

1794--A

2015-2016 Regular Sessions

I N S E N A T E

January 14, 2015

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations 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 a small business grid renewable energy tax credit

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

1 Section 1. Section 210-B of the tax law is amended by adding a new
2 subdivision 49 to read as follows:
3 49. SMALL BUSINESS GRID RENEWABLE ENERGY TAX CREDIT. (A) A TAXPAYER
4 THAT IS ELIGIBLE UNDER THE LIMITATIONS SPECIFIED IN PARAGRAPH (B) OF
5 THIS SUBDIVISION SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY
6 THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO TWENTY PERCENT
7 OF THE COST OF CONVERSION FROM ELECTRIC OR GAS TO RENEWABLE ENERGY.
8 (B) AN ELIGIBLE TAXPAYER SHALL (I) HAVE NO MORE THAN NINETEEN FULL
9 TIME EQUIVALENT EMPLOYEES IN NEW YORK STATE, INCLUDING ANY RELATED
10 MEMBERS OR AFFILIATES, (II) NOT BE A SOLE-PROPRIETORSHIP IF SUCH
11 SOLE-PROPRIETOR'S PRIMARY BUSINESS LOCATION IS SITED IN OR PART OF SUCH
12 SOLE-PROPRIETOR'S PLACE OF RESIDENCE, (III) NOT BE CERTIFIED PURSUANT TO
13 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, (IV) NOT BE RECEIVING
14 ANY ALLOCATION OR AWARD PURSUANT TO ANY PROGRAM AUTHORIZED UNDER ARTICLE
15 SIX OF THE ECONOMIC DEVELOPMENT LAW, AND (V) SHALL BE LOCATED WITHIN A
16 CERTAIN RADIUS OF OTHER QUALIFIED SMALL BUSINESSES.
17 (C) (I) THE TERM "BUSINESS RELATED RENEWABLE ENERGY USAGE" SHALL REFER
18 TO RENEWABLE ENERGY POWER USAGE USED TO FURTHER THE ECONOMIC ACTIVITY OF
19 THE TAXPAYER AT THE PRIMARY BUSINESS LOCATION THAT IS CLEARLY DELIMITED
20 FROM ANY SHARED RENEWABLE ENERGY POWER USAGE COST. (II) THE TERM
21 "PRIMARY BUSINESS LOCATION" SHALL MEAN THE PHYSICAL SITE OF THE TAXPAYER

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

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1 WITHIN THE STATE OF NEW YORK WHERE THE MAJORITY OF THE TAXPAYER'S
2 ECONOMIC ACTIVITY IS GENERATED OR COORDINATED THROUGH. (III) THE TERM
3 "RELATED MEMBERS" SHALL HAVE THE SAME MEANING AS SET FORTH IN CLAUSES
4 (A) AND (B) OF SUBPARAGRAPH ONE OF PARAGRAPH (O) OF SUBDIVISION NINE OF
5 SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, AND THE TERM "AFFILIATES"
6 SHALL MEAN THOSE CORPORATIONS THAT ARE MEMBERS OF THE SAME AFFILIATED
7 GROUP (AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE
8 CODE) AS THE TAXPAYER.

9 (D) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
10 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF
11 THE AMOUNTS PRESCRIBED IN (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED
12 TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS
13 SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY
14 AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS
15 AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE
16 PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED,
17 HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-
18 Y-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

20 S. 2. Section 606 of the tax law is amended by adding a new subsection
21 (ccc) to read as follows:

22 (CCC) SMALL BUSINESS GRID RENEWABLE ENERGY TAX CREDIT. (1) A TAXPAYER
23 THAT IS ELIGIBLE UNDER THE LIMITATIONS SPECIFIED IN PARAGRAPH TWO OF
24 THIS SUBSECTION SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY
25 THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO TWENTY PERCENT
26 OF THE COST OF CONVERSION FROM ELECTRIC OR GAS TO RENEWABLE ENERGY.

27 (2) AN ELIGIBLE TAXPAYER SHALL (I) HAVE NO MORE THAN NINETEEN FULL
28 TIME EQUIVALENT EMPLOYEES IN NEW YORK STATE, INCLUDING ANY RELATED
29 MEMBERS OR AFFILIATES, (II) SHALL NOT BE A SOLE-PROPRIETORSHIP IF SUCH
30 SOLE-PROPRIETOR'S PRIMARY BUSINESS LOCATION IS SITED IN OR PART OF SUCH
31 SOLE-PROPRIETOR'S PLACE OF RESIDENCE, (III) NOT BE CERTIFIED PURSUANT TO
32 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, (IV) NOT BE RECEIVING
33 ANY ALLOCATION OR AWARD PURSUANT TO ANY PROGRAM AUTHORIZED UNDER ARTICLE
34 SIX OF THE ECONOMIC DEVELOPMENT LAW, AND (V) SHALL BE LOCATED WITHIN A
35 CERTAIN RADIUS OF OTHER QUALIFIED SMALL BUSINESSES.

36 (3) (I) THE TERM "BUSINESS RELATED RENEWABLE ENERGY USAGE" SHALL REFER
37 TO RENEWABLE ENERGY POWER USAGE USED TO FURTHER THE ECONOMIC ACTIVITY OF
38 THE TAXPAYER AT THE PRIMARY BUSINESS LOCATION THAT IS CLEARLY DELIMITED
39 FROM ANY SHARED RENEWABLE ENERGY POWER USAGE COST. (II) THE TERM "PRIMARY
40 BUSINESS LOCATION" SHALL MEAN THE PHYSICAL SITE OF THE TAXPAYER WITHIN
41 IN THE STATE OF NEW YORK WHERE THE MAJORITY OF THE TAXPAYER'S ECONOMIC
42 ACTIVITY IS GENERATED OR COORDINATED THROUGH. (III) THE TERM "RELATED
43 MEMBERS" SHALL HAVE THE SAME MEANING AS SET FORTH IN CLAUSES (A) AND (B)
44 OF SUBPARAGRAPH ONE OF PARAGRAPH (O) OF SUBDIVISION NINE OF SECTION TWO
45 HUNDRED EIGHT OF THIS CHAPTER, AND THE TERM "AFFILIATES" SHALL MEAN
46 THOSE CORPORATIONS THAT ARE MEMBERS OF THE SAME AFFILIATED GROUP (AS
47 DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE) AS
48 THE TAXPAYER.

49 (4) IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY
50 TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS
51 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN
52 ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS
53 ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

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

1 (XLI) SMALL BUSINESS GRID RENEWABLE QUALIFYING GRID RENEWABLE ENERGY
2 ENERGY TAX CREDIT UNDER USAGE UNDER SUBDIVISION FORTY-NINE
3 SUBSECTION (CCC) OF SECTION TWO HUNDRED TEN-B
4 S 4. This act shall take effect on the first of January next succeed-
5 ing the date on which it shall have become a law.