

S T A T E   O F   N E W   Y O R K

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4120--A

2013-2014 Regular Sessions

I N   S E N A T E

March 11, 2013

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Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ASSEMBLY, 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.

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

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1 S 2. Paragraph (a) of subdivision 37 of section 210 of the tax law, as  
2 amended by section 2 of part C-1 of chapter 57 of the laws of 2009, is  
3 amended to read as follows:

4 (a) Allowance of credit. [For taxable years beginning before January  
5 first, two thousand nine, a] A taxpayer shall be allowed a credit  
6 against the tax imposed by this article, equal to its qualified fuel  
7 cell electric generating equipment expenditures. This credit shall not  
8 exceed one thousand five hundred dollars per generating unit with  
9 respect to any taxable year. The credit provided for herein shall be  
10 allowed with respect to the taxable year in which the fuel cell electric  
11 generating equipment is placed in service.

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

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

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

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

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

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

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

48 (a) Allowance of credit. [For taxable years beginning before January  
49 first, two thousand nine, a] A taxpayer subject to tax under article  
50 nine, nine-A, twenty-two, thirty-two or thirty-three of this chapter  
51 shall be allowed a credit against such tax, pursuant to the provisions  
52 referenced in subdivision (d) of this section. The credit shall be  
53 allowed where a taxpayer has made a certified contribution of at least  
54 ten million dollars to a qualified transportation improvement project in  
55 a prior taxable year. The credit shall be equal to six percent of the  
56 taxpayer's increased qualified business facility payroll for the taxable

1 year. The aggregate of all credit amounts allowed to the taxpayer pursu-  
2 ant to this section with respect to a certified contribution shall not  
3 exceed the amount of such certified contribution.

4 S 7. Clauses (xiv) and (xxv) of subparagraph (B) of paragraph 1 of  
5 subsection (i) of section 606 of the tax law, as amended by section 7 of  
6 part C-1 of chapter 57 of the laws of 2009, are amended to read as  
7 follows:

|                                                                       |                                     |
|-----------------------------------------------------------------------|-------------------------------------|
| 8 (xiv) Credit for transportation                                     | [For taxable years beginning        |
| 9 improvement contributions under                                     | before January first, two thousand  |
| 10 subsection (z)                                                     | nine, amount] AMOUNT                |
| 11                                                                    | of credit under subdivision         |
| 12                                                                    | thirty-two of section               |
| 13                                                                    | two hundred ten or subsection       |
| 14                                                                    | (n) of section fourteen             |
| 15                                                                    | hundred fifty-six                   |
| 16 (xxv) Credit for qualified fuel                                    | [For taxable years beginning before |
| 17 cell electric generating                                           | January first, two thousand nine,   |
| 18 equipment expenditures                                             | amount] AMOUNT of credit            |
| 19 under subsection (g-2)                                             | under subdivision thirty-seven of   |
| 20                                                                    | section two hundred ten or          |
| 21                                                                    | subsection (t) of section fourteen  |
| 22                                                                    | hundred fifty-six                   |
| 23 S 8. This act shall take effect immediately and shall be deemed to |                                     |
| 24 have been in full force and effect on and after January 1, 2014.   |                                     |