

3238

2011-2012 Regular Sessions

I N S E N A T E

February 14, 2011

Introduced by Sens. MAZIARZ, GRISANTI, JOHNSON, O'MARA, RANZENHOFER, SEWARD, YOUNG -- 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 quali-
6 fied 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 PARA-
12 GRAPH, 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.

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

LBD07657-01-1

1 S 3. Paragraph 3 of subsection (g-1) of section 606 of the tax law, as
2 amended by chapter 128 of the laws of 2007, is amended to read as
3 follows:

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

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

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

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

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

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

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

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

50 (G-3) WIND ENERGY SYSTEM EQUIPMENT CREDIT. (1) GENERAL. AN INDIVIDUAL
51 TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTI-
52 CLE EQUAL TO TWENTY-FIVE PERCENT OF QUALIFIED WIND ENERGY SYSTEM EQUIP-
53 MENT EXPENDITURES. THIS CREDIT SHALL NOT EXCEED FIVE THOUSAND DOLLARS
54 FOR QUALIFIED WIND ENERGY EQUIPMENT.

55 (2) QUALIFIED WIND ENERGY SYSTEM EQUIPMENT EXPENDITURES. (A) THE TERM
56 "QUALIFIED WIND ENERGY SYSTEM EQUIPMENT EXPENDITURES" MEANS EXPENDITURES

1 FOR THE PURCHASE OF WIND ENERGY SYSTEM EQUIPMENT WHICH IS INSTALLED IN
2 CONNECTION WITH RESIDENTIAL PROPERTY WHICH IS (I) LOCATED IN THIS STATE
3 AND (II) WHICH IS USED BY THE TAXPAYER AS ANY OF HIS OR HER RESIDENCES
4 AT THE TIME THE WIND ENERGY SYSTEM EQUIPMENT IS PLACED IN SERVICE.

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

10 (C) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER
11 FINANCE CHARGES.

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

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

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

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

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

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

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