

STATE OF NEW YORK

8887

IN ASSEMBLY

January 19, 2022

Introduced by M. of A. CARROLL -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to providing a tax abatement for facility-integrated carbon-to-value equipment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 4 of the real property tax law is amended by adding
2 a new title 5-A to read as follows:

3 TITLE 5-A

4 CARBON-TO-VALUE TAX ABATEMENT FOR CERTAIN PROPERTIES IN A CITY OF
5 ONE MILLION OR MORE PERSONS

6 Section 499-aaaaa. Definitions.

7 499-bbbbb. Tax abatement terms and amounts.

8 499-cccc. Tax abatement application guidelines and rules.

9 499-ddddd. Tax abatement continuing requirements.

10 499-eeee. Tax abatement revocation rules.

11 499-ffff. Tax abatement enforcement and administration.

12 499-gggg. Tax lien and interest rules.

13 § 499-aaaa. Definitions. When used in this title:

14 1. "Anthropogenic carbon dioxide emissions" shall refer to the release
15 of heat-trapping carbon dioxide pollution into the atmosphere as a
16 result of human activities.

17 2. "Application for tax abatement" shall mean an application for a
18 facility-integrated carbon-to-value equipment tax abatement pursuant to
19 section four hundred ninety-nine-cccc of this title.

20 3. "Carbon dioxide beneficial use" shall refer to a practice that
21 involves the utilization of carbon dioxide in a process to manufacture a
22 product or operate equipment that: (a) results in a net reduction in
23 operational and/or embodied carbon dioxide at a facility or property;
24 and (b) is verified by a life cycle assessment in compliance with Inter-
25 national Standard ISO 14040.

26 4. "Carbon dioxide capture" shall refer to the process of capturing
27 carbon dioxide at emissions point sources located at facilities and
28 buildings.

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

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1 5. "Carbon dioxide removal" shall refer to the process of removing
2 carbon dioxide from the atmosphere.

3 6. "Carbon dioxide storage" shall refer to the process of chemically
4 and/or physically sequestering carbon dioxide emissions from post-indus-
5 trial or atmospheric sources in materials, products or geological forma-
6 tions for periods of time equal or greater to one hundred years.

7 7. "Compliance period" shall mean the tax year in which a tax abate-
8 ment commences and the three tax years immediately thereafter. For
9 eligible carbon-to-value applications placed in service at eligible
10 buildings for which annual property tax liability for the eligible
11 building is less than one hundred thousand dollars, and for which five
12 percent of the eligible carbon-to-value equipment expenditures exceeds
13 one hundred thousand dollars, the compliance period shall be extended to
14 a maximum of eight tax years to allow eligible building owners to avail
15 a tax abatement equal to the lesser of twenty percent of eligible
16 carbon-to-value equipment expenditures, or eight hundred thousand
17 dollars.

18 8. "Designated agency" shall mean one or more agencies or departments
19 of a city having a population of one million or more persons that are
20 designated by the mayor of such city to exercise the functions, powers
21 and duties of a designated agency pursuant to this title, including
22 certification of eligible carbon-to-value equipment, applications and
23 buildings.

24 9. "Eligible carbon-to-value application" shall mean the application
25 of carbon-to-value equipment at facilities for the purposes of mitigat-
26 ing carbon dioxide emissions that are: (a) generated as a result of the
27 operation of that facility; and/or (b) the manufacture of materials that
28 are prepared or produced at that facility, by technologies that remove,
29 capture and/or beneficially use carbon dioxide, resulting in a net
30 reduction of carbon dioxide emissions.

31 10. "Eligible building" shall mean class four real property located
32 within a city having a population of one million or more persons. Desig-
33 nated agencies shall be empowered to exclude property tax abatement
34 eligibility of certain building types on the basis of carbon dioxide
35 emissions reduction and/or environmental justice considerations if the
36 latter are determined to contradict the intent of existing local laws
37 that have been established to reduce the carbon dioxide emissions of
38 such buildings. No building shall be eligible for the property tax
39 abatement, under this provision, if the designated agencies empowered to
40 administer such abatement, deem that such building has not exhausted
41 other viable methods to reduce the building's carbon emissions in align-
42 ment with rules, objectives and programs established pursuant of exist-
43 ing local laws. No building shall be eligible for more than one tax
44 abatement pursuant to this title.

45 11. "Eligible carbon-to-value equipment expenditures" shall mean
46 reasonable expenditures for materials, labor costs properly allocable to
47 on-site preparation, assembly and original installation, architectural
48 and engineering services, and designs and plans directly related to the
49 construction or installation of a carbon-to-value equipment installed in
50 connection with an eligible building. Such eligible expenditures shall
51 not include interest or other finance charges, or any expenditures
52 incurred using a federal, state or local grant.

53 12. "Environmental justice areas" shall mean low-income communities or
54 minority communities located in a city of one million or more persons
55 that have been designated and defined pursuant to local law based on
56 United States census data.

1 13. "Facility-integrated carbon-to-value equipment" refers to technol-
2 ogies placed in service at buildings within a city of one million or
3 more persons that remove carbon dioxide from the ambient air, capture
4 carbon dioxide from emissions point sources located at the property,
5 and/or utilize carbon dioxide in the production of goods and materials.
6 Qualified carbon-to-value equipment must perform functions that result
7 either in verifiable carbon dioxide removal and storage or constitute a
8 verifiable carbon dioxide beneficial use that results in reduced or
9 avoided carbon dioxide emissions.

10 § 499-bbbbb. Tax abatement terms and amounts. 1. If the facility-inte-
11 grated carbon-to-value equipment is placed in service on or after Janu-
12 ary first, two thousand twenty-two, and not after December thirty-first,
13 two thousand twenty-seven, for each year of the compliance period such
14 tax abatement shall be the lesser of: (a) five percent of eligible
15 facility-integrated carbon-to-value equipment expenditures; (b) the
16 amount of taxes payable in such tax year; or (c) one hundred thousand
17 dollars.

18 2. For facility-integrated carbon-to-value equipment that captures
19 carbon dioxide from boiler systems that combust fossil-based hydrocarbon
20 fuels eligibility for the property tax abatement shall be restricted to
21 properties that meet the following conditions:

22 (a) Boiler systems that are located at the property were placed in
23 service between January first, two thousand fourteen and April twenty-
24 second, two thousand nineteen.

25 (b) The carbon dioxide captured at the property by the proposed
26 carbon-to-value application shall:

27 (i) be utilized subsequent to capture within the physical jurisdiction
28 of the city with a population of one million or more people; and

29 (ii) result in the storage of carbon dioxide in materials for periods
30 of no less than one hundred years in duration.

31 (c) The carbon-to-value application at the property shall demonstrate
32 net carbon dioxide reductions as verified by a life cycle assessment in
33 compliance with International Standard ISO 14040.

34 (d) The equipment shall not be located at buildings located within
35 designated environmental justice areas as defined by a city of one
36 million or more persons pursuant to local law.

37 § 499-cccc. Tax abatement application guidelines and rules. 1. To
38 obtain a tax abatement pursuant to this title, an applicant must file an
39 application for tax abatement, which may be filed on or after January
40 first, two thousand twenty-three, and on or before March fifteenth, two
41 thousand twenty-eight.

42 2. Such an application shall contain the following:

43 (a) The name and address of the applicant and the location of the
44 facility-integrated carbon-to-value equipment.

45 (b) The type of facility-integrated carbon-to-value equipment.

46 (c) A description of the specific utilization or utilizations of the
47 carbon dioxide that will be removed or captured by the facility-inte-
48 grated carbon-to-value equipment.

49 (d) Proof that the applicant received all required certifications,
50 permits and other approvals to construct the facility-integrated
51 carbon-to-value equipment.

52 (e) Certifications in a form prescribed by a designated agency, from
53 an architect, engineer or other certified or licensed professional whom
54 a designated agency designates by rule, that: (i) a facility-integrated
55 carbon-to-value equipment has been placed in service in connection with
56 an eligible building in accordance with this title, the rules promulgat-

1 ed hereunder, and local construction and fire codes; and (ii) if deemed
2 applicable by a designated agency, the facility-integrated carbon-to-value
3 equipment has been placed on the roof of a building or other struc-
4 ture, that a structural analysis has been performed establishing that
5 such building or structure can sustain the load of such facility-inte-
6 grated carbon-to-value equipment. All certifications required by this
7 title or the rules promulgated hereunder shall set forth the specific
8 findings upon which the certification is based, and shall include infor-
9 mation sufficient to identify the eligible building, the certifying
10 engineer, architect or other professional, and such other information as
11 may be prescribed by a designated agency.

12 (f) If deemed applicable, an agreement to permit a designated agency
13 or its designee to inspect the facility-integrated carbon-to-value
14 equipment and any related structures and equipment upon reasonable
15 notice.

16 (g) Any other information or certifications required by a designated
17 agency pursuant to this title and the rules promulgated hereunder.

18 § 499-ddddd. Tax abatement continuing requirements. The tax abatement
19 shall be conditioned upon:

20 1. continuing compliance during the compliance period with all appli-
21 cable provisions of law, including without limitation the local
22 construction and fire codes, maintaining the facility-integrated
23 carbon-to-value equipment in such a manner that it continuously consti-
24 tutes a facility-integrated carbon-to-value equipment within the meaning
25 of this title and the rules promulgated hereunder, and permitting a
26 designated agency or its designee to inspect the facility-integrated
27 carbon-to-value equipment and any related structures and equipment upon
28 reasonable notice; and

29 2. property taxes, water and sewer charges, payments in lieu of taxes
30 or other municipal charges with respect to an eligible building not
31 having been due and owing during the compliance period for a period of
32 six months or more.

33 § 499-eeee. Tax abatement revocation rules. 1. The department of
34 taxation and finance shall revoke, in whole or in part, any tax abate-
35 ment granted pursuant to this title whenever a designated agency has
36 determined and notified the department of taxation and finance that:

37 (a) an applicant has failed to comply with a requirement of this title
38 or any rule promulgated hereunder at any time during the compliance
39 period including, but not limited to, any of the continuing requirements
40 set forth in subdivision one of section four hundred ninety-nine-ddddd
41 of this title;

42 (b) an eligible building has not been in compliance at any time during
43 the compliance period with a requirement of this title or any rule
44 promulgated hereunder;

45 (c) the facility-integrated carbon-to-value equipment for which a tax
46 abatement was granted has at any time during the compliance period
47 failed to meet any requirement for a facility-integrated carbon-to-value
48 equipment pursuant to this title or any rule promulgated hereunder;

49 (d) facility-integrated carbon-to-value equipment has become a fire or
50 safety hazard at any time during the compliance period; or

51 (e) an application, certification, report or other document submitted
52 by the applicant contains a false or misleading statement as to a mate-
53 rial fact or omits to state any material fact necessary in order to make
54 the statement therein not false or misleading.

55 2. The department of taxation and finance may revoke, in whole or in
56 part, any tax abatement granted pursuant to this title whenever it has

1 determined that an applicant has failed to comply with the continuing
2 requirements set forth in section four hundred ninety-nine-ddddd of this
3 title.

4 3. Where it has been determined by a designated agency, after notice
5 and an opportunity to be heard, that any of the provisions of subdivi-
6 sion one of this section have not been complied with, such designated
7 agency shall notify the department of taxation and finance no later than
8 the ninetieth day after the last day of the compliance period.

9 4. An applicant shall pay, with interest, such part of any tax abate-
10 ment received pursuant to this title that represents the period of non-
11 compliance as determined by the designated agency or the department of
12 taxation and finance. In addition, a designated agency may declare any
13 applicant ineligible for future tax abatement pursuant to this title if
14 any application, certification, report or other document submitted by
15 the applicant contains a false or misleading statement as to a material
16 fact or omits to state any material fact necessary in order to make the
17 statement therein not false or misleading.

18 § 499-ffff. Tax abatement enforcement and administration. 1. The
19 department of taxation and finance shall have, in addition to any other
20 functions, powers and duties that have been or may be conferred on it by
21 law, the following functions, powers and duties to be exercised in
22 accordance with this title:

23 (a) to apply a tax abatement;

24 (b) to revoke all or part of any such tax abatement;

25 (c) to make and promulgate rules to carry out the purposes of this
26 title; and

27 (d) any other function, power or duty necessarily implied by this
28 title.

29 2. A designated agency shall have, in addition to any other functions,
30 powers and duties that have been or may be conferred on it by law, the
31 following functions, powers and duties to be exercised in accordance
32 with this title:

33 (a) to receive, review, approve and deny applications for tax abate-
34 ment;

35 (b) to inspect facility-integrated carbon-to-value equipment and any
36 related structures and equipment;

37 (c) to establish permit or certification requirements to determine
38 when the facility-integrated carbon-to-value equipment has been placed
39 in service, such as certification by an architect, engineer or other
40 certified or licensed professional whom a designated agency designates
41 by rule;

42 (d) to establish guidance and procedures for determining or certifying
43 eligible facility-integrated carbon-to-value equipment expenditures;

44 (e) to prescribe forms and make and promulgate rules to carry out the
45 purposes of this title;

46 (f) to make the determinations provided for in this title and to noti-
47 fy the department of taxation and finance of such determinations; and

48 (g) any other function, power or duty necessarily implied by this
49 title.

50 3. If a designated agency determines that an architect or engineer or
51 other certified or licensed professional whom a designated agency desig-
52 nates by rule, in making any certification under this title or any rule
53 promulgated hereunder, engaged in professional misconduct, then such
54 agency shall so inform the education department or other appropriate
55 certifying or licensing authority.

1 4. A designated agency may provide for reasonable administrative
2 charges or fees necessary to defray expenses of administering the tax
3 abatement program established by this title.

4 5. A designated agency and the department of taxation and finance
5 shall establish procedures that are necessary or appropriate for: (a)
6 the timely notification to the department of taxation and finance by a
7 designated agency of an approval of an application for tax abatement or
8 of any noncompliance pursuant to section four hundred ninety-nine-eeee
9 of this title; and (b) any other interagency coordination to facilitate
10 the purposes of this title.

11 § 499-ggggg. Tax lien and interest rules. All taxes, with interest,
12 required to be paid retroactively pursuant to this title shall consti-
13 tute a tax lien as of the date it is determined such taxes and interest
14 are owed. All interest shall be calculated from the date the taxes would
15 have been due but for the tax abatement granted pursuant to this title
16 at the applicable rate or rates of interest imposed generally for non-
17 payment of real property tax with respect to the eligible building for
18 the period in question.

19 § 2. This act shall take effect immediately.