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I N   A S S E M B L Y

February 3, 2014

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Introduced by M. of A. CRESPO -- 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  
22    equipment placed in service on or after September first, two thousand  
23    six, BUT PRIOR TO JANUARY FIRST, TWO THOUSAND FIFTEEN, AND (C) FIVE  
24    THOUSAND DOLLARS FOR QUALIFIED SOLAR ENERGY EQUIPMENT THAT IS A SOLAR  
25    THERMAL ENERGY SYSTEM PLACED IN SERVICE ON OR AFTER JANUARY FIRST, TWO  
26    THOUSAND FIFTEEN, AND (D) FIVE THOUSAND DOLLARS FOR QUALIFIED SOLAR  
27    ENERGY EQUIPMENT THAT IS A SOLAR ELECTRIC ENERGY SYSTEM PLACED IN  
28    SERVICE ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN.

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

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

4 (A) The term "qualified solar energy system equipment expenditures"  
5 means expenditures for:

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

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

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

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

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

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

48 (C) THE TERM "SOLAR ELECTRIC ENERGY SYSTEM" SHALL MEAN SOLAR ENERGY  
49 EQUIPMENT THAT IS AN ARRANGEMENT OR COMBINATION OF COMPONENTS UTILIZING  
50 SOLAR RADIATION, WHICH, WHEN INSTALLED IN A RESIDENCE, PRODUCES ENERGY  
51 DESIGNED TO PROVIDE ELECTRICITY FOR USE IN SUCH RESIDENCE. SUCH SYSTEMS  
52 must conform to applicable requirements set forth in section sixty-six-j  
53 of the public service law. Provided, however, where A solar ELECTRIC  
54 energy system [equipment] is purchased and installed by a condominium  
55 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 IN SECTION SIXTY-SIX-L OF THE PUBLIC SERVICE LAW. PROVIDED, HOWEVER, WHERE WIND 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 "TWENTY-FIVE KILOWATTS" IN SUCH SECTION SIXTY-SIX-L SHALL BE READ AS "FIFTY KILOWATTS."

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

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

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

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

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

30 S 8. This act shall take effect January 1, 2016 and shall apply to  
31 taxable years beginning on and after such date.