

1072

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DESTITO -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to enacting the residential clean heat and power efficiency act of 2009

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and cited as the "residential clean  
2 heat and power efficiency act of 2009".

3 S 2. Legislative intent. The legislature hereby finds it is in the  
4 public interest, in order to further residential energy efficiency, to  
5 encourage residents to achieve significantly improved energy use effi-  
6 ciency and reduced pollutant emissions in meeting their needs for both  
7 heat and electric power through the use of cogeneration technology.

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

10 (G-3) RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT  
11 CREDIT. (1) GENERAL. AN INDIVIDUAL TAXPAYER SHALL BE ALLOWED A CREDIT  
12 AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO TWENTY PERCENT OF QUAL-  
13 IFIED RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT  
14 EXPENDITURES. THIS CREDIT SHALL NOT EXCEED THREE THOUSAND FIVE HUNDRED  
15 DOLLARS PER UNIT WITH RESPECT TO ANY TAXABLE YEAR. THE CREDIT PROVIDED  
16 FOR HEREIN SHALL BE ALLOWED WITH RESPECT TO THE TAXABLE YEAR IN WHICH  
17 THE EQUIPMENT IS PLACED IN SERVICE.

18 (2) QUALIFIED RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING  
19 EQUIPMENT EXPENDITURES. (A) QUALIFIED RESIDENTIAL MICRO-COMBINED HEAT  
20 AND POWER GENERATING EQUIPMENT EXPENDITURES ARE THE COSTS, INCURRED ON  
21 OR AFTER JULY FIRST, TWO THOUSAND NINE, ASSOCIATED WITH THE PURCHASE OF  
22 ON-SITE ELECTRICITY GENERATION SYSTEMS, PROVIDING A RATED BASELOAD  
23 CAPACITY OF NO MORE THAN TEN KILOWATTS OF ELECTRICITY, WHICH ARE LOCATED

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

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1 IN THIS STATE AT THE TIME THE QUALIFIED RESIDENTIAL MICRO-COMBINED HEAT  
2 AND POWER GENERATING EQUIPMENT IS PLACED IN SERVICE.

3 (B) QUALIFIED RESIDENTIAL MICRO-COMBINED HEAT AND POWER GENERATING  
4 EQUIPMENT EXPENDITURES SHALL ALSO INCLUDE COSTS, INCURRED ON OR AFTER  
5 JULY FIRST, TWO THOUSAND NINE, FOR MATERIALS, LABOR FOR ON-SITE PREPARA-  
6 TION, ASSEMBLY AND ORIGINAL INSTALLATION, ENGINEERING SERVICES, DESIGNS  
7 AND PLANS DIRECTLY RELATED TO CONSTRUCTION OR INSTALLATION AND UTILITY  
8 COMPLIANCE COSTS.

9 (C) THE TERM "QUALIFIED RESIDENTIAL MICRO-COMBINED HEAT AND POWER  
10 GENERATING EQUIPMENT" SHALL MEAN AN INTEGRATED, COGENERATING RESIDENTIAL  
11 BUILDING HEATING AND ELECTRICAL POWER GENERATION SYSTEM, OPERATING ON  
12 ANY FUEL AND OF ANY APPLICABLE ENGINE, FUEL CELL, OR OTHER TECHNOLOGY,  
13 WITH A RATED CAPACITY OF NOT MORE THAN TEN KILOWATTS ELECTRIC AND ANY  
14 THERMAL OUTPUT THAT AT FULL LOAD HAS A DESIGN TOTAL FUEL USE EFFICIENCY  
15 OF NOT LESS THAN EIGHTY PERCENT AND THAT HAS A MAXIMUM RATIO OF USEFUL  
16 HEAT ENERGY OUTPUT TO ELECTRIC OUTPUT OF TEN, THAT MAY WORK IN COMBINA-  
17 TION WITH SUPPLEMENTAL OR PARALLEL CONVENTIONAL HEATING SYSTEMS, THAT IS  
18 MANUFACTURED, INSTALLED, AND OPERATED IN ACCORDANCE WITH APPLICABLE  
19 GOVERNMENT AND INDUSTRY STANDARDS, THAT IS CONNECTED TO THE ELECTRIC  
20 SYSTEM AND OPERATED IN CONJUNCTION WITH AN ELECTRIC CORPORATION'S TRANS-  
21 MISSION AND DISTRIBUTION FACILITIES.

22 (D) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER  
23 FINANCE CHARGES.

24 (3) MULTIPLE TAXPAYERS. WHERE RESIDENTIAL MICRO-COMBINED HEAT AND  
25 POWER GENERATING EQUIPMENT IS PURCHASED AND INSTALLED IN A PRINCIPAL  
26 RESIDENCE SHARED BY TWO OR MORE TAXPAYERS, THE AMOUNT OF THE CREDIT  
27 ALLOWABLE UNDER THIS SUBSECTION FOR EACH SUCH TAXPAYER SHALL BE PRORATED  
28 ACCORDING TO THE PERCENTAGE OF THE TOTAL EXPENDITURE FOR SUCH RESIDEN-  
29 TIAL MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT CONTRIBUTED BY  
30 EACH TAXPAYER.

31 (4) GRANTS. FOR PURPOSES OF DETERMINING THE AMOUNT OF THE EXPENDITURE  
32 INCURRED IN PURCHASING AND INSTALLING RESIDENTIAL MICRO-COMBINED HEAT  
33 AND POWER GENERATING EQUIPMENT, THE AMOUNT OF ANY FEDERAL, STATE OR  
34 LOCAL GRANT RECEIVED BY THE TAXPAYER, WHICH WAS USED FOR THE PURCHASE  
35 AND/OR INSTALLATION OF SUCH EQUIPMENT AND WHICH WAS NOT INCLUDED IN THE  
36 FEDERAL GROSS INCOME OF THE TAXPAYER, SHALL NOT BE INCLUDED IN THE  
37 AMOUNT OF SUCH EXPENDITURES.

38 (5) CARRYOVER OF CREDIT. IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS  
39 OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR  
40 SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE  
41 CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR  
42 WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE  
43 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

44 S 4. Section 1115 of the tax law is amended by adding a new subdivi-  
45 sion (gg) to read as follows:

46 (GG) RECEIPTS FROM THE RETAIL SALE OF RESIDENTIAL MICRO-COMBINED HEAT  
47 AND POWER GENERATING EQUIPMENT AND OF THE SERVICE OF INSTALLING SUCH  
48 SYSTEMS SHALL BE EXEMPT FROM TAXES IMPOSED BY THIS ARTICLE. FOR THE  
49 PURPOSES OF THIS SUBDIVISION, "RESIDENTIAL MICRO-COMBINED HEAT AND POWER  
50 GENERATING EQUIPMENT" MEANS AN INTEGRATED, COGENERATING RESIDENTIAL  
51 BUILDING HEATING AND ELECTRICAL POWER GENERATING GENERATION SYSTEM,  
52 OPERATING ON ANY FUEL AND OF ANY APPLICABLE ENGINE, FUEL CELL, OR OTHER  
53 TECHNOLOGY, WITH A RATED CAPACITY OF NOT MORE THAN TEN KILOWATTS ELEC-  
54 TRIC AND ANY THERMAL OUTPUT THAT AT FULL LOAD HAS A DESIGN TOTAL FUEL  
55 USE EFFICIENCY OF NOT LESS THAN EIGHTY PERCENT AND THAT HAS A MAXIMUM  
56 RATIO OF USEFUL HEAT ENERGY OUTPUT TO ELECTRIC ENERGY OUTPUT OF TEN,

1 THAT MAY WORK IN COMBINATION WITH SUPPLEMENTAL OR PARALLEL CONVENTIONAL  
2 HEATING SYSTEMS, THAT IS MANUFACTURED, INSTALLED, AND OPERATED IN  
3 ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS, THAT IS  
4 CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED IN CONJUNCTION WITH AN  
5 ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES.

6 S 5. This act shall take effect immediately and shall apply to taxable  
7 years beginning on and after January 1, 2009; and provided further that  
8 section four of this act shall take effect on the first day of the sales  
9 tax quarterly period, as described in subdivision (b) of section 1136 of  
10 the tax law, next commencing at least 90 days after this act shall have  
11 become a law and shall apply in accordance with the applicable transi-  
12 tional provisions of sections 1106 and 1217 of the tax law.