

# STATE OF NEW YORK

3864

2021-2022 Regular Sessions

## IN SENATE

February 1, 2021

Introduced by Sen. KENNEDY -- 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 twenty-one.

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

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

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1 (iii) the purchase of power under a written agreement that spans at  
2 least ten years whereunder the power purchased is generated by geother-  
3 mal energy system equipment owned by a person other than the taxpayer  
4 which is installed in connection with residential property which is (I)  
5 located in this state and (II) used by the taxpayer as his or her prin-  
6 cipal residence at the time the geothermal energy system equipment is  
7 placed in service.

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

13 (C) Such qualified expenditures for the purchase of geothermal energy  
14 system equipment shall not include interest or other finance charges.

15 (D) Such qualified expenditures for the lease of geothermal energy  
16 system equipment or the purchase of power under an agreement described  
17 in clause (ii) or (iii) of subparagraph (A) of this paragraph shall  
18 include an amount equal to all payments made during the taxable year  
19 under such agreement. Provided, however, such credits shall only be  
20 allowed for fourteen years after the first taxable year in which such  
21 credit is allowed. Provided further, however, the twenty-five percent  
22 limitation in paragraph one of this subsection shall only apply to the  
23 total aggregate amount of all payments to be made pursuant to an agree-  
24 ment referenced in clause (ii) or (iii) of subparagraph (A) of this  
25 paragraph, and shall not apply to individual payments made during a  
26 taxable year under such agreement except to the extent such limitation  
27 on an aggregate basis has been reached.

28 (3) Geothermal energy system equipment. The term "geothermal energy  
29 system equipment" shall mean a system whose original use begins with the  
30 taxpayer; which meets the eligibility criteria, if any, prescribed by  
31 the department; and which is a ground coupled solar thermal system that  
32 utilizes the solar thermal energy stored in the ground or in bodies of  
33 water to produce heat, and which is commonly known as or referred to as  
34 a ground source heat pump system.

35 (4) Multiple taxpayers. Where geothermal energy system equipment is  
36 purchased and installed in a principal residence shared by two or more  
37 taxpayers, the amount of the credit allowable under this subsection for  
38 each such taxpayer shall be prorated according to the percentage of the  
39 total expenditure for such geothermal energy system equipment contrib-  
40 uted by each taxpayer.

41 (5) Proportionate share. Where geothermal energy system equipment is  
42 purchased and installed by a condominium management association or a  
43 cooperative housing corporation, a taxpayer who is a member of the  
44 condominium management association or who is a tenant-stockholder in the  
45 cooperative housing corporation may for the purpose of this subsection  
46 claim a proportionate share of the total expense as the expenditure for  
47 the purposes of the credit attributable to his principal residence.

48 (6) Grants. For purposes of determining the amount of the expenditure  
49 incurred in purchasing and installing geothermal energy system equip-  
50 ment, the amount of any federal, state or local grant received by the  
51 taxpayer, which was used for the purchase and/or installation of such  
52 equipment and which was not included in the federal gross income of the  
53 taxpayer, shall not be included in the amount of such expenditures.

54 (7) When credit allowed. The credit provided for herein shall be  
55 allowed with respect to the taxable year, commencing after two thousand

1 twenty-two, in which the geothermal energy system equipment is placed in  
2 service.

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

9 § 2. This act shall take effect immediately and shall apply to taxable  
10 years commencing on and after January 1, 2022.