUCTION OF GREENHOUSE
8 GASES, A REDUCTION IN AIR OR WATER POLLUTION, AN INCREASE IN ENERGY
9 EFFICIENCY, OR A REDUCTION IN ENERGY CONSUMPTION, BEYOND WHAT IS
10 REQUIRED BY ANY FEDERAL OR STATE LAW OR REGULATION.

11 5. THE EXTENT OF UNEMPLOYMENT IN THE AREA IN WHICH THE PROJECT IS
12 PROPOSED TO BE LOCATED.

13 6. ANY OTHER FACTORS THE AUTHORITY DEEMS APPROPRIATE IN ACCORDANCE
14 WITH THIS SECTION.

15 (D) THE COMMISSIONER'S OFFICE SHALL BE PERMITTED TO EXEMPT A TOTAL NOT
16 TO EXCEED ONE HUNDRED MILLION DOLLARS IN SALES TAX THROUGH THIS APPLICA-
17 TION PROCESS TO INDIVIDUAL PROJECTS. APPLICATIONS MEETING THE CRITERIA
18 OUTLINED IN SUBDIVISION (C) OF THIS SECTION SHALL BE GIVEN PRIORITY AND
19 THE CREDIT SHALL BE EXTENDED TO AS MANY ELIGIBLE BUSINESSES AS POSSIBLE
20 UP TO THE ONE HUNDRED MILLION DOLLAR CEILING.

21 (E) UPON APPROVAL OF AN ELIGIBLE PROJECT THE COMMISSIONER SHALL
22 PROVIDE ELIGIBLE GREEN TECHNOLOGY COMPANIES WITH AN APPROVAL FORM TO BE
23 SUPPLIED TO THE SELLER AT THE POINT OF PURCHASE.

24 1. SAID FORM MUST BE GIVEN TO THE SELLER FROM THE PURCHASER WITH ALL
25 ENTRIES COMPLETED NO LATER THAN NINETY DAYS AFTER DELIVERY OF THE
26 PURCHASED PROPERTY, OR THE SALE WILL BE DEEMED TO HAVE BEEN TAXABLE AT
27 THE TIME OF THE TRANSACTION.

28 2. IF THE SELLER RECEIVES THE CERTIFICATE AFTER THE NINETY DAY PERIOD,
29 BOTH THE SELLER AND THE PURCHASER ASSUME THE BURDEN OF PROVING THE SALE
30 WAS EXEMPT, AND ADDITIONAL SUBSTANTIATION MAY BE REQUIRED.

31 (F) THE COMMISSIONER IN CONJUNCTION WITH THE DEPARTMENT OF ECONOMIC
32 DEVELOPMENT AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL
33 REPORT TO THE LEGISLATURE AND THE GOVERNOR ON THE EFFECTIVENESS OF THIS
34 PROGRAM, WITHIN ONE YEAR OF THE PROGRAM'S TERMINATION DATE, BY EVALUAT-
35 ING FACTORS, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

36 1. THE NUMBER OF JOBS CREATED BY THE PROGRAM IN NEW YORK.

37 2. THE NUMBER OF BUSINESSES THAT HAVE REMAINED IN NEW YORK OR RELO-
38 CATED TO NEW YORK AS A RESULT OF THIS PROGRAM.

39 3. THE AMOUNT OF STATE AND LOCAL REVENUE AND ECONOMIC ACTIVITY GENER-
40 ATED BY THE PROGRAM.

41 4. THE AMOUNT OF REDUCTION IN GREENHOUSE GASES, AIR POLLUTION, WATER
42 POLLUTION, OR ENERGY CONSUMPTION.

43 (G) THE COMMISSIONER SHALL ADOPT ANY REGULATIONS NECESSARY FOR
44 PURPOSES OF IMPLEMENTING THIS SECTION.

45 (H) FOR THE PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE
46 THE FOLLOWING MEANINGS:

47 1. "ELIGIBLE COMPANY" SHALL MEAN A COMPANY THAT IS A RESIDENT OF NEW
48 YORK STATE AND ENGAGES IN A BUSINESS OR TRADE IN THE GREEN TECHNOLOGY
49 INDUSTRY;

50 2. "ELIGIBLE PROJECT" SHALL MEAN NECESSARY MANUFACTURING EQUIPMENT
51 PURCHASED TO BE USED IN CARRYING ON A GREEN TECHNOLOGY TRADE OR BUSI-
52 NESS;

53 3. "GREEN TECHNOLOGY" INCLUDES BUT SHALL NOT BE LIMITED TO TECHNOLOGY
54 THAT PROMOTES SUSTAINABILITY BY MEETING THE NEEDS OF SOCIETY IN WAYS
55 THAT CAN CONTINUE INDEFINITELY INTO THE FUTURE WITHOUT DAMAGING OR

1 DEPLETING NATURAL RESOURCES AND HAS THE SMALLEST IMPACT ON THE ENVIRON-
2 MENT. SUCH TECHNOLOGY:

3 (I) CREATES PRODUCTS THAT CAN BE FULLY RECLAIMED OR RE-USED.

4 (II) REDUCES WASTE AND POLLUTION BY CHANGING PATTERNS OF PRODUCTION
5 AND CONSUMPTION.

6 (III) DEVELOPS ALTERNATIVES TO TECHNOLOGIES, WHETHER FOSSIL FUEL OR
7 CHEMICAL INTENSIVE AGRICULTURE, THAT HAVE BEEN DEMONSTRATED TO DAMAGE
8 HEALTH AND THE ENVIRONMENT.

9 (IV) REDUCES GREENHOUSE GAS EMISSIONS.

10 (V) REDUCES ENERGY CONSUMPTION.

11 (VI) ADVANCES TRANSPORTATION TECHNOLOGIES THAT PROMOTE EFFICIENCY
12 WHILE REDUCING ENERGY CONSUMPTION.

13 S 2. This act shall take effect immediately and shall expire one year
14 after such effective date when upon such date the provisions of this act
15 shall be deemed repealed.