

1212--A

2015-2016 Regular Sessions

I N S E N A T E

January 9, 2015

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to establishing a corporate and a personal income tax credit for wind energy system equipment

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

1 Section 1. Section 210-B of the tax law is amended by adding a new
2 subdivision 49 to read as follows:
3 49. WIND ENERGY SYSTEM EQUIPMENT CREDIT. (A) GENERAL. A TAXPAYER, WHO
4 OWNS OR OPERATES WIND ENERGY SYSTEM EQUIPMENT, SHALL BE ALLOWED A CREDIT
5 AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO TWENTY-FIVE PERCENT OF
6 QUALIFIED WIND ENERGY SYSTEM EQUIPMENT EXPENDITURES. THIS CREDIT SHALL
7 NOT EXCEED SEVEN THOUSAND FIVE HUNDRED DOLLARS.
8 (B) QUALIFIED WIND ENERGY SYSTEM EQUIPMENT EXPENDITURES. (I) THE TERM
9 "QUALIFIED WIND ENERGY SYSTEM EQUIPMENT EXPENDITURES" MEANS EXPENDI-
10 TURES, LIMITED TO THE EXPENDITURE CAP PRESCRIBED IN SUBPARAGRAPH (II) OF
11 THIS PARAGRAPH, FOR THE PURCHASE OF WIND ENERGY SYSTEM EQUIPMENT WHICH
12 IS INSTALLED IN CONNECTION WITH PROPERTY WHICH IS (A) LOCATED IN THIS
13 STATE AND (B) WHICH IS USED BY THE TAXPAYER AS HIS OR HER PRINCIPAL
14 PREMISES AT THE TIME THE WIND ENERGY SYSTEM EQUIPMENT IS PLACED IN
15 SERVICE.
16 (II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE TERM
17 "EXPENDITURE CAP" SHALL MEAN THE PRODUCT OF (A) SIX DOLLARS AND (B) THE
18 NUMBER OF WATTS INCLUDED IN THE RATED CAPACITY OF THE WIND ENERGY SYSTEM
19 EQUIPMENT.
20 (III) SUCH QUALIFIED EXPENDITURES SHALL INCLUDE EXPENDITURES FOR MATE-
21 RIALS, LABOR COSTS PROPERLY ALLOCABLE TO ON-SITE PREPARATION, ASSEMBLY

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

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1 AND ORIGINAL INSTALLATION, ARCHITECTURAL AND ENGINEERING SERVICES, AND
2 DESIGNS AND PLANS DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION
3 OF THE WIND ENERGY SYSTEM EQUIPMENT.

4 (IV) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER
5 FINANCE CHARGES.

6 (C) WIND ENERGY SYSTEM EQUIPMENT. THE TERM "WIND ENERGY SYSTEM EQUIP-
7 MENT" SHALL MEAN EQUIPMENT WHICH, WHEN INSTALLED AT A TAXPAYER'S PREM-
8 ISES, USES WIND ENERGY FOR THE PURPOSE OF GENERATING ELECTRICITY FOR USE
9 IN SUCH PREMISES.

10 (D) MULTIPLE TAXPAYERS. WHERE WIND ENERGY SYSTEM EQUIPMENT IS
11 PURCHASED AND INSTALLED IN A PRINCIPAL PREMISES SHARED BY TWO OR MORE
12 TAXPAYERS, THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR
13 EACH SUCH TAXPAYER SHALL BE PRORATED ACCORDING TO THE PERCENTAGE OF THE
14 TOTAL EXPENDITURE FOR SUCH WIND ENERGY SYSTEM EQUIPMENT CONTRIBUTED BY
15 EACH TAXPAYER.

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

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

26 S 2. The subsection heading and paragraphs 1, 2, 3, 4, 5 and 7 of
27 subsection (g-1) of section 606 of the tax law, the subsection heading
28 and paragraphs 4 and 7 as amended by chapter 378 of the laws of 2005,
29 paragraphs 1 and 2 as amended by chapter 375 of the laws of 2012, para-
30 graph 3 as amended, paragraph 5 as added and paragraph 7 as renumbered
31 by chapter 128 of the laws of 2007, are amended to read as follows:

32 Solar AND WIND energy system equipment credit. (1) General. [An indi-
33 vidual] A taxpayer shall be allowed a credit against the tax imposed by
34 this article equal to twenty-five percent of qualified solar OR WIND
35 energy system equipment expenditures, except as provided in subparagraph
36 (D) of paragraph two of this subsection. This credit shall not exceed
37 three thousand seven hundred fifty dollars for qualified solar energy
38 equipment placed in service before September first, two thousand six,
39 and five thousand dollars for qualified solar energy equipment placed in
40 service on or after September first, two thousand six, AND SEVEN THOU-
41 SAND FIVE HUNDRED DOLLARS FOR QUALIFIED WIND ENERGY SYSTEM EQUIPMENT.

42 (2) Qualified solar OR WIND energy system equipment expenditures. (A)
43 The term "qualified solar OR WIND energy system equipment expenditures"
44 means expenditures for:

45 (i) the purchase of solar OR WIND energy system equipment which is
46 installed in connection with residential property which is (I) located
47 in this state and (II) which is used by the taxpayer as his or her prin-
48 cipal [residence] PREMISES at the time the solar OR WIND energy system
49 equipment is placed in service;

50 (ii) the lease of solar OR WIND energy system equipment under a writ-
51 ten agreement that spans at least ten years where such equipment owned
52 by a person other than the taxpayer is installed in connection with
53 residential property which is (I) located in this state and (II) which
54 is used by the taxpayer as his or her principal [residence] PREMISES at
55 the time the solar OR WIND energy system equipment is placed in service;
56 or

(iii) the purchase of power under a written agreement that spans at least ten years whereunder the power purchased is generated by solar OR WIND energy system equipment owned by a person other than the taxpayer which is installed in connection with residential property which is (I) located in this state and (II) which is used by the taxpayer as his or her principal [residence] PREMISES at the time the solar OR 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 solar OR WIND energy system equipment.

(C) Such qualified expenditures for the purchase of solar OR WIND energy system equipment shall not include interest or other finance charges.

(D) Such qualified expenditures for the lease of solar OR 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 include an amount equal to all payments made during the taxable year under such agreement. Provided, however, such credits shall only be allowed for fourteen years after the first taxable year in which such credit is allowed. Provided further, however, the twenty-five percent limitation in paragraph one of this subsection shall only apply to the total aggregate amount of all payments to be made pursuant to an agreement referenced in clauses (ii) or (iii) of subparagraph (A) of this paragraph, and shall not apply to individual payments made during a taxable year under such agreement except to the extent such limitation on an aggregate basis has been reached.

(3) Solar OR WIND energy system equipment. The term "solar OR WIND energy system equipment" shall mean an arrangement or combination of components utilizing solar radiation OR WIND POWER, which, when installed in a residence, produces energy designed to provide heating, cooling, hot water or electricity for use in such [residence] PREMISES. Such arrangement or components shall not include equipment connected to solar OR WIND energy system equipment that is a component of part or parts of a non-solar OR NON-WIND energy system or which uses any sort of recreational facility or equipment as a storage medium. Solar OR WIND energy system equipment that generates electricity for use in a [residence] TAXPAYER'S PREMISES must conform to applicable requirements set forth in section sixty-six-j of the public service law. Provided, however, where solar OR 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 "ten kilowatts" in such section sixty-six-j shall be read as "fifty kilowatts."

(4) Multiple taxpayers. Where solar OR WIND energy system equipment is purchased and installed in a principal [residence] PREMISES 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 OR WIND energy system equipment contributed by each taxpayer.

(5) Proportionate share. Where solar OR 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

1 claim a proportionate share of the total expense as the expenditure for
2 the purposes of the credit attributable to his OR HER principal resi-
3 dence.
4 (7) When credit allowed. The credit FOR SOLAR ENERGY SYSTEM EQUIPMENT
5 provided for [herein] IN THIS SUBSECTION shall be allowed with respect
6 to the taxable year, commencing after nineteen hundred ninety-seven, in
7 which the solar energy system equipment is placed in service. THE CRED-
8 IT FOR WIND ENERGY SYSTEM EQUIPMENT PROVIDED FOR IN THIS SUBSECTION
9 SHALL BE ALLOWED WITH RESPECT TO THE TAXABLE YEAR, COMMENCING AFTER TWO
10 THOUSAND SIXTEEN, IN WHICH THE WIND ENERGY SYSTEM EQUIPMENT IS PLACED IN
11 SERVICE.
12 S 3. This act shall take effect immediately.