S T A T E O F N E W Y O R K

10691

I N A S S E M B L Y

June 13, 2016

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Paulin) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to wind energy system equipment credit

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

Section 1. 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, EXCEPT AS PROVIDED IN SUBPARAGRAPH (D) OF PARAGRAPH TWO OF THIS SUBSECTION. THIS CREDIT SHALL NOT EXCEED FIFTEEN THOUSAND DOLLARS FOR A RESIDENTIAL INSTALLATION OR SEVENTY-FIVE THOUSAND DOLLARS FOR A FARM OR COMMERCIAL INSTALLATION.

(2) QUALIFIED WIND ENERGY SYSTEM EQUIPMENT EXPENDITURES. (A) THE TERM "QUALIFIED WIND ENERGY SYSTEM EQUIPMENT EXPENDITURES" MEANS EXPENDITURES FOR:

(I) THE PURCHASE OF WIND ENERGY SYSTEM EQUIPMENT WHICH IS INSTALLED IN CONNECTION WITH RESIDENTIAL, AGRICULTURAL OR COMMERCIAL PROPERTY WHICH IS (I) LOCATED IN THIS STATE AND (II) WHICH, IF RESIDENTIAL, IS USED BY THE TAXPAYER AS HIS OR HER PRINCIPAL RESIDENCE OR FARM OPERATION AT THE TIME THE WIND ENERGY SYSTEM EQUIPMENT IS PLACED IN SERVICE;

(II) THE LEASE OF WIND ENERGY SYSTEM EQUIPMENT UNDER A WRITTEN AGREEMENT THAT SPANS AT LEAST TEN YEARS WHERE SUCH EQUIPMENT OWNED BY A PERSON OTHER THAN THE TAXPAYER IS INSTALLED IN CONNECTION WITH RESIDENTIAL PROPERTY WHICH IS (I) LOCATED IN THIS STATE AND (II) WHICH, IF RESIDENTIAL, IS USED BY THE TAXPAYER AS HIS OR HER PRINCIPAL RESIDENCE OR FARM OPERATION AT THE TIME THE WIND ENERGY SYSTEM EQUIPMENT IS PLACED IN SERVICE; OR

(III) THE PURCHASE OF POWER UNDER A WRITTEN AGREEMENT THAT SPANS AT LEAST TEN YEARS WHERE UNDER THE POWER PURCHASED IS GENERATED BY WIND ENERGY SYSTEM EQUIPMENT OWNED BY A PERSON OTHER THAN THE TAXPAYER WHICH IS INSTALLED IN CONNECTION WITH RESIDENTIAL PROPERTY WHICH IS (I)

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

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LOCATED IN THIS STATE AND (II) WHICH IS USED BY THE TAXPAYER AS HIS OR HER PRINCIPAL RESIDENCE OR FARM OPERATION 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, PLANS AND PERMITTING DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION OF THE WIND ENERGY SYSTEM EQUIPMENT.

(C) SUCH QUALIFIED EXPENDITURES FOR THE PURCHASE OF WIND ENERGY SYSTEM EQUIPMENT SHALL NOT INCLUDE INTEREST OR OTHER FINANCE CHARGES.

(D) SUCH QUALIFIED EXPENDITURES FOR THE LEASE OF WIND ENERGY SYSTEM EQUIPMENT OR THE PURCHASE OF POWER UNDER AN AGREEMENT DESCRIBED IN CLAUSES (II) OR (III) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE BASED ON THE APPRAISED VALUE OF THE WIND ENERGY SYSTEM(S) AS DETERMINED BY A QUALIFIED THIRD PARTY APPRAISER.

(3) WIND ENERGY SYSTEM EQUIPMENT. THE TERM "WIND ENERGY SYSTEM EQUIPMENT" SHALL MEAN ONE OR MORE WIND TURBINES WITH A COMBINED RATED CAPACITY OF NOT MORE THAN ONE HUNDRED KILOWATTS FOR A NEW YORK CUSTOMER GENERATOR THAT IS MANUFACTURED, INSTALLED AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS, THAT IS CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED IN PARALLEL WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES, AND THAT IS OPERATED IN COMPLIANCE WITH ANY STANDARDS AND REQUIREMENTS ESTABLISHED BY THIS SECTION.

(A) WIND TURBINES INSTALLED AFTER JUNE THIRTIETH, TWO THOUSAND SEVENTEEN MUST BE CERTIFIED TO AWEA 9.1-2009 OR, IF THEIR ROTOR AREA EXCEEDS 200M2, TO IEC 61400-11, IEC 61400-12, AND IEC 61400-1 BY AN ACCREDITED CERTIFICATION BODY. WIND TURBINES THAT ARE LISTED ON THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY APPROVED TURBINE LIST OR THE CESA ITAC UNIFIED LIST OF WIND TURBINES AT THE TIME OF INSTALLATION ARE EXEMPT FROM THESE REQUIREMENTS.

(B) WIND TURBINES MUST CARRY, AS A MINIMUM, A FIVE YEAR WARRANTY ON THE EQUIPMENT AND INSTALLATION.

(C) WIND TURBINES MUST BE INSTALLED ON TOWERS OF AT LEAST EIGHTY FEET IN HEIGHT.

(4) MULTIPLE TAXPAYERS. WHERE WIND 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 WIND ENERGY SYSTEM EQUIPMENT CONTRIBUTED BY EACH TAXPAYER.

(5) PROPORTIONATE SHARE. WHERE WIND 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 RESIDENCE.

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

(7) WHEN CREDIT ALLOWED. THE CREDIT PROVIDED FOR HEREIN SHALL BE ALLOWED WITH RESPECT TO THE TAXABLE YEAR, COMMENCING AFTER TWO THOUSAND SIXTEEN, IN WHICH THE WIND ENERGY SYSTEM EQUIPMENT IS PLACED IN SERVICE.

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

(9) CREDIT TO BE CLAIMED BY THE OWNER. THE CREDITS ALLOWABLE UNDER THIS SUBSECTION SHALL BE CLAIMED BY THE PERSON OR ENTITY THAT OWNS THE WIND ENERGY SYSTEM EQUIPMENT.

S 2. This act shall take effect immediately.