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:

Section 1. Section 606 of the tax law is amended by adding a new subsection (g-3) to read as follows:

(g-3) Geothermal energy systems 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 geothermal energy system expenditures, except as provided in subparagraph (D) of paragraph two of this subsection. This credit shall not exceed five thousand dollars for a qualified geothermal energy system placed in service on or after September first, two thousand twenty-one.

(2) Qualified geothermal energy systems expenditures. (A) The term "qualified geothermal energy system expenditures" means expenditures for:

(i) the purchase of geothermal energy system equipment 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 at the time the geothermal energy system equipment is placed in service;

(ii) the lease of geothermal 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 used by the taxpayer as his or her principal residence at the time the geothermal energy system equipment is placed in service; or

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

LBD06935-01-1

(iii) the purchase of power under a written agreement that spans at least ten years whereunder the power purchased is generated by geothermal 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) used by the taxpayer as his or her principal residence at the time the geothermal 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 geothermal energy system equipment.

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

(D) Such qualified expenditures for the lease of geothermal energy system equipment or the purchase of power under an agreement described in clause (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) Geothermal energy system equipment. The term "geothermal energy system equipment" shall mean a system whose original use begins with the taxpayer; which meets the eligibility criteria, if any, prescribed by the department; and which is a ground coupled solar thermal system that utilizes the solar thermal energy stored in the ground or in bodies of water to produce heat, and which is commonly known as or referred to as a ground source heat pump system.

(4) Multiple taxpayers. Where geothermal 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 geothermal energy system equipment contributed by each taxpayer.

(5) Proportionate share. Where geothermal 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 principal residence.

(6) Grants. For purposes of determining the amount of the expenditure incurred in purchasing and installing geothermal 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 herein shall be allowed with respect to the taxable year, commencing after two thousand

twenty-two, in which the geothermal 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.

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