

STATE OF NEW YORK

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3403

2017-2018 Regular Sessions

IN SENATE

January 23, 2017

Introduced by Sen. PARKER -- 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 corporate and a personal income tax credit for wind energy system equipment

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

1 Section 1. Section 210-B of the tax law is amended by adding a new  
2 subdivision 49 to read as follows:

3 **49. Wind energy system equipment credit. (a) General. A taxpayer, who**  
4 **owns or operates wind energy system equipment, shall be allowed a credit**  
5 **against the tax imposed by this article equal to twenty-five percent of**  
6 **qualified wind energy system equipment expenditures. This credit shall**  
7 **not exceed seven thousand five hundred dollars.**

8 **(b) Qualified wind energy system equipment expenditures. (i) The term**  
9 **"qualified wind energy system equipment expenditures" means expendi-**  
10 **tures, limited to the expenditure cap prescribed in subparagraph (ii) of**  
11 **this paragraph, for the purchase of wind energy system equipment which**  
12 **is installed in connection with property which is (A) located in this**  
13 **state and (B) which is used by the taxpayer as his or her principal**  
14 **premises at the time the wind energy system equipment is placed in**  
15 **service.**

16 **(ii) For purposes of subparagraph (i) of this paragraph, the term**  
17 **"expenditure cap" shall mean the product of (A) six dollars and (B) the**  
18 **number of watts included in the rated capacity of the wind energy system**  
19 **equipment.**

20 **(iii) Such qualified expenditures shall include expenditures for mate-**  
21 **rials, labor costs properly allocable to on-site preparation, assembly**  
22 **and original installation, architectural and engineering services, and**  
23 **designs and plans directly related to the construction or installation**  
24 **of the wind energy system equipment.**

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

1 (iv) Such qualified expenditures shall not include interest or other  
 2 finance charges.

3 (c) Wind energy system equipment. The term "wind energy system equip-  
 4 ment" shall mean equipment which, when installed at a taxpayer's prem-  
 5 ises, uses wind energy for the purpose of generating electricity for use  
 6 in such premises.

7 (d) Multiple taxpayers. Where wind energy system equipment is  
 8 purchased and installed in a principal premises shared by two or more  
 9 taxpayers, the amount of the credit allowable under this subdivision for  
 10 each such taxpayer shall be prorated according to the percentage of the  
 11 total expenditure for such wind energy system equipment contributed by  
 12 each taxpayer.

13 (e) When credit allowed. The credit for wind energy system equipment  
 14 provided for in this subdivision shall be allowed with respect to the  
 15 taxable year, commencing after two thousand seventeen, in which the wind  
 16 energy system equipment is placed in service.

17 (f) Carryover of credit. If the amount of the credit, and carryovers  
 18 of such credit, allowable under this subdivision for any taxable year  
 19 shall exceed the taxpayer's tax for such year, such excess amount may be  
 20 carried over to the five taxable years next following the taxable year  
 21 with respect to which the credit is allowed and may be deducted from the  
 22 taxpayer's tax for such year or years.

23 § 2. The subsection heading and paragraphs 1, 2, 3, 4, 5 and 7 of  
 24 subsection (g-1) of section 606 of the tax law, the subsection heading  
 25 and paragraphs 4 and 7 as amended by chapter 378 of the laws of 2005,  
 26 paragraphs 1 and 2 as amended by chapter 375 of the laws of 2012, para-  
 27 graph 3 as amended, paragraph 5 as added and paragraph 7 as renumbered  
 28 by chapter 128 of the laws of 2007, are amended to read as follows:

29 Solar and wind energy system equipment credit. (1) General. [An indi-  
 30 vidual] A taxpayer shall be allowed a credit against the tax imposed by  
 31 this article equal to twenty-five percent of qualified solar or wind  
 32 energy system equipment expenditures, except as provided in subparagraph  
 33 (D) of paragraph two of this subsection. This credit shall not exceed  
 34 three thousand seven hundred fifty dollars for qualified solar energy  
 35 equipment placed in service before September first, two thousand six,  
 36 and five thousand dollars for qualified solar energy equipment placed in  
 37 service on or after September first, two thousand six, and seven thou-  
 38 sand five hundred dollars for qualified wind energy system equipment.

39 (2) Qualified solar or wind energy system equipment expenditures. (A)  
 40 The term "qualified solar or wind energy system equipment expenditures"  
 41 means expenditures for:

42 (i) the purchase of solar or wind energy system equipment which is  
 43 installed in connection with residential property which is (I) located  
 44 in this state and (II) which is used by the taxpayer as his or her prin-  
 45 cipal [residence] premises at the time the solar or wind energy system  
 46 equipment is placed in service;

47 (ii) the lease of solar or wind energy system equipment under a writ-  
48 ten agreement that spans at least ten years where such equipment owned  
49 by a person other than the taxpayer is installed in connection with  
50 residential property which is (I) located in this state and (II) which  
51 is used by the taxpayer as his or her principal [**residence**] **premises** at  
52 the time the solar or wind energy system equipment is placed in service;  
53 or

54 (iii) the purchase of power under a written agreement that spans at  
55 least ten years whereunder the power purchased is generated by solar or  
56 wind energy system equipment owned by a person other than the taxpayer

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1 which is installed in connection with residential property which is (I)  
2 located in this state and (II) which is used by the taxpayer as his or  
3 her principal [**residence**] **premises** at the time the solar or wind energy  
4 system equipment is placed in service.

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

10 (C) Such qualified expenditures for the purchase of solar or wind  
11 energy system equipment shall not include interest or other finance  
12 charges.

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

26 (3) Solar or wind energy system equipment. The term "solar or wind  
27 energy system equipment" shall mean an arrangement or combination of  
28 components utilizing solar radiation or wind power, which, when  
29 installed in a residence, produces energy designed to provide heating,  
30 cooling, hot water or electricity for use in such [**residence**] **premises**.  
31 Such arrangement or components shall not include equipment connected to  
32 solar or wind energy system equipment that is a component of part or  
33 parts of a non-solar or non-wind energy system or which uses any sort of  
34 recreational facility or equipment as a storage medium. Solar or wind  
35 energy system equipment that generates electricity for use in a [**resi-**  
36 **dence**] **taxpayer's premises** must conform to applicable requirements set  
37 forth in section sixty-six-j of the public service law. Provided, howev-

38 er, where solar or wind energy system equipment is purchased and  
39 installed by a condominium management association or a cooperative hous-  
40 ing corporation, for purposes of this subsection only, the term "ten  
41 kilowatts" in such section sixty-six-j shall be read as "fifty kilo-  
42 watts."

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

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

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1 (7) When credit allowed. The credit **for solar energy system equipment**  
2 provided for [**herein**] **in this subsection** shall be allowed with respect  
3 to the taxable year, commencing after nineteen hundred ninety-seven, in  
4 which the solar energy system equipment is placed in service. **The cred-**  
5 **it for wind energy system equipment provided for in this subsection**  
6 **shall be allowed with respect to the taxable year, commencing after two**  
7 **thousand seventeen, in which the wind energy system equipment is placed**  
8 **in service.**

9 § 3. This act shall take effect immediately.