STATE OF NEW YORK

5760

2023-2024 Regular Sessions

IN SENATE

March 15, 2023

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to providing a tax credit for the purchase or conversion of an electric vessel or zero emission vessel; and to providing a tax credit for electric vessel recharging property

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

Section 1. The tax law is amended by adding a new section 48 to read as follows:

§ 48. Electric and zero emission vessel tax credit. (a) Allowance of credit. (1) A taxpayer that purchases a qualifying electric vessel or zero emission vessel, that meets the eligibility requirements of subdivision (b) of this section and that is subject to tax under article nine-A or twenty-two of this chapter may claim an electric and zero emission vessel tax credit against such tax in the taxable year in which the purchase is made. A taxpayer that converts a vessel to a qualifying electric vessel or zero emission vessel, that meets the eligibility requirements of subdivision (b) of this section and that is subject to tax under article nine-A or twenty-two of this chapter may claim an electric and zero emission vessel tax credit against such tax in the taxable year in which the conversion is made.

(2) The amount of the credit allowed under this section shall be calculated as follows:

(i) in the case of a qualifying electric vessel or zero emission vessel purchased after December thirty-first, two thousand twenty-three and before January first, two thousand twenty-nine, thirty percent of the tax imposed upon such purchase pursuant to article twenty-eight of this chapter;

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

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(ii) in the case of a qualifying electric vessel or zero emission vessel purchased during a calendar year after December thirty-first, two thousand twenty-nine and before January first, two thousand thirty-five, thirty percent of the tax imposed upon such purchase pursuant to article twenty-eight of this chapter determined under this paragraph for the preceding calendar year, reduced by five percentage points for each year after two thousand twenty-nine; and

(iii) in the case of a vessel converted to a qualifying vessel after December thirty-first, two thousand twenty-three and before January first, two thousand twenty-nine, thirty percent of the tax imposed upon the cost of such conversion pursuant to article twenty-eight of this chapter; and

(iv) in the case of a vessel converted to a qualifying vessel during a calendar year after December thirty-first, two thousand twenty-nine and before January first, two thousand thirty-five, thirty percent of the tax imposed upon the cost of such conversion pursuant to article twenty-eight of this chapter determined under this paragraph for the preceding calendar year, reduced by five percentage points for each year after two thousand twenty-nine.

(3) No credit shall be allowed for a qualifying vessel purchased or converted after December thirty-first, two thousand thirty-five.

(4) A taxpayer that is a partner in a partnership, member of a limited liability company or shareholder in a subchapter S corporation shall be allowed its pro rata share of the credit earned by the partnership, limited liability company or subchapter S corporation that meets the eligibility criteria described in subdivision (b) of this section to claim an electric and zero emission vessel tax credit. In no event may the total amount of the credit earned by the partnership, limited liability company or subchapter S corporation exceed forty thousand dollars for all vessels in any tax year.

(5) No cost or expense paid or incurred by the taxpayer that is included as part of the calculation of this credit shall be the basis of any other tax credit allowed under this chapter.

(b) Eligibility criteria. To be eligible to claim an electric and zero emission vessel tax credit, a taxpayer must:

(1) (i) purchase an electric vessel or zero emission vessel during the calendar year for which the credit is claimed; or (ii) convert a vessel to a qualifying vessel during the calendar year for which the credit is claimed;

(2) pay taxes pursuant to article twenty-eight of this chapter on: (i) the purchase of the electric vessel or zero emission vessel; or (ii) the purchase of equipment and/or services to convert the vessel to a qualifying vessel;

(3) register the vessel in this state for at least six months of the taxable year in which the credit is claimed;

(4) purchase the vessel for personal use or lease, not for re-sale; and

(5) in the case of a conversion, submit an application to and obtain approval of such application by the department describing the conversion and approved costs to complete such conversion.

(c) Definitions. As used in this section the following terms shall have the following meanings:

(1) "Vessel" means a vessel as defined in section twenty-two hundred fifty of the vehicle and traffic law that is an electric vessel or a zero emission vessel.

(2) "Electric vessel" means a commercially available, mass-produced vessel originally equipped by the manufacturer with an on board electric propulsion system or a vessel retrofitted with an electric propulsion system, provided the vehicle owner can provide supporting documentation of such retrofit. "Electric vessel" includes: (i) an electric vessel that has a battery that is recharged by connecting the vessel to an external power source; and (ii) a plug-in hybrid electric vessel that has a battery that be can be recharged by connecting the vessel to an external power source or by an onboard internal-combustion engine and generator.

(3) "Zero emission vessel" means a vessel powered by means of a battery or fuel cell or a combination thereof, or another source of power, that produces zero exhaust emissions of any greenhouse gas, criteria pollutant or precursor pollutant under any and all possible operational modes and conditions.

(4) "Qualifying vessel" means an electric vessel or zero emission vessel as designated by the department or a vessel that has been converted to an electric vessel or zero emission vessel as provided in subdivision (d) of this section.

(d) Qualifying vessels. (1) The department, in consultation with the department of environmental conservation, shall compile a list of electric vessels and zero emission vessels that qualify for an electric and zero emission vessel tax credit.

(2) The department, in consultation with the department of environmental conservation, shall develop guidelines for the conversion of a vessel to a qualifying vessel and shall develop an application process to certify the expenses necessary for the conversion. A taxpayer will not be eligible to claim the credit unless he or she has completed the application process and the application has been approved by the department.

(e) Information sharing. The department and the department of environmental conservation shall be allowed and are directed to share and exchange information regarding the information contained on the credit application for claiming the electric and zero emission vessel tax credit and such information exchanged between the department and the department of environmental conservation shall not be subject to disclosure or inspection under the state's freedom of information law.

(f) Cross references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) article 9-A: section 210-B, subdivision 59; and

(2) article 22: section 606, subsection (ooo).

§ 2. Section 210-B of the tax law is amended by adding a new subdivision 59 to read as follows:

59. Electric and zero emission vessel tax credit. (a) Allowance of credit. A taxpayer will be allowed a credit, to be computed as provided in section forty-eight of this chapter, against the taxes imposed by this article.

(b) Application of credit. The credit allowed under this subdivision for the taxable year will not reduce the tax due for such year to less than the amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of credit allowed under this subdivision for the taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit not deductible in such taxable year will be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand

eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest will be paid thereon.

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

(l) Electric and zero emission vessel tax credit under subsection (ooo)	Amount of credit under subdivision fifty-nine of section two hundred ten-B

§ 4. Section 606 of the tax law is amended by adding a new subsection (ooo) to read as follows:

(ooo) Electric and zero emission vessel tax credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-eight of this chapter, against the tax imposed by this article.

(2) Application of credit. If the amount of the credit allowed under this subsection for the taxable year exceeds the taxpayer's tax for such year, the excess will be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest will be paid thereon.

§ 5. Subdivision 3 of section 187-b of the tax law is amended by adding a new paragraph (c) to read as follows:

(c) The term "vehicle" includes a vessel as defined in section forty-eight of this chapter.

§ 6. Paragraph (c) of subdivision 30 of section 210-B of the tax law is amended by adding a new subparagraph (iii) to read as follows:

(iii) The term "vehicle" includes a vessel as defined in section forty-eight of this chapter.

§ 7. Paragraph 3 of subsection (p) of section 606 of the tax law is amended by adding a new subparagraph (c) to read as follows:

(c) The term "vehicle" includes a vessel as defined in section forty-eight of this chapter.

§ 8. Severability. If any provision of this act, or any application of any provision of this act, is held to be invalid, that shall not affect the validity or effectiveness of any other provision of this act, or of any other application of any provision of this act, which can be given effect without that provision or application; and to that end, the provisions and applications of this act are severable.

§ 9. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2024.