

STATE OF NEW YORK

4948

2023-2024 Regular Sessions

IN SENATE

February 17, 2023

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 59 to read as follows:

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

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

16 (bbb) 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 (1) to read as follows:

50 (1) Small business grid renewable Qualifying grid renewable energy
51 energy tax credit under usage under subdivision
52 subsection (bbb) fifty-nine of section two
53 hundred ten-B

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