

6924

2013-2014 Regular Sessions

I N A S S E M B L Y

April 25, 2013

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 public service law and 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. The public service law is amended by adding a new section
2 73 to read as follows:
3 S 73. COORDINATION WITH CERTAIN PROVISIONS OF THE TAX LAW. THE DEPART-
4 MENT MAY REQUEST FROM THE DEPARTMENT OF TAXATION AND FINANCE A SUMMARY
5 OF TAX CREDITS GRANTED IN A CALENDAR YEAR PURSUANT TO THE PROVISIONS OF
6 SUBSECTIONS (G-1) AND (G-3) OF SECTION SIX HUNDRED SIX OF THE TAX LAW.
7 SUCH SUMMARY SHALL INCLUDE THE TOTAL NUMBER OF RESIDENCES THAT HAVE BEEN
8 GRANTED A SOLAR ENERGY SYSTEM EQUIPMENT CREDIT OR A WIND ENERGY SYSTEM
9 EQUIPMENT CREDIT, A DESCRIPTION OF THE IMPROVEMENTS TO WHICH THE CREDIT
10 RELATES, AND AN INDICATION OF THE COMBINED RATED CAPACITY OF EACH SUCH
11 IMPROVEMENT IN TERMS OF KILOWATTS.
12 S 2. Paragraph 1 of subsection (g-1) of section 606 of the tax law, as
13 amended by chapter 375 of the laws of 2012, is amended to read as
14 follows:
15 (1) General. An individual taxpayer shall be allowed a credit against
16 the tax imposed by this article equal to twenty-five percent of quali-
17 fied solar energy system equipment expenditures, except as provided in
18 subparagraph (D) of paragraph two of this subsection. This credit shall
19 not exceed (A) three thousand seven hundred fifty dollars for qualified
20 solar energy equipment placed in service before September first, two
21 thousand six, and (B) five thousand dollars for qualified solar energy

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

LBD09798-02-3

1 equipment placed in service on or after September first, two thousand
2 six, BUT PRIOR TO JANUARY FIRST, TWO THOUSAND FIFTEEN, AND (C) FIVE
3 THOUSAND DOLLARS FOR QUALIFIED SOLAR ENERGY EQUIPMENT THAT IS A SOLAR
4 THERMAL ENERGY SYSTEM PLACED IN SERVICE ON OR AFTER JANUARY FIRST, TWO
5 THOUSAND FIFTEEN, AND (D) FIVE THOUSAND DOLLARS FOR QUALIFIED SOLAR
6 ENERGY EQUIPMENT THAT IS A SOLAR ELECTRIC ENERGY SYSTEM PLACED IN
7 SERVICE ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN.

8 S 3. Subparagraph (A) of paragraph 2 of subsection (g-1) of section
9 606 of the tax law, as amended by chapter 375 of the laws of 2012, is
10 amended to read as follows:

11 (A) The term "qualified solar energy system equipment expenditures"
12 means expenditures for:

13 (i) the purchase of solar energy system equipment, A SOLAR THERMAL
14 ENERGY SYSTEM, OR A SOLAR ELECTRIC ENERGY SYSTEM which is installed in
15 connection with residential property which is (I) located in this state
16 and (II) which is used by the taxpayer as ANY OF his or her [principal
17 residence] RESIDENCES at the time the solar energy system equipment, A
18 SOLAR THERMAL ENERGY SYSTEM, OR A SOLAR ELECTRIC ENERGY SYSTEM is placed
19 in service;

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

28 (iii) the purchase of power under a written agreement that spans at
29 least ten years whereunder the power purchased is generated by solar
30 energy system equipment, A SOLAR THERMAL ENERGY SYSTEM, OR A SOLAR ELEC-
31 TRIC ENERGY SYSTEM owned by a person other than the taxpayer which is
32 installed in connection with residential property which is (I) located
33 in this state and (II) which is used by the taxpayer as ANY OF his or
34 her [principal residence] RESIDENCES at the time the solar energy system
35 equipment, A SOLAR THERMAL ENERGY SYSTEM, OR A SOLAR ELECTRIC ENERGY
36 SYSTEM is placed in service.

37 S 4. Paragraph 3 of subsection (g-1) of section 606 of the tax law, as
38 amended by chapter 128 of the laws of 2007, is amended to read as
39 follows:

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

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

55 (C) THE TERM "SOLAR ELECTRIC ENERGY SYSTEM" SHALL MEAN SOLAR ENERGY
56 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 5. 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 6. 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 7. 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 AND (II) WHICH IS USED BY THE TAXPAYER AS ANY OF HIS OR HER RESIDENCES AT THE TIME THE WIND ENERGY SYSTEM EQUIPMENT IS PLACED IN SERVICE.

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

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

(3) WIND ENERGY SYSTEM EQUIPMENT. THE TERM "WIND ENERGY SYSTEM EQUIPMENT" SHALL MEAN AN ARRANGEMENT OR COMBINATION OF COMPONENTS UTILIZING WIND, WHICH, WHEN INSTALLED IN A RESIDENCE, PRODUCES ENERGY DESIGNED TO PROVIDE ELECTRICITY FOR USE IN SUCH RESIDENCE. SUCH ARRANGEMENT OR COMPONENTS SHALL NOT INCLUDE EQUIPMENT CONNECTED TO WIND ENERGY SYSTEM EQUIPMENT THAT IS A COMPONENT OF PART OR PARTS OF A NON-WIND ENERGY SYSTEM OR WHICH USES ANY SORT OF RECREATIONAL FACILITY OR EQUIPMENT AS A STORAGE MEDIUM. WIND ENERGY SYSTEM EQUIPMENT THAT GENERATES ELECTRICITY FOR USE IN A RESIDENCE MUST CONFORM TO APPLICABLE REQUIREMENTS SET FORTH

1 IN SECTION SIXTY-SIX-L OF THE PUBLIC SERVICE LAW. PROVIDED, HOWEVER,
2 WHERE WIND ENERGY SYSTEM EQUIPMENT IS PURCHASED AND INSTALLED BY A
3 CONDOMINIUM MANAGEMENT ASSOCIATION OR A COOPERATIVE HOUSING CORPORATION,
4 FOR PURPOSES OF THIS SUBSECTION ONLY, THE TERM "TWENTY-FIVE KILOWATTS"
5 IN SUCH SECTION SIXTY-SIX-L SHALL BE READ AS "FIFTY KILOWATTS."

6 (4) MULTIPLE TAXPAYERS. WHERE WIND ENERGY SYSTEM EQUIPMENT IS
7 PURCHASED AND INSTALLED IN A RESIDENCE SHARED BY TWO OR MORE TAXPAYERS,
8 THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR EACH SUCH
9 TAXPAYER SHALL BE PRORATED ACCORDING TO THE PERCENTAGE OF THE TOTAL
10 EXPENDITURE FOR SUCH WIND ENERGY SYSTEM EQUIPMENT CONTRIBUTED BY EACH
11 TAXPAYER.

12 (5) PROPORTIONATE SHARE. WHERE WIND 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 OR HER RESIDENCE.

19 (6) GRANTS. FOR PURPOSES OF DETERMINING THE AMOUNT OF THE EXPENDITURE
20 INCURRED IN PURCHASING AND INSTALLING WIND ENERGY SYSTEM EQUIPMENT, THE
21 AMOUNT OF ANY FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE TAXPAYER,
22 WHICH WAS USED FOR THE PURCHASE AND/OR INSTALLATION OF SUCH EQUIPMENT
23 AND WHICH WAS NOT INCLUDED IN THE FEDERAL GROSS INCOME OF THE TAXPAYER,
24 SHALL NOT BE INCLUDED IN THE AMOUNT OF SUCH EXPENDITURES.

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

29 (8) CARRYOVER OF CREDIT. IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS
30 OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR
31 SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE
32 CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR
33 WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE
34 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

35 S 8. This act shall take effect on January 1, 2015 and shall apply to
36 taxable years beginning on and after such date.