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

7822

I N S E N A T E

May 12, 2016

Introduced by Sen. AMEDORE -- 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 business franchise and personal income tax credits for certain renewable energy system equipment; to repeal subsection (g-1) of section 606 of such law relating to solar energy system equipment; and providing for the repeal of such provisions upon the expiration thereof

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

Section 1. Section 210-B of the tax law is amended by adding a new subdivision 24-a to read follows:

24-A. CREDIT FOR RESIDENTIAL RENEWABLE ENERGY SYSTEM EQUIPMENT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE, EQUAL TO TWENTY-FIVE PERCENT OF QUALIFIED RESIDENTIAL RENEWABLE ENERGY SYSTEM EQUIPMENT EXPENDITURES, EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF PARAGRAPH (B) OF THIS SUBDIVISION. THIS CREDIT SHALL NOT EXCEED FIVE THOUSAND DOLLARS FOR QUALIFIED RESIDENTIAL RENEWABLE ENERGY SYSTEM EQUIPMENT IN EACH RESIDENCE.

(B) QUALIFIED RESIDENTIAL RENEWABLE ENERGY SYSTEM EQUIPMENT EXPENDITURES. (I) THE TERM "QUALIFIED RESIDENTIAL RENEWABLE ENERGY SYSTEM EQUIPMENT EXPENDITURES" MEANS EXPENDITURES FOR:

(A) THE PURCHASE OF RENEWABLE ENERGY SYSTEM EQUIPMENT WHICH IS INSTALLED IN CONNECTION WITH RESIDENTIAL PROPERTY WHICH IS (I) LOCATED IN THIS STATE AND (II) WHICH IS OWNED BY THE TAXPAYER AT THE TIME THE RENEWABLE ENERGY SYSTEM EQUIPMENT IS PLACED IN SERVICE;

(B) THE LEASE OF RENEWABLE ENERGY SYSTEM EQUIPMENT UNDER A WRITTEN AGREEMENT THAT SPANS TEN YEARS WHERE SUCH EQUIPMENT IS 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 IS OWNED BY THE TAXPAYER AT THE TIME THE RENEWABLE ENERGY SYSTEM EQUIPMENT IS PLACED IN SERVICE; OR

(C) THE PURCHASE OF POWER UNDER A WRITTEN AGREEMENT THAT SPANS AT LEAST TEN YEARS WHEREUNDER THE POWER PURCHASED IS PRODUCED BY RENEWABLE

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

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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 OWNED BY THE TAXPAYER AT THE TIME THE RENEWABLE ENERGY SYSTEM IS PLACED IN SERVICE.

(II) 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 RENEWABLE ENERGY SYSTEM EQUIPMENT.

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

(IV) SUCH QUALIFIED EXPENDITURES FOR THE PURCHASE OF RENEWABLE ENERGY SYSTEM EQUIPMENT OR THE PURCHASE OF POWER UNDER AN AGREEMENT DESCRIBED IN CLAUSES (B) AND (C) OF SUBPARAGRAPH (I) 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 (A) OF THIS SUBDIVISION SHALL ONLY APPLY TO THE TOTAL AGGREGATE AMOUNT OF ALL PAYMENTS TO BE MADE PURSUANT TO AN AGREEMENT REFERENCED IN CLAUSES (B) AND (C) OF SUBPARAGRAPH (I) 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.

(C) RENEWABLE ENERGY SYSTEM EQUIPMENT. THE TERM "RENEWABLE ENERGY SYSTEM EQUIPMENT" SHALL MEAN AN ARRANGEMENT OR COMBINATION OF COMPONENTS UTILIZING A RENEWABLE ENERGY RESOURCE, AS DEFINED IN SUBDIVISION TWELVE OF SECTION 1-103 OF THE ENERGY LAW, WHICH, WHEN INSTALLED IN A RESIDENCE OR RESIDENCES, PRODUCES ENERGY DESIGNED TO PROVIDE HEATING, COOLING, HOT WATER OR ELECTRICITY FOR USE IN SUCH RESIDENCE OR RESIDENCES.

(D) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE NEXT FIVE TAXABLE YEARS FOLLOWING THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FOR THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(E) GRANTS. FOR PURPOSES OF DETERMINING THE AMOUNT OF THE EXPENDITURE INCURRED IN PURCHASING AND INSTALLING RENEWABLE 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.

S 2. Subsection (g-1) of section 606 of the tax law is REPEALED, and a new subsection (g-1) is added to read as follows:

(G-1) RENEWABLE 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 RENEWABLE ENERGY SYSTEM EQUIPMENT EXPENDITURES, EXCEPT AS PROVIDED IN SUBPARAGRAPH (D) OF PARAGRAPH TWO OF THIS SUBSECTION. THIS CREDIT SHALL NOT EXCEED FIVE THOUSAND DOLLARS FOR QUALIFIED RENEWABLE ENERGY EQUIPMENT.

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

(I) THE PURCHASE OF RENEWABLE ENERGY SYSTEM EQUIPMENT WHICH IS INSTALLED IN CONNECTION WITH RESIDENTIAL PROPERTY WHICH IS (I) LOCATED IN THIS STATE AND (II) WHICH IS OWNED BY THE TAXPAYER AT THE TIME THE RENEWABLE ENERGY SYSTEM EQUIPMENT IS PLACED IN SERVICE;

(II) THE LEASE OF RENEWABLE 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 IS OWNED BY THE TAXPAYER AT THE TIME THE RENEWABLE ENERGY SYSTEM EQUIPMENT IS PLACED IN SERVICE; OR

(III) THE PURCHASE OF POWER UNDER A WRITTEN AGREEMENT THAT SPANS AT LEAST TEN YEARS WHEREUNDER THE POWER PURCHASED IS GENERATED BY RENEWABLE 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 OWNED BY THE TAXPAYER AT THE TIME THE RENEWABLE 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 RENEWABLE ENERGY SYSTEM EQUIPMENT.

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

(D) SUCH QUALIFIED EXPENDITURES FOR THE LEASE OF RENEWABLE 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 CLAUSE (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) RENEWABLE ENERGY SYSTEM EQUIPMENT. THE TERM "RENEWABLE ENERGY SYSTEM EQUIPMENT" SHALL MEAN AN ARRANGEMENT OR COMBINATION OF COMPONENTS UTILIZING A RENEWABLE ENERGY RESOURCE, AS DEFINED IN SUBDIVISION TWELVE OF SECTION 1-103 OF THE ENERGY LAW, WHICH, WHEN INSTALLED IN A RESIDENCE OR RESIDENCES, PRODUCES ENERGY DESIGNED TO PROVIDE HEATING, COOLING, HOT WATER OR ELECTRICITY FOR USE IN SUCH RESIDENCE OR RESIDENCES.

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

(5) PROPORTIONATE SHARE. WHERE RENEWABLE 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 OR HER PRINCIPAL RESIDENCE.

(6) GRANTS. FOR PURPOSES OF DETERMINING THE AMOUNT OF THE EXPENDITURE INCURRED IN PURCHASING AND INSTALLING RENEWABLE 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 IN THIS SUBSECTION SHALL BE ALLOWED WITH RESPECT TO THE TAXABLE YEAR IN WHICH THE RENEWABLE 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.

S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xliii) to read as follows:

(XLIII) RENEWABLE ENERGY SYSTEM EQUIPMENT CREDIT UNDER SUBSECTION (G-1)	CREDIT FOR RESIDENTIAL RENEWABLE ENERGY SYSTEM EQUIPMENT UNDER SUBDIVISION TWENTY-FOUR-A OF SECTION TWO HUNDRED TEN-B

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to tax years commencing on or after such date. Furthermore, this act shall expire and be deemed repealed 10 years after such effective date.