

# STATE OF NEW YORK

3596--C

2023-2024 Regular Sessions

## IN SENATE

February 1, 2023

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to residential solar tax credits

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subsection (g-1) of section 606 of the tax law, as amended  
2 by chapter 378 of the laws of 2005, paragraphs 1 and 2 as amended by  
3 chapter 375 of the laws of 2012, paragraph 3 as amended, paragraph 5 as  
4 added, and paragraphs 6, 7 and 8 as renumbered by chapter 128 of the  
5 laws of 2007, is amended to read as follows:  
6 (g-1) Solar energy system equipment credit. (1) General. An individual  
7 taxpayer shall be allowed a credit against the tax imposed by this arti-  
8 cle equal to twenty-five percent of qualified solar energy system equip-  
9 ment expenditures, except as provided in subparagraph (D) of paragraph  
10 two of this subsection. This credit shall not exceed three thousand  
11 seven hundred fifty dollars for qualified solar energy equipment placed  
12 in service before September first, two thousand six, [~~and~~] five thousand  
13 dollars for qualified solar energy equipment placed in service on or  
14 after September first, two thousand six and before January first, two  
15 thousand twenty-five, and ten thousand dollars for qualified solar ener-  
16 gy equipment placed in service on or after January first, two thousand  
17 twenty-five.

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

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1 (2) Qualified solar energy system equipment expenditures. (A) The term  
2 "qualified solar energy system equipment expenditures" means expendi-  
3 tures for:

4 (i) the purchase of solar energy system equipment which is installed  
5 in connection with residential property which is (I) located in this  
6 state and (II) which is used by the taxpayer as [~~his or her~~] their prin-  
7 cipal residence at the time the solar energy system equipment is placed  
8 in service;

9 (ii) the lease of solar energy system equipment under a written agree-  
10 ment that spans at least ten years where such equipment owned by a  
11 person other than the taxpayer is installed in connection with residen-  
12 tial property which is (I) located in this state and (II) which is used  
13 by the taxpayer as [~~his or her~~] their principal residence at the time  
14 the solar energy system equipment is placed in service; or

15 (iii) the purchase of power under a written agreement that spans at  
16 least ten years whereunder the power purchased is generated by solar  
17 energy system equipment owned by a person other than the taxpayer which  
18 is installed in connection with residential property which is (I)  
19 located in this state and (II) which is used by the taxpayer as [~~his or~~  
20 ~~her~~] their principal residence at the time the solar energy system  
21 equipment is placed in service.

22 (B) Such qualified expenditures shall include expenditures for materi-  
23 als, labor costs properly allocable to on-site preparation, assembly and  
24 original installation, architectural and engineering services, and  
25 designs and plans directly related to the construction or installation  
26 of the solar energy system equipment.

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

29 (D) Such qualified expenditures for the lease of solar energy system  
30 equipment or the purchase of power under an agreement described in  
31 clauses (ii) or (iii) of subparagraph (A) of this paragraph shall  
32 include an amount equal to all payments made during the taxable year  
33 under such agreement. Provided, however, such credits shall only be  
34 allowed for fourteen years after the first taxable year in which such  
35 credit is allowed. Provided further, however, the twenty-five percent  
36 limitation in paragraph one of this subsection shall only apply to the  
37 total aggregate amount of all payments to be made pursuant to an agree-  
38 ment referenced in clauses (ii) or (iii) of subparagraph (A) of this  
39 paragraph, and shall not apply to individual payments made during a  
40 taxable year under such agreement except to the extent such limitation  
41 on an aggregate basis has been reached.

42 (3) Solar energy system equipment. The term "solar energy system  
43 equipment" shall mean an arrangement or combination of components  
44 utilizing solar radiation, which, when installed in a residence, produc-  
45 es and may store energy designed to provide heating, cooling, hot water  
46 or electricity for use in such residence. Such arrangement or components  
47 may include electric energy storage equipment but shall not include any  
48 other equipment connected to solar energy system equipment that is a  
49 component of part or parts of a non-solar energy system or which uses  
50 any sort of recreational facility or equipment as a storage medium.  
51 Solar energy system equipment that generates and stores electricity for  
52 use in a residence must conform to applicable requirements set forth in  
53 section sixty-six-j of the public service law. Provided, however, where  
54 solar energy system equipment is purchased and installed by a condomin-  
55 ium management association or a cooperative housing corporation, for  
56 purposes of this subsection only, the term "ten kilowatts" in such

1 section sixty-six-j shall be read as [~~"fifty]~~ "ten kilowatts multiplied  
2 by the number of owner-occupied units in the cooperative or condominium  
3 management association."

4 (4) Multiple taxpayers. Where solar energy system equipment is  
5 purchased and installed in a principal residence shared by two or more  
6 taxpayers, the amount of the credit allowable under this subsection for  
7 each such taxpayer shall be prorated according to the percentage of the  
8 total expenditure for such solar energy system equipment contributed by  
9 each taxpayer.

10 (5) Proportionate share. Where solar energy system equipment is  
11 purchased and installed by a condominium management association or a  
12 cooperative housing corporation, a taxpayer who is a member of the  
13 condominium management association or who is a tenant-stockholder in the  
14 cooperative housing corporation may for the purpose of this subsection  
15 claim a proportionate share of the total expense as the expenditure for  
16 the purposes of the credit attributable to [~~his]~~ their principal resi-  
17 dence.

18 (6) Grants. For purposes of determining the amount of the expenditure  
19 incurred in purchasing and installing solar energy system equipment, the  
20 amount of any federal, state or local grant received by the taxpayer,  
21 which was used for the purchase and/or installation of such equipment  
22 and which was not included in the federal gross income of the taxpayer,  
23 shall not be included in the amount of such expenditures.

24 (7) When credit allowed. The credit provided for herein shall be  
25 allowed with respect to the taxable year, commencing after nineteen  
26 hundred ninety-seven, in which the solar energy system equipment is  
27 placed in service.

28 (8) Carryover of credit and refundability. If the amount of the cred-  
29 it, and carryovers of such credit, allowable under this subsection for  
30 any taxable year shall exceed the taxpayer's tax for such year, such  
31 excess amount may be carried over to the five taxable years next follow-  
32 ing the taxable year with respect to which the credit is allowed and may  
33 be deducted from the taxpayer's tax for such year or years. For taxable  
34 years beginning on or after January first, two thousand twenty-five, if  
35 the amount of the credit allowable under this subsection shall exceed  
36 the taxpayer's tax liability for such year, and the taxpayer meets the  
37 definition of low to moderate income, as defined in subdivision (c) of  
38 section nine hundred seventy-c of the general municipal law, or resides  
39 in a disadvantaged community, as defined in subdivision five of section  
40 75-0101 of the environmental conservation law, the excess shall be  
41 treated as an overpayment of tax to be credited or refunded in accord-  
42 ance with the provisions of section six hundred eighty-six of this arti-  
43 cle, provided, however, that no interest shall be paid thereon.

44 § 2. This act shall take effect immediately.