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

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I N  A S S E M B L Y

January 12, 2016

Introduced by M. of A. BARCLAY, OAKS -- read once and referred to the Committee on Ways and Means -- 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 zero carbon emission tax credit

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

Section 1. Section 210-B of the tax law is amended by adding a new subdivision 51 to read as follows:

51. ZERO CARBON EMISSION TAX CREDIT. (A) A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE PROVIDED THAT SUCH TAXPAYER CONDUCTS BUSINESS IN A COUNTY WITH A POPULATION OF ONE HUNDRED TWENTY-TWO THOUSAND ONE HUNDRED NINE ACCORDING TO THE 2010 FEDERAL CENSUS, AND HAS A NAMEPLATE CAPACITY OF EIGHT HUNDRED EIGHTY-TWO MEGAWATTS.

(B) FOR PURPOSES OF THIS SUBDIVISION, THE FOLLOWING DEFINITIONS SHALL APPLY;

(I) "NAMEPLATE CAPACITY" SHALL MEAN THE NUMBER REGISTERED WITH AUTHORITIES FOR CLASSIFYING THE POWER OUTPUT OF A POWER STATION IN ACCORDANCE WITH NEW YORK INDEPENDENT SYSTEM OPERATOR.

(II) "MEGAWATT" SHALL MEAN THE MEASUREMENT USED TO DETERMINE THE OUTPUT OF A POWER PLANT.

(III) "REFUEL" SHALL MEAN THE BIENNIAL PROCESS IN WHICH NUCLEAR PLANTS REPLACE FUEL AND CONDUCT OTHER NECESSARY MAINTENANCE AND REPAIRS.

(C) THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO SIXTY MILLION DOLLARS ANNUALLY.

(D) IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION 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 ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID ON SUCH REFUND, NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER.

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

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(E) A TAXPAYER BENEFITTING FROM THE CREDIT SHALL BE REQUIRED TO REFUEL THE FACILITY IN TWO THOUSAND SIXTEEN AND IN TWO THOUSAND EIGHTEEN AND SHALL BE REQUIRED TO CONTINUE OPERATING AS AN ELECTRIC GENERATING FACILITY UNTIL TWO THOUSAND TWENTY. IF THE TAXPAYER DOES NOT COMPLY WITH THESE REQUIREMENTS, THE TAXPAYER SHALL BE REQUIRED TO ADD BACK THE CREDIT AS TAX IN THE CURRENT TAXABLE YEAR THE FULL AMOUNT OF ZERO CARBON EMISSION TAX CREDIT CLAIMED.

S 2. This act shall take effect immediately and shall apply to taxable year 2015.