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I N   S E N A T E

May 4, 2010

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Introduced by Sen. THOMPSON -- 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 the personal income tax credit for solar and wind energy systems

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

1     Section 1. Paragraph 1 of subsection (g-1) of section 606 of the tax  
2     law, as amended by chapter 378 of the laws of 2005, is amended to read  
3     as follows:  
4     (1) General. An individual taxpayer shall be allowed a credit against  
5     the tax imposed by this article equal to twenty-five percent of qualified  
6     solar energy system equipment expenditures. This credit shall not  
7     exceed (A) three thousand seven hundred fifty dollars for qualified  
8     solar energy equipment placed in service before September first, two  
9     thousand six, and (B) five thousand dollars for qualified solar energy  
10    equipment placed in service on or after September first, two thousand  
11    six BUT PRIOR TO THE EFFECTIVE DATE OF SUBPARAGRAPH (C) OF THIS PARAGRAPH,  
12    AND (C) FIVE THOUSAND DOLLARS FOR QUALIFIED SOLAR EQUIPMENT THAT  
13    IS A SOLAR THERMAL ENERGY SYSTEM AND FIVE THOUSAND DOLLARS FOR QUALIFIED  
14    SOLAR EQUIPMENT THAT IS A SOLAR ELECTRIC ENERGY SYSTEM.  
15    S 2. Subparagraph (A) of paragraph 2 of subsection (g-1) of section  
16    606 of the tax law, as amended by chapter 378 of the laws of 2005, is  
17    amended to read as follows:  
18    (A) The term "qualified solar energy system equipment expenditures"  
19    means expenditures for the purchase of solar energy system equipment  
20    which is installed in connection with residential property which is (i)  
21    located in this state and (ii) which is used by the taxpayer as ANY OF  
22    his or her [principal residence] RESIDENCES at the time the solar energy  
23    system equipment is placed in service.  
24    S 3. Paragraph 3 of subsection (g-1) of section 606 of the tax law, as  
25    amended by chapter 128 of the laws of 2007, is amended to read as  
26    follows:

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

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(3) Solar energy system equipment. (A) The term "solar energy system equipment" shall mean an arrangement or combination of components utilizing solar radiation, which, when installed in a residence, produces energy designed to provide heating, cooling, hot water or electricity for use in such residence. Such arrangement or components shall not include equipment connected to solar energy system equipment that is a component of part or parts of a non-solar energy system or which uses any sort of recreational facility or equipment as a storage medium. [Solar energy system equipment that generates electricity for use in a residence]

(B) THE TERM "SOLAR THERMAL ENERGY SYSTEM" SHALL MEAN SOLAR ENERGY EQUIPMENT THAT IS AN ARRANGEMENT OR COMBINATION OF COMPONENTS UTILIZING SOLAR RADIATION, WHICH, WHEN INSTALLED IN A RESIDENCE, PRODUCES ENERGY DESIGNED TO PROVIDED HEATING, COOLING OR HOT WATER FOR USE IN SUCH RESIDENCE.

(C) THE TERM "SOLAR ELECTRIC ENERGY SYSTEM" SHALL MEAN SOLAR ENERGY EQUIPMENT THAT IS AN ARRANGEMENT OR COMBINATION OF COMPONENTS UTILIZING SOLAR RADIATION, WHICH, WHEN INSTALLED IN A RESIDENCE, PRODUCES ENERGY DESIGNED TO PROVIDE ELECTRICITY FOR USE IN SUCH RESIDENCE. SUCH SYSTEMS must conform to applicable requirements set forth in section sixty-six-j of the public service law. Provided, however, where A solar ELECTRIC energy system [equipment] is purchased and installed by a condominium management association or a cooperative housing corporation, for purposes of this subsection only, the term "ten kilowatts" in such section sixty-six-j shall be read as "fifty kilowatts."

S 4. Paragraph 4 of subsection (g-1) of section 606 of the tax law, as amended by chapter 378 of the laws of 2005, is amended to read as follows:

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

S 5. Paragraph 5 of subsection (g-1) of section 606 of the tax law, as added by chapter 128 of the laws of 2007, is amended to read as follows:

(5) Proportionate share. Where solar energy system equipment is purchased and installed by a condominium management association or a cooperative housing corporation, a taxpayer who is a member of the condominium management association or who is a tenant-stockholder in the cooperative housing corporation may for the purpose of this subsection claim a proportionate share of the total expense as the expenditure for the purposes of the credit attributable to his [principal] OR HER residence.

S 6. Section 606 of the tax law is amended by adding a new subsection (g-3) to read as follows:

(G-3) WIND ENERGY SYSTEM EQUIPMENT CREDIT. (1) GENERAL. AN INDIVIDUAL TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO TWENTY-FIVE PERCENT OF QUALIFIED WIND ENERGY SYSTEM EQUIPMENT EXPENDITURES. THIS CREDIT SHALL NOT EXCEED FIVE THOUSAND DOLLARS FOR QUALIFIED WIND ENERGY EQUIPMENT.

(2) QUALIFIED WIND ENERGY SYSTEM EQUIPMENT EXPENDITURES. (A) THE TERM "QUALIFIED WIND ENERGY SYSTEM EQUIPMENT EXPENDITURES" MEANS EXPENDITURES FOR THE PURCHASE OF WIND ENERGY SYSTEM EQUIPMENT WHICH IS INSTALLED IN CONNECTION WITH RESIDENTIAL PROPERTY WHICH IS (I) LOCATED IN THIS STATE

1 AND (II) WHICH IS USED BY THE TAXPAYER AS ANY OF HIS OR HER RESIDENCES  
2 AT THE TIME THE WIND ENERGY SYSTEM EQUIPMENT IS PLACED IN SERVICE.

3 (B) SUCH QUALIFIED EXPENDITURES SHALL INCLUDE EXPENDITURES FOR MATERI-  
4 ALS, LABOR COSTS PROPERLY ALLOCABLE TO ON-SITE PREPARATION, ASSEMBLY AND  
5 ORIGINAL INSTALLATION, ARCHITECTURAL AND ENGINEERING SERVICES, AND  
6 DESIGNS AND PLANS DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION  
7 OF THE WIND ENERGY SYSTEM EQUIPMENT.

8 (C) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER  
9 FINANCE CHARGES.

10 (3) WIND ENERGY SYSTEM EQUIPMENT. THE TERM "WIND ENERGY SYSTEM EQUIP-  
11 MENT" SHALL MEAN AN ARRANGEMENT OR COMBINATION OF COMPONENTS UTILIZING  
12 WIND, WHICH, WHEN INSTALLED IN A RESIDENCE, PRODUCES ENERGY DESIGNED TO  
13 PROVIDE ELECTRICITY FOR USE IN SUCH RESIDENCE. SUCH ARRANGEMENT OR  
14 COMPONENTS SHALL NOT INCLUDE EQUIPMENT CONNECTED TO WIND ENERGY SYSTEM  
15 EQUIPMENT THAT IS A COMPONENT OF PART OR PARTS OF A NON-WIND ENERGY  
16 SYSTEM OR WHICH USES ANY SORT OF RECREATIONAL FACILITY OR EQUIPMENT AS A  
17 STORAGE MEDIUM. WIND ENERGY SYSTEM EQUIPMENT THAT GENERATES ELECTRICITY  
18 FOR USE IN A RESIDENCE MUST CONFORM TO APPLICABLE REQUIREMENTS SET FORTH  
19 IN SECTION SIXTY-SIX-L OF THE PUBLIC SERVICE LAW. PROVIDED, HOWEVER,  
20 WHERE WIND ENERGY SYSTEM EQUIPMENT IS PURCHASED AND INSTALLED BY A  
21 CONDOMINIUM MANAGEMENT ASSOCIATION OR A COOPERATIVE HOUSING CORPORATION,  
22 FOR PURPOSES OF THIS SUBSECTION ONLY, THE TERM "TWENTY-FIVE KILOWATTS"  
23 IN SUCH SECTION SIXTY-SIX-L SHALL BE READ AS "FIFTY KILOWATTS."

24 (4) MULTIPLE TAXPAYERS. WHERE WIND ENERGY SYSTEM EQUIPMENT IS  
25 PURCHASED AND INSTALLED IN A RESIDENCE SHARED BY TWO OR MORE TAXPAYERS,  
26 THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR EACH SUCH  
27 TAXPAYER SHALL BE PRORATED ACCORDING TO THE PERCENTAGE OF THE TOTAL  
28 EXPENDITURE FOR SUCH WIND ENERGY SYSTEM EQUIPMENT CONTRIBUTED BY EACH  
29 TAXPAYER.

30 (5) PROPORTIONATE SHARE. WHERE WIND ENERGY SYSTEM EQUIPMENT IS  
31 PURCHASED AND INSTALLED BY A CONDOMINIUM MANAGEMENT ASSOCIATION OR A  
32 COOPERATIVE HOUSING CORPORATION, A TAXPAYER WHO IS A MEMBER OF THE  
33 CONDOMINIUM MANAGEMENT ASSOCIATION OR WHO IS A TENANT-STOCKHOLDER IN THE  
34 COOPERATIVE HOUSING CORPORATION MAY FOR THE PURPOSE OF THIS SUBSECTION  
35 CLAIM A PROPORTIONATE SHARE OF THE TOTAL EXPENSE AS THE EXPENDITURE FOR  
36 THE PURPOSES OF THE CREDIT ATTRIBUTABLE TO HIS OR HER RESIDENCE.

37 (6) GRANTS. FOR PURPOSES OF DETERMINING THE AMOUNT OF THE EXPENDITURE  
38 INCURRED IN PURCHASING AND INSTALLING WIND ENERGY SYSTEM EQUIPMENT, THE  
39 AMOUNT OF ANY FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE TAXPAYER,  
40 WHICH WAS USED FOR THE PURCHASE AND/OR INSTALLATION OF SUCH EQUIPMENT  
41 AND WHICH WAS NOT INCLUDED IN THE FEDERAL GROSS INCOME OF THE TAXPAYER,  
42 SHALL NOT BE INCLUDED IN THE AMOUNT OF SUCH EXPENDITURES.

43 (7) WHEN CREDIT ALLOWED. THE CREDIT PROVIDED FOR IN THIS SUBSECTION  
44 SHALL BE ALLOWED WITH RESPECT TO THE TAXABLE YEAR, COMMENCING AFTER TWO  
45 THOUSAND NINE, IN WHICH THE WIND ENERGY SYSTEM EQUIPMENT IS PLACED IN  
46 SERVICE.

47 (8) CARRYOVER OF CREDIT. IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS  
48 OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR  
49 SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE  
50 CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR  
51 WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE  
52 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

53 S 7. This act shall take effect on the first of January next succeed-  
54 ing the date on which it shall have become a law.