

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.

LBD06998-02-6

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.