

6249

I N S E N A T E

(PREFILED)

January 6, 2016

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.

LBD13224-01-5

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.