

# STATE OF NEW YORK

5119

2017-2018 Regular Sessions

## IN SENATE

March 8, 2017

Introduced by Sen. GRIFFO -- 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 wind energy system equipment credit; and providing for the repeal of certain provisions therefor

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

1 Section 1. Section 606 of the tax law is amended by adding a new  
2 subsection (g-3) to read as follows:

3 (g-3) Wind energy system equipment credit. (1) General. An individual  
4 taxpayer shall be allowed a credit against the tax imposed by this arti-  
5 cle equal to twenty-five percent of qualified wind energy system equip-  
6 ment expenditures, except as provided in subparagraph (D) of paragraph  
7 two of this subsection. This credit shall not exceed fifteen thousand  
8 dollars for a residential installation or one hundred thousand dollars  
9 for a farm or commercial installation.

10 (2) Qualified wind energy system equipment expenditures. (A) The term  
11 "qualified wind energy system equipment expenditures" means expenditures  
12 for:

13 (i) the purchase of wind energy system equipment which is installed in  
14 connection with residential, agricultural or commercial property which  
15 is (I) located in this state and (II) which, if residential, is used by  
16 the taxpayer as his or her principal residence or farm operation at the  
17 time the wind energy system equipment is placed in service;

18 (ii) the lease of wind energy system equipment under a written agree-  
19 ment that spans at least ten years where such equipment owned by a  
20 person other than the taxpayer is installed in connection with residen-  
21 tial, agricultural or commercial property which is (I) located in this  
22 state and (II) which, if residential, is used by the taxpayer as his or  
23 her principal residence or farm operation at the time the wind energy  
24 system equipment is placed in service; or

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

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1 (iii) the purchase of power under a written agreement that spans at  
2 least ten years where under the power purchased is generated by wind  
3 energy system equipment owned by a person other than the taxpayer which  
4 is installed in connection with residential, agricultural or commercial  
5 property which is (I) located in this state and (II) which is used by  
6 the taxpayer as his or her principal residence or farm operation at the  
7 time the wind energy system equipment is placed in service.

8 (B) Such qualified expenditures shall include expenditures for materi-  
9 als, labor costs properly allocable to on-site preparation, assembly and  
10 original installation, architectural and engineering services, and  
11 designs, plans and permitting directly related to the construction or  
12 installation of the wind energy system equipment.

13 (C) Such qualified expenditures for the purchase of wind energy system  
14 equipment shall not include interest or other finance charges.

15 (D) Such qualified expenditures for the lease of wind energy system  
16 equipment or the purchase of power under an agreement described in  
17 clauses (ii) or (iii) of subparagraph (A) of this paragraph shall be  
18 based on the appraised value of the wind energy system(s) as determined  
19 by a qualified third party appraiser.

20 (3) Wind energy system equipment. The term "wind energy system equip-  
21 ment" shall mean one or more wind turbines with a combined rated capaci-  
22 ty of not more than one hundred kilowatts for a New York residential  
23 customer generator or nine hundred kilowatts for a farm or commercial  
24 customer generator, that is manufactured, installed and operated in  
25 accordance with applicable government and industry standards, that is  
26 connected to the electric system and operated in parallel with an elec-  
27 tric corporation's transmission and distribution facilities, and that is  
28 operated in compliance with any standards and requirements established  
29 by this section.

30 (A) Wind turbines installed after June thirtieth, two thousand eigh-  
31 teen must be certified to AWEA 9.1-2009 or, if their rotor area exceeds  
32 200m2, to IEC 61400-11, IEC 61400-12, and IEC 61400-1 by an accredited  
33 certification body. Wind turbines that are listed on the New York state  
34 energy research and development authority approved turbine list or the  
35 CESA ITAC unified list of wind turbines at the time of installation are  
36 exempt from these requirements.

37 (B) Wind turbines must carry, as a minimum, a five year warranty on  
38 the equipment and installation.

39 (C) Wind turbines must be installed on towers of at least eighty feet  
40 in height.

41 (4) Multiple taxpayers. Where wind energy system equipment is  
42 purchased and installed in a principal residence shared by two or more  
43 taxpayers, the amount of the credit allowable under this subsection for  
44 each such taxpayer shall be prorated according to the percentage of the  
45 total expenditure for such wind energy system equipment contributed by  
46 each taxpayer.

47 (5) Proportionate share. Where wind energy system equipment is  
48 purchased and installed by a condominium management association or a  
49 cooperative housing corporation, a taxpayer who is a member of the  
50 condominium management association or who is a tenant-stockholder in the  
51 cooperative housing corporation may for the purpose of this subsection  
52 claim a proportionate share of the total expense as the expenditure for  
53 the purposes of the credit attributable to his principal residence.

54 (6) Grants. For purposes of determining the amount of the expenditure  
55 incurred in purchasing and installing wind energy system equipment, the  
56 amount of any federal, state or local grant received by the taxpayer,

1 which was used for the purchase and/or installation of such equipment  
2 and which was not included in the federal gross income of the taxpayer,  
3 shall not be included in the amount of such expenditures.

4 (7) When credit allowed. The credit provided for herein shall be  
5 allowed with respect to the taxable year, commencing after two thousand  
6 seventeen, in which the wind energy system equipment is placed in  
7 service.

8 (8) Carryover of credit. If the amount of the credit, and carryovers  
9 of such credit, allowable under this subsection for any taxable year  
10 shall exceed the taxpayer's tax for such year, such excess amount may be  
11 carried over to the five taxable years next following the taxable year  
12 with respect to which the credit is allowed and may be deducted from the  
13 taxpayer's tax for such year or years.

14 (9) Credit to be claimed by the owner. The credits allowable under  
15 this subsection shall be claimed by the person or entity that owns the  
16 wind energy system equipment.

17 § 2. This act shall take effect immediately, and shall apply to taxa-  
18 ble years beginning on or after January 1, 2018; provided, however, this  
19 act shall expire and be deemed repealed January 1, 2028.