

# STATE OF NEW YORK

4507

2019-2020 Regular Sessions

## IN SENATE

March 13, 2019

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

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 53 to read as follows:

3 53. 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 sole-  
11 proprietor's primary business location is sited in or part of such sole-  
12 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  
22 within the state of New York where the majority of the taxpayer's  
23 economic activity is generated or coordinated through. (iii) The term  
24 "related members" shall have the same meaning as set forth in clauses  
25 (A) and (B) of subparagraph one of paragraph (o) of subdivision nine of  
26 section two hundred eight of this article, and the term "affiliates"  
27 shall mean those corporations that are members of the same affiliated

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

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1 group (as defined in section fifteen hundred four of the internal revenue  
2 code) as the taxpayer.

3 (d) The credit allowed under this subdivision for any taxable year  
4 shall not reduce the tax due for such year to less than the higher of  
5 the amounts prescribed in (d) of subdivision one of section two hundred  
6 ten of this article. However, if the amount of credit allowed under this  
7 subdivision for any taxable year reduces the tax to such amount, any  
8 amount of credit not deductible in such taxable year shall be treated as  
9 an overpayment of tax to be credited or refunded in accordance with the  
10 provisions of section one thousand eighty-six of this chapter. Provided,  
11 however, the provisions of subsection (c) of section one thousand eight-  
12 y-eight of this chapter notwithstanding, no interest shall be paid there-  
13 on.

14 § 2. Section 606 of the tax law is amended by adding a new subsection  
15 (jjj) to read as follows:

16 (jjj) Small business grid renewable energy tax credit. (1) A taxpayer  
17 that is eligible under the limitations specified in paragraph two of  
18 this subsection shall be allowed a credit against the tax imposed by  
19 this article. The amount of the credit shall be equal to twenty percent  
20 of the cost of conversion from electric or gas to renewable energy.

21 (2) An eligible taxpayer shall (i) have no more than nineteen full  
22 time equivalent employees in New York state, including any related  
23 members or affiliates, (ii) shall not be a sole-proprietorship if such  
24 sole-proprietor's primary business location is sited in or part of such  
25 sole-proprietor's place of residence, (iii) not be certified pursuant to  
26 article eighteen-B of the general municipal law, (iv) not be receiving  
27 any allocation or award pursuant to any program authorized under article  
28 six of the economic development law, and (v) shall be located within a  
29 certain radius of other qualified small businesses.

30 (3) (i) The term "business related renewable energy usage" shall refer  
31 to renewable energy power usage used to further the economic activity of  
32 the taxpayer at the primary business location that is clearly delimited  
33 from any shared renewable energy power usage cost. (ii) The term "prima-  
34 ry business location" shall mean the physical site of the taxpayer with-  
35 in the state of New York where the majority of the taxpayer's economic  
36 activity is generated or coordinated through. (iii) The term "related  
37 members" shall have the same meaning as set forth in clauses (A) and (B)  
38 of subparagraph one of paragraph (o) of subdivision nine of section two  
39 hundred eight of this chapter, and the term "affiliates" shall mean  
40 those corporations that are members of the same affiliated group (as  
41 defined in section fifteen hundred four of the internal revenue code) as  
42 the taxpayer.

43 (4) If the amount of credit allowed under this subsection for any  
44 taxable year shall exceed the taxpayer's tax for such year, the excess  
45 shall be treated as an overpayment of tax to be credited or refunded in  
46 accordance with the provisions of section six hundred eighty-six of this  
47 article, provided, however, that no interest shall be paid thereon.

48 § 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
49 of the tax law is amended by adding a new clause (xliv) to read as  
50 follows:

51 <u>(xliv) Small business grid renewable</u>	<u>Qualifying grid renewable energy</u>
52 <u>energy tax credit under</u>	<u>usage under subdivision</u>
53 <u>subsection (jjj)</u>	<u>fifty-three of section two</u>
54	<u>hundred ten-B</u>

55 § 4. This act shall take effect on the first of January next succeed-  
56 ing the date on which it shall have become a law.