

**New York State Department of Taxation and Finance  
Office of Counsel  
Advisory Opinion Unit**

TSB-A-13(1)I  
Income Tax  
January 8, 2013

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. I120207A

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED]. Petitioner plans to install solar energy system equipment at his principal residence in two stages, beginning and ending at different times. Petitioner asks whether both stages of the installation will each qualify for the solar energy system equipment credit individually, up to the credit limitation of five thousand dollars. Petitioner also asks whether the answer will be different if the credit claims are both filed for the same tax year as opposed to one claim made for stage one if it is completed in 2011 and one claim made for stage two if it is completed in 2012.

We conclude that Petitioner is eligible for an aggregated credit not exceeding five thousand dollars. The credit is allowed in the taxable year in which the property is placed in service.

**Facts**

Petitioner plans to install solar energy equipment at his principal residence in two stages. The first project stage will involve installing ten pole-mounted 245-watt solar panels capable of producing a total of 2.45 kilowatts for a total cost of \$20,090. This installation is expected to occur in the spring of 2012. The second project stage will involve installing six pole-mounted 245-watt solar panels capable of producing a total of 1.47 kilowatts for a total cost of \$7,350. This installation is expected to occur either in the fall of 2012 or the spring of 2013. Both installations will be placed in service at Petitioner's principal residence in New York State. Each installation will have its own distinct placed-in-service date.

**Analysis**

An individual taxpayer is allowed a credit against the tax imposed under Article 22 of the Tax Law for the installation of certain solar energy system equipment.<sup>1</sup> The credit is equal to 25% of the qualified solar energy system equipment expenditures, but not to exceed five thousand dollars for qualified solar energy system equipment placed in service on or after September 1, 2006.<sup>2</sup> "Qualified solar energy system equipment expenditures" are defined in part as "expenditures for the purchase of solar energy system equipment which is installed in connection with residential property which (i) is located in this state and (ii) which is used by the

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<sup>1</sup> Tax Law §606(g-1)(1).

<sup>2</sup> Id.

taxpayer as his or her principal residence at the time the solar energy system equipment is placed in service.”<sup>3</sup> The term “solar energy system equipment” is defined in part as an arrangement or combination of components using solar radiation, which, when installed in a residence, produces energy designed to provide heating, cooling, hot water or electricity for use in such residence.<sup>4</sup>

Petitioner asked whether the five thousand dollar credit limitation applies to each installation of solar energy system equipment when it is placed in service or whether the limitation is a five thousand dollar maximum credit that applies to the aggregated expenditures for all solar energy system equipment placed in service at the taxpayer’s primary residence.

When the solar energy system equipment credit was added to the Tax Law in 1997, it contained an “expenditure cap” which was the product of \$1.50 and the number of watts of capacity.<sup>5</sup> There was no limitation on the dollar amount for the credit. In 1998, the credit was amended by raising “the expenditure cap” to the product of \$6.00 and the number of watts generated by the system. The objective was to make installation of small generating systems more attractive to residential homeowners.<sup>6</sup> In order to limit the expense of that increase for the installation of high-output systems, the law then provided that “This credit shall not exceed three thousand seven hundred fifty dollars.”<sup>7</sup> The credit limit was subsequently raised to five thousand dollars for property placed in service on or after September 1, 2006 and the expenditure cap, tied to the capacity of the watts in the system, was eliminated.<sup>8</sup>

By limiting an individual taxpayer’s credit for expenditures on qualified solar energy system equipment installed at his or her New York residence to five thousand dollars, the Legislature indicated a desire to control the overall cost of the program. The Legislature previously limited the credit allowed to multiple taxpayers. If solar energy system equipment is purchased and installed in a residence shared by two or more taxpayers, the amount of the credit allowable for each taxpayer must be prorated according to the percentage of the total expenditures contributed by each taxpayer.<sup>9</sup> The following examples illustrate how the credit would be calculated.

Example 1: 2 taxpayers share a principal residence. Each taxpayer contributes \$20,000 to purchase solar energy system equipment costing a total of \$40,000. The credit amount is 25% x \$40,000 = \$10,000, subject to a cap of \$5,000. Each taxpayer may claim a credit of \$2,500.

Example 2: 2 taxpayers share a principal residence. Taxpayer 1 contributes \$15,000 to purchase solar energy system equipment costing a total of \$20,000, and taxpayer 2 contributes \$5,000. The

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<sup>3</sup> Tax Law §606(g-1)(2)(A).

<sup>4</sup> Tax Law §606(g-1)(3)

<sup>5</sup> Ch. 399 of the Laws of 1997, §4.

<sup>6</sup> Ch. 467 of the Laws of 1998 – Memorandum in Support.

<sup>7</sup> Ch. 467 of the Laws of 1998, §2.

<sup>8</sup> Ch. 378 of the Laws of 2005, §1.

<sup>9</sup> Tax Law §606(g-1)(4).

credit amount is  $25\% \times \$20,000 = \$5,000$ . Taxpayer 1 may claim a credit of \$3,750, and taxpayer 2 may claim a credit of \$1,250.

A similar provision allows a proportionate share of the total solar energy system equipment expenditures to be claimed as a credit by a taxpayer who is a member of a condominium management association or a tenant-stockholder in a cooperative housing corporation.<sup>10</sup>

The legislative history of the credit and the calculation of the allowance of the credit, when multiple taxpayers sharing the same principal residence contribute to the qualified solar energy system equipment expenditures, lead to the conclusion that the Legislature intended to limit the credit to an aggregate of five thousand dollars for such equipment installed in each principal residence. Thus, Petitioner's planned installations of solar energy system equipment at his New York residence, whether placed in service at the same time or in stages (in 2011 or 2011 and 2012), will be eligible for a maximum aggregate credit of five thousand dollars. The credit is claimed in the taxable year that the property is placed in service.<sup>11</sup> Based on the information submitted, Petitioner will max out the credit with the first project stage.

DATED: January 8, 2013

/S/  
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NOTE: An Advisory Opinion is issued at the request of a person or entity. It is limited to the facts set forth therein and is binding on the Department only with respect to the person or entity to whom it is issued and only if the person or entity fully and accurately describes all relevant facts. An Advisory Opinion is based on the law, regulations, and Department policies in effect as of the date the Opinion is issued or for the specific time period at issue in the Opinion. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

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<sup>10</sup> Tax Law §606(g-1)(5).

<sup>11</sup> Tax Law §606(g-1)(7).