STATE OF NEW YORK

5628

2025-2026 Regular Sessions

IN SENATE

February 26, 2025

Introduced by Sen. HARCKHAM -- 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 establishing an agrivoltaic production tax credit; and to amend the agriculture and markets law, in relation to the impact of agrivoltaics on agricultural assessments

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

Section 1. Section 210-B of the tax law is amended by adding a new subdivision 61 to read as follows:

61. Agrivoltaic production tax credit. (a) Definitions. As used in this subdivision, the following terms shall have the following meanings:

(i) "Agrivoltaics" means a simultaneous use of land for solar photovoltaic power generation and agricultural production of crops, livestock and livestock products.

(ii) "Crops, livestock and livestock products" shall have the same meaning as such phrase is defined in section three hundred one of the agriculture and markets law.

(iii) "Eligible farmer" means a taxpayer who:

(A) manages a farm operation, as such phrase is defined in section three hundred one of the agriculture and markets law, that is situated wholly or in part within one or more qualified agrivoltaic facilities; and

(B) uses not less than two-thirds of the total land area of such facility or facilities as land used in agricultural production, as such phrase is defined in section three hundred one of the agriculture and markets law.

(iv) "Qualified agrivoltaic facility" means a photovoltaic electricity generation facility that:

(A) is pre-qualified by the New York state energy research and development authority in consultation with the department of agriculture and markets pursuant to paragraph (c) of this subdivision as being reason-

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

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ably able to produce crops, livestock and livestock products sufficient to qualify the associated electricity for the credit provided by this subdivision;

(B) is connected to utility transmission or distribution infrastructure and placed into service on or after January first, two thousand twenty-six;

(C) has an AC nameplate capacity of not more than ten thousand kilowatts; and

(D) is designed and operated in such a manner that not less than four-fifths of the land area may be used as land used in agricultural production, as such phrase is defined in section three hundred one of the agriculture and markets law.

(b) Allowance of credit. (i) A taxpayer that is an eligible farmer shall be allowed a credit for taxable years beginning on and after January first, two thousand twenty-six, to be computed as hereinafter provided, against the tax imposed by this article.

(ii) The amount of the credit provided by this subdivision for any taxable year shall be an amount equal to the product of:

(A) the kilowatt hours of electricity produced in that year by a qualified agrivoltaic facility during the twenty-year period beginning on the date such facility was originally placed in service;

(B) a base credit rate value of one cent per kilowatt-hour; and

(C) an agricultural use factor as determined by the type of agricultural production conducted within the facility at a rate of:

(1) one-half times for sheep grazing, with or without apiaries or other pollinator habitat;

(2) three times for mechanical harvesting of perennial forage crops;

(3) four times for cattle grazing with or without the presence of other livestock; and

(4) five times for the production of annual crops or perennial crops other than forages.

(iii) The agricultural use factor as described in clause (C) of subparagraph (ii) of this paragraph shall be prorated by the acreage of each respective agricultural production type.

(iv) Beginning on January first, two thousand twenty-seven, and for each calendar year thereafter, the value of the credit provided by this subdivision shall be adjusted annually using an inflation adjustment factor determined by the comptroller.

(c) Pre-qualification. The New York state energy research and development authority shall, in consultation with the department of agriculture and markets, develop a pre-qualification process for eligible farmers seeking to claim the credit provided by this subdivision to be approved by the public service commission no later than December thirty-first, two thousand twenty-five. Such pre-qualification process shall:

(i) determine that a qualified agrivoltaic facility is reasonably able to produce crops, livestock and livestock products sufficient to qualify the associated electricity for the credit provided by this subdivision; and

(ii) prioritize ease of application for the eligible farmer.

(d) Annual certification. The New York state energy research and development authority shall, in consultation with the department of agriculture and markets, develop a certification form for eligible farmers seeking to claim the credit provided by this subdivision to be approved by the public service commission no later than December thirty-first, two thousand twenty-five. Such certification form shall:

(i) collect the information required to certify that the electricity was produced in association with the farmer's simultaneous use of the land within the facility for agricultural production of crops, livestock and livestock products;

(ii) prioritize reducing the regulatory burden of compliance on the eligible farmer;

(iii) be certified by the eligible farmer for each year the credit provided by this subdivision is claimed; and

(iv) be auditable for a period not to exceed three years.

(e) Application of credit. Except as otherwise provided in this paragraph, the credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the fixed dollar minimum amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of credit allowable under this subdivision for any 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 allowed for a taxable year commencing January first, two thousand twenty-six and not deductible in such taxable year may be carried over to the fifteen taxable years next following such taxable year and may be deducted from the taxpayer's tax for such year or years. In lieu of such carryover, any such taxpayer that is an eligible farmer may elect to treat the amount of such carryover 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 shall be paid thereon.

(f) Transfer of credit. With prior notice in accordance with regulations promulgated by the department, an eligible farmer may transfer all or part of the credit provided by this subdivision to an owner of a qualified agrivoltaic facility such eligible farmer's farm operation is situated within, with the same effect as if the owner of such qualified agrivoltaic facility had qualified for the credit provided by this subdivision themself.

§ 2. Section 305 of the agriculture and markets law is amended by adding a new subdivision 8 to read as follows:

8. Agrivoltaics. Notwithstanding any provision of law, rule or regulation to the contrary, the presence of agrivoltaics shall not impact the eligibility of land to receive an assessment pursuant to this section. As used in this subdivision, "agrivoltaics" shall mean a simultaneous use of land for solar photovoltaic power generation and agricultural production of crops, livestock and livestock products.

§ 3. This act shall take effect immediately.