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I N   A S S E M B L Y

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Introduced by M. of A. GABRYSZAK, SCHIMMINGER, KATZ, ENGLEBRIGHT, GALEF, GUNTHER, BENEDETTO, MAISEL, FINCH, RAIA, ZEBROWSKI, PAULIN, ROSENTHAL -- Multi-Sponsored by -- M. of A. ABBATE, COOK, CRESPO, DUPREY, GIGLIO, GLICK, HEASTIE, LIFTON, McKEVITT, PALMESANO, SWEENEY, THIELE, TITONE, WEISENBERG -- read once and referred to the Committee on Ways and Means

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 375 of the laws of 2012, 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, except as provided in  
7     subparagraph (D) of paragraph two of this subsection. This credit shall  
8     not exceed (A) three thousand seven hundred fifty dollars for qualified  
9     solar energy equipment placed in service before September first, two  
10    thousand six, and (B) five thousand dollars for qualified solar energy  
11    equipment placed in service on or after September first, two thousand  
12    six, BUT PRIOR TO JANUARY FIRST, TWO THOUSAND FIFTEEN, AND (C) FIVE  
13    THOUSAND DOLLARS FOR QUALIFIED SOLAR ENERGY EQUIPMENT THAT IS A SOLAR  
14    THERMAL ENERGY SYSTEM PLACED IN SERVICE ON OR AFTER JANUARY FIRST, TWO  
15    THOUSAND FIFTEEN, AND (D) FIVE THOUSAND DOLLARS FOR QUALIFIED SOLAR  
16    ENERGY EQUIPMENT THAT IS A SOLAR ELECTRIC ENERGY SYSTEM PLACED IN  
17    SERVICE ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN.  
18    S 2. Subparagraph (A) of paragraph 2 of subsection (g-1) of section  
19    606 of the tax law, as amended by chapter 375 of the laws of 2012, is  
20    amended to read as follows:

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

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1 (A) The term "qualified solar energy system equipment expenditures"  
2 means expenditures for:

3 (i) the purchase of solar energy system equipment, A SOLAR THERMAL  
4 ENERGY SYSTEM, OR A SOLAR ELECTRIC ENERGY SYSTEM which is installed in  
5 connection with residential property which is (I) located in this state  
6 and (II) which is used by the taxpayer as ANY OF his or her [principal  
7 residence] RESIDENCES at the time the solar energy system equipment, A  
8 SOLAR THERMAL ENERGY SYSTEM, OR A SOLAR ELECTRIC ENERGY SYSTEM is placed  
9 in service;

10 (ii) the lease of solar energy system equipment, A SOLAR THERMAL ENER-  
11 GY SYSTEM, OR A SOLAR ELECTRIC ENERGY SYSTEM under a written agreement  
12 that spans at least ten years where such equipment owned by a person  
13 other than the taxpayer is installed in connection with residential  
14 property which is (I) located in this state and (II) which is used by  
15 the taxpayer as ANY OF his or her [principal residence] RESIDENCES at  
16 the time the solar energy system equipment, A SOLAR THERMAL ENERGY  
17 SYSTEM, OR A SOLAR ELECTRIC ENERGY SYSTEM is placed in service; or

18 (iii) the purchase of power under a written agreement that spans at  
19 least ten years whereunder the power purchased is generated by solar  
20 energy system equipment, A SOLAR THERMAL ENERGY SYSTEM, OR A SOLAR ELEC-  
21 TRIC ENERGY SYSTEM owned by a person other than the taxpayer which is  
22 installed in connection with residential property which is (I) located  
23 in this state and (II) which is used by the taxpayer as ANY OF his or  
24 her [principal residence] RESIDENCES at the time the solar energy system  
25 equipment, A SOLAR THERMAL ENERGY SYSTEM, OR A SOLAR ELECTRIC ENERGY  
26 SYSTEM is placed in service.

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

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

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

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

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

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

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

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

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

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

27 (2) QUALIFIED WIND ENERGY SYSTEM EQUIPMENT EXPENDITURES. (A) THE TERM  
28 "QUALIFIED WIND ENERGY SYSTEM EQUIPMENT EXPENDITURES" MEANS EXPENDITURES  
29 FOR THE PURCHASE OF WIND ENERGY SYSTEM EQUIPMENT WHICH IS INSTALLED IN  
30 CONNECTION WITH RESIDENTIAL PROPERTY WHICH IS (I) LOCATED IN THIS STATE  
31 AND (II) WHICH IS USED BY THE TAXPAYER AS ANY OF HIS OR HER RESIDENCES  
32 AT THE TIME THE WIND ENERGY SYSTEM EQUIPMENT IS PLACED IN SERVICE.

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

38 (C) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER  
39 FINANCE CHARGES.

40 (3) WIND ENERGY SYSTEM EQUIPMENT. THE TERM "WIND ENERGY SYSTEM EQUIP-  
41 MENT" SHALL MEAN AN ARRANGEMENT OR COMBINATION OF COMPONENTS UTILIZING  
42 WIND, WHICH, WHEN INSTALLED IN A RESIDENCE, PRODUCES ENERGY DESIGNED TO  
43 PROVIDE ELECTRICITY FOR USE IN SUCH RESIDENCE. SUCH ARRANGEMENT OR  
44 COMPONENTS SHALL NOT INCLUDE EQUIPMENT CONNECTED TO WIND ENERGY SYSTEM  
45 EQUIPMENT THAT IS A COMPONENT OF PART OR PARTS OF A NON-WIND ENERGY  
46 SYSTEM OR WHICH USES ANY SORT OF RECREATIONAL FACILITY OR EQUIPMENT AS A  
47 STORAGE MEDIUM. WIND ENERGY SYSTEM EQUIPMENT THAT GENERATES ELECTRICITY  
48 FOR USE IN A RESIDENCE MUST CONFORM TO APPLICABLE REQUIREMENTS SET FORTH  
49 IN SECTION SIXTY-SIX-L OF THE PUBLIC SERVICE LAW. PROVIDED, HOWEVER,  
50 WHERE WIND ENERGY SYSTEM EQUIPMENT IS PURCHASED AND INSTALLED BY A  
51 CONDOMINIUM MANAGEMENT ASSOCIATION OR A COOPERATIVE HOUSING CORPORATION,  
52 FOR PURPOSES OF THIS SUBSECTION ONLY, THE TERM "TWENTY-FIVE KILOWATTS"  
53 IN SUCH SECTION SIXTY-SIX-L SHALL BE READ AS "FIFTY KILOWATTS."

54 (4) MULTIPLE TAXPAYERS. WHERE WIND ENERGY SYSTEM EQUIPMENT IS  
55 PURCHASED AND INSTALLED IN A RESIDENCE SHARED BY TWO OR MORE TAXPAYERS,  
56 THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR EACH SUCH

1 TAXPAYER SHALL BE PRORATED ACCORDING TO THE PERCENTAGE OF THE TOTAL  
2 EXPENDITURE FOR SUCH WIND ENERGY SYSTEM EQUIPMENT CONTRIBUTED BY EACH  
3 TAXPAYER.

4 (5) PROPORTIONATE SHARE. WHERE WIND ENERGY SYSTEM EQUIPMENT IS  
5 PURCHASED AND INSTALLED BY A CONDOMINIUM MANAGEMENT ASSOCIATION OR A  
6 COOPERATIVE HOUSING CORPORATION, A TAXPAYER WHO IS A MEMBER OF THE  
7 CONDOMINIUM MANAGEMENT ASSOCIATION OR WHO IS A TENANT-STOCKHOLDER IN THE  
8 COOPERATIVE HOUSING CORPORATION MAY FOR THE PURPOSE OF THIS SUBSECTION  
9 CLAIM A PROPORTIONATE SHARE OF THE TOTAL EXPENSE AS THE EXPENDITURE FOR  
10 THE PURPOSES OF THE CREDIT ATTRIBUTABLE TO HIS OR HER RESIDENCE.

11 (6) GRANTS. FOR PURPOSES OF DETERMINING THE AMOUNT OF THE EXPENDITURE  
12 INCURRED IN PURCHASING AND INSTALLING WIND ENERGY SYSTEM EQUIPMENT, THE  
13 AMOUNT OF ANY FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE TAXPAYER,  
14 WHICH WAS USED FOR THE PURCHASE AND/OR INSTALLATION OF SUCH EQUIPMENT  
15 AND WHICH WAS NOT INCLUDED IN THE FEDERAL GROSS INCOME OF THE TAXPAYER,  
16 SHALL NOT BE INCLUDED IN THE AMOUNT OF SUCH EXPENDITURES.

17 (7) WHEN CREDIT ALLOWED. THE CREDIT PROVIDED FOR IN THIS SUBSECTION  
18 SHALL BE ALLOWED WITH RESPECT TO THE TAXABLE YEAR, COMMENCING AFTER TWO  
19 THOUSAND FOURTEEN, IN WHICH THE WIND ENERGY SYSTEM EQUIPMENT IS PLACED  
20 IN SERVICE.

21 (8) CARRYOVER OF CREDIT. IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS  
22 OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR  
23 SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE  
24 CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR  
25 WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE  
26 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

27 S 7. This act shall take effect on January 1, 2015 and shall apply to  
28 taxable years beginning on and after such date.