

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

TSB-A-13(8)I
Income Tax
September 9, 2013

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. I120607A

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] (Petitioner). Petitioner asks for clarification of the phrase “at the time” contained in Tax Law § 606(g-1)(2)(A) pertaining to the definition of qualified solar energy system equipment expenditures when taxpayer is constructing a new residence with qualified solar energy system equipment. We conclude that the language “at the time” is referring to when the installation of the qualified solar energy system equipment is complete and the taxpayer has begun to use the residence as his or her principal residence.

Facts

Petitioner has several clients that are currently building new homes and are purchasing and installing qualified eligible solar energy systems for these homes at the time of construction. During home construction, some of the clients continue to live in their current home, which they consider their principal residence. These clients intend that the newly constructed home will be their principal residence when construction is complete.

Analysis

Tax Law § 606(g-1) provides that a taxpayer shall be allowed a credit against personal income taxes in an amount equal to 25% of qualified solar energy system equipment expenditures. The term “qualified solar energy system equipment expenditures” means expenditures for the purchase of solar energy system equipment that is installed in connection with residential property located in New York and is used by the taxpayer as his or her principal residence at the time the solar energy system equipment is placed in service. Tax Law § 606(g-1)(2)(A). The credit is allowed to be claimed in the taxable year in which the solar energy system equipment is placed in service. *See* Tax Law 606(g-1)(7).

The term “placed in service” is not defined in the Tax Law. However, for federal tax purposes, the term “placed in service” refers to the time in which the property is placed in a condition or state of readiness and availability for a specifically assigned function, whether in a trade or business, in the production of income, in a tax-exempt activity, or in a personal activity.¹ Looking to the federal definition of “placed in service” for guidance as to when solar energy equipment qualifies for the credit under Tax Law § 606(g-1)(2)(A) in the case of new

¹ See federal regulation §§ 1.46-3 regarding the definition of placed in service with respect to the investment tax credit and 167(a)-11(e)(1)(i) regarding the definition of placed in service for purposes of depreciation .

