

STATE OF NEW YORK

3596--A

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

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-four, and ten thousand dollars for qualified solar ener-
16 gy equipment placed in service on or after January first, two thousand
17 twenty-four.

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

21 (i) the purchase of solar energy system equipment which is installed
22 in connection with residential 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 is used by the taxpayer as his or her principal
2 residence at the time the solar energy system equipment is placed in
3 service;

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

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

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

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

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

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

55 (4) Multiple taxpayers. Where solar energy system equipment is
56 purchased and installed in a principal residence shared by two or more

1 taxpayers, the amount of the credit allowable under this subsection for
2 each such taxpayer shall be prorated according to the percentage of the
3 total expenditure for such solar energy system equipment contributed by
4 each taxpayer.

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

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

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

23 (8) Carryover of credit and refundability. If the amount of the cred-
24 it, and carryovers of such credit, allowable under this subsection for
25 any taxable year shall exceed the taxpayer's tax for such year, such
26 excess amount may be carried over to the five taxable years next follow-
27 ing the taxable year with respect to which the credit is allowed and may
28 be deducted from the taxpayer's tax for such year or years. For taxable
29 years beginning on or after January first, two thousand twenty-four, if
30 the amount of the credit allowable under this subsection shall exceed
31 the taxpayer's tax liability for such year, and the taxpayer meets the
32 definition of low-to-moderate income or resides in a disadvantaged
33 community, the excess shall be treated as an overpayment of tax to be
34 credited or refunded in accordance with the provisions of section six
35 hundred eighty-six of this article, provided, however, that no interest
36 shall be paid thereon.

37 § 2. This act shall take effect immediately.