

# STATE OF NEW YORK

5119--A

2017-2018 Regular Sessions

## IN SENATE

March 8, 2017

Introduced by Sens. GRIFFO, BOYLE, 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 wind energy system equipment credit; and providing for the repeal of certain provisions therefor

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) Wind energy system equipment 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 wind energy system equip-  
6 ment expenditures, except as provided in subparagraph (D) of paragraph  
7 two of this subsection. This credit shall not exceed fifteen thousand  
8 dollars for a residential installation or one hundred thousand dollars  
9 for a farm or commercial installation.

10 (2) Qualified wind energy system equipment expenditures. (A) The term  
11 "qualified wind energy system equipment expenditures" means expenditures  
12 for:

13 (i) the purchase of wind energy system equipment which is installed in  
14 connection with residential, agricultural or commercial property which  
15 is (I) located in this state and (II) which, if residential, is used by  
16 the taxpayer as his or her principal residence or farm operation at the  
17 time the wind energy system equipment is placed in service;

18 (ii) the lease of wind energy system equipment under a written agree-  
19 ment 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, agricultural or commercial property which is (I) located in this

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

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1 state and (II) which, if residential, is used by the taxpayer as his or  
2 her principal residence or farm operation at the time the wind energy  
3 system equipment is placed in service; or

4 (iii) the purchase of power under a written agreement that spans at  
5 least ten years where under the power purchased is generated by wind  
6 energy system equipment owned by a person other than the taxpayer which  
7 is installed in connection with residential, agricultural or commercial  
8 property which is (I) located in this state and (II) which is used by  
9 the taxpayer as his or her principal residence or farm operation at the  
10 time the wind energy system equipment is placed in service.

11 (B) Such qualified expenditures shall include expenditures for materi-  
12 als, labor costs properly allocable to on-site preparation, assembly and  
13 original installation, architectural and engineering services, and  
14 designs, plans and permitting directly related to the construction or  
15 installation of the wind energy system equipment.

16 (C) Such qualified expenditures for the purchase of wind energy system  
17 equipment shall not include interest or other finance charges.

18 (D) Such qualified expenditures for the lease of wind energy system  
19 equipment or the purchase of power under an agreement described in  
20 clauses (ii) or (iii) of subparagraph (A) of this paragraph shall be  
21 based on the appraised value of the wind energy system or systems as  
22 determined by a qualified third party appraiser.

23 (3) Wind energy system equipment. The term "wind energy system equip-  
24 ment" shall mean one or more wind turbines with a combined rated capaci-  
25 ty of not more than one hundred kilowatts for a New York residential  
26 customer generator or nine hundred kilowatts for a farm or commercial  
27 customer generator, that is manufactured, installed and operated in  
28 accordance with applicable government and industry standards, that is  
29 connected to the electric system and operated in parallel with an elec-  
30 tric corporation's transmission and distribution facilities, and that is  
31 operated in compliance with any standards and requirements established  
32 by this section.

33 (A) Wind turbines installed after June thirtieth, two thousand nine-  
34 teen must be certified to AWEA 9.1-2009 or, if their rotor area exceeds  
35 200m<sup>2</sup>, to IEC 61400-11, IEC 61400-12, and IEC 61400-1 by an accredited  
36 certification body. Wind turbines that are listed on the New York state  
37 energy research and development authority approved turbine list or the  
38 CESA ITAC unified list of wind turbines at the time of installation are  
39 exempt from these requirements.

40 (B) Wind turbines must carry, as a minimum, a five year warranty on  
41 the equipment and installation.

42 (C) Wind turbines must be installed on towers of at least eighty feet  
43 in height.

44 (4) Multiple taxpayers. Where wind energy system equipment is  
45 purchased and installed in a principal residence shared by two or more  
46 taxpayers, the amount of the credit allowable under this subsection for  
47 each such taxpayer shall be prorated according to the percentage of the  
48 total expenditure for such wind energy system equipment contributed by  
49 each taxpayer.

50 (5) Proportionate share. Where wind energy system equipment is  
51 purchased and installed by a condominium management association or a  
52 cooperative housing corporation, a taxpayer who is a member of the  
53 condominium management association or who is a tenant-stockholder in the  
54 cooperative housing corporation may for the purpose of this subsection  
55 claim a proportionate share of the total expense as the expenditure for  
56 the purposes of the credit attributable to his principal residence.

1 (6) Grants. For purposes of determining the amount of the expenditure  
2 incurred in purchasing and installing wind energy system equipment, the  
3 amount of any federal, state or local grant received by the taxpayer,  
4 which was used for the purchase and/or installation of such equipment  
5 and which was not included in the federal gross income of the taxpayer,  
6 shall not be included in the amount of such expenditures.

7 (7) When credit allowed. The credit provided for herein shall be  
8 allowed with respect to the taxable year, commencing after two thousand  
9 eighteen, in which the wind energy system equipment is placed in  
10 service.

11 (8) Carryover of credit. If the amount of the credit, and carryovers  
12 of such credit, allowable under this subsection for any taxable year  
13 shall exceed the taxpayer's tax for such year, such excess amount may be  
14 carried over to the five taxable years next following the taxable year  
15 with respect to which the credit is allowed and may be deducted from the  
16 taxpayer's tax for such year or years.

17 (9) Credit to be claimed by the owner. The credits allowable under  
18 this subsection shall be claimed by the person or entity that owns the  
19 wind energy system equipment.

20 § 2. This act shall take effect immediately, and shall apply to taxa-  
21 ble years beginning on or after January 1, 2019; provided, however, this  
22 act shall expire and be deemed repealed January 1, 2029.