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I N   S E N A T E

(PREFILED)

January 6, 2016

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Introduced by Sen. ORTT -- 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 establishing a credit for geothermal energy systems

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

1     Section 1. Section 606 of the tax law is amended by adding a new  
2     subsection (g-3) to read as follows:  
3     (G-3) GEOTHERMAL ENERGY SYSTEMS CREDIT. (1) GENERAL. AN INDIVIDUAL  
4     TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTI-  
5     CLE EQUAL TO TWENTY-FIVE PERCENT OF QUALIFIED GEOTHERMAL ENERGY SYSTEM  
6     EXPENDITURES, EXCEPT AS PROVIDED IN SUBPARAGRAPH (D) OF PARAGRAPH TWO OF  
7     THIS SUBSECTION. THIS CREDIT SHALL NOT EXCEED FIVE THOUSAND DOLLARS FOR  
8     A QUALIFIED GEOTHERMAL ENERGY SYSTEM PLACED IN SERVICE ON OR AFTER  
9     SEPTEMBER FIRST, TWO THOUSAND SIXTEEN.  
10    (2) QUALIFIED GEOTHERMAL ENERGY SYSTEMS EXPENDITURES. (A) THE TERM  
11    "QUALIFIED GEOTHERMAL ENERGY SYSTEM EXPENDITURES" MEANS EXPENDITURES  
12    FOR:  
13    (I) THE PURCHASE OF GEOTHERMAL ENERGY SYSTEM EQUIPMENT WHICH IS  
14    INSTALLED IN CONNECTION WITH RESIDENTIAL PROPERTY WHICH IS (I) LOCATED  
15    IN THIS STATE AND (II) WHICH IS USED BY THE TAXPAYER AS HIS OR HER PRIN-  
16    CIPAL RESIDENCE AT THE TIME THE GEOTHERMAL ENERGY SYSTEM EQUIPMENT IS  
17    PLACED IN SERVICE;  
18    (II) THE LEASE OF GEOTHERMAL ENERGY SYSTEM EQUIPMENT UNDER A WRITTEN  
19    AGREEMENT THAT SPANS AT LEAST TEN YEARS WHERE SUCH EQUIPMENT OWNED BY A  
20    PERSON OTHER THAN THE TAXPAYER IS INSTALLED IN CONNECTION WITH RESIDEN-  
21    TIAL PROPERTY WHICH IS (I) LOCATED IN THIS STATE AND (II) WHICH IS USED  
22    BY THE TAXPAYER AS HIS OR HER PRINCIPAL RESIDENCE AT THE TIME THE GEOTH-  
23    ERMAL ENERGY SYSTEM EQUIPMENT IS PLACED IN SERVICE; OR  
24    (III) THE PURCHASE OF POWER UNDER A WRITTEN AGREEMENT THAT SPANS AT  
25    LEAST TEN YEARS WHEREUNDER THE POWER PURCHASED IS GENERATED BY GEOTHER-  
26    MAL ENERGY SYSTEM EQUIPMENT OWNED BY A PERSON OTHER THAN THE TAXPAYER

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

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1 WHICH IS INSTALLED IN CONNECTION WITH RESIDENTIAL PROPERTY WHICH IS (I)  
2 LOCATED IN THIS STATE AND (II) USED BY THE TAXPAYER AS HIS OR HER PRIN-  
3 CIPAL RESIDENCE AT THE TIME THE GEOTHERMAL ENERGY SYSTEM EQUIPMENT IS  
4 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 GEOTHERMAL ENERGY SYSTEM EQUIPMENT.

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

12 (D) SUCH QUALIFIED EXPENDITURES FOR THE LEASE OF GEOTHERMAL ENERGY  
13 SYSTEM EQUIPMENT OR THE PURCHASE OF POWER UNDER AN AGREEMENT DESCRIBED  
14 IN CLAUSE (II) OR (III) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL  
15 INCLUDE AN AMOUNT EQUAL TO ALL PAYMENTS MADE DURING THE TAXABLE YEAR  
16 UNDER SUCH AGREEMENT. PROVIDED, HOWEVER, SUCH CREDITS SHALL ONLY BE  
17 ALLOWED FOR FOURTEEN YEARS AFTER THE FIRST TAXABLE YEAR IN WHICH SUCH  
18 CREDIT IS ALLOWED. PROVIDED FURTHER, HOWEVER, THE TWENTY-FIVE PERCENT  
19 LIMITATION IN PARAGRAPH ONE OF THIS SUBSECTION SHALL ONLY APPLY TO THE  
20 TOTAL AGGREGATE AMOUNT OF ALL PAYMENTS TO BE MADE PURSUANT TO AN AGREE-  
21 MENT REFERENCED IN CLAUSE (II) OR (III) OF SUBPARAGRAPH (A) OF THIS  
22 PARAGRAPH, AND SHALL NOT APPLY TO INDIVIDUAL PAYMENTS MADE DURING A  
23 TAXABLE YEAR UNDER SUCH AGREEMENT EXCEPT TO THE EXTENT SUCH LIMITATION  
24 ON AN AGGREGATE BASIS HAS BEEN REACHED.

25 (3) GEOTHERMAL ENERGY SYSTEM EQUIPMENT. THE TERM "GEOTHERMAL ENERGY  
26 SYSTEM EQUIPMENT" SHALL MEAN A SYSTEM WHOSE ORIGINAL USE BEGINS WITH THE  
27 TAXPAYER; WHICH MEETS THE ELIGIBILITY CRITERIA, IF ANY, PRESCRIBED BY  
28 THE DEPARTMENT; AND WHICH IS A GROUND COUPLED SOLAR THERMAL SYSTEM THAT  
29 UTILIZES THE SOLAR THERMAL ENERGY STORED IN THE GROUND OR IN BODIES OF  
30 WATER TO PRODUCE HEAT, AND WHICH IS COMMONLY KNOWN AS OR REFERRED TO AS  
31 A GROUND SOURCE HEAT PUMP SYSTEM.

32 (4) MULTIPLE TAXPAYERS. WHERE GEOTHERMAL 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 GEOTHERMAL ENERGY SYSTEM EQUIPMENT CONTRIB-  
37 UTED BY EACH TAXPAYER.

38 (5) PROPORTIONATE SHARE. WHERE GEOTHERMAL ENERGY SYSTEM EQUIPMENT IS  
39 PURCHASED AND INSTALLED BY A CONDOMINIUM MANAGEMENT ASSOCIATION OR A  
40 COOPERATIVE HOUSING CORPORATION, A TAXPAYER WHO IS A MEMBER OF THE  
41 CONDOMINIUM MANAGEMENT ASSOCIATION OR WHO IS A TENANT-STOCKHOLDER IN THE  
42 COOPERATIVE HOUSING CORPORATION MAY FOR THE PURPOSE OF THIS SUBSECTION  
43 CLAIM A PROPORTIONATE SHARE OF THE TOTAL EXPENSE AS THE EXPENDITURE FOR  
44 THE PURPOSES OF THE CREDIT ATTRIBUTABLE TO HIS PRINCIPAL RESIDENCE.

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

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

55 (8) CARRYOVER OF CREDIT. IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS  
56 OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR

1 SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE  
2 CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR  
3 WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE  
4 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

5 S 2. This act shall take effect immediately and shall apply to taxable  
6 years commencing on and after January 1, 2016.