



Amendments to the Solar Energy System Equipment Credit

This memorandum summarizes the legislative amendments to the solar energy system equipment credit that were signed into law on August 17, 2012 (Chapter 375 of the Laws of 2012).

Law and background

Section 606(g-1) of the Tax Law provides for the solar energy system equipment credit. The credit is allowed to individual taxpayers for certain solar energy system equipment expenditures. To qualify for the credit, the solar energy system must use solar radiation to produce energy for heating, cooling, hot water, or electricity for residential use at the taxpayer's principal residence in New York State.

Chapter 375 of the Laws of 2012 amended section 606(g-1) of the Tax Law. The amendment allows a taxpayer who enters into a written agreement for the lease of solar energy system equipment or the purchase of power generated by solar energy system equipment to qualify for the credit. The equipment must be installed in connection with residential property that is the taxpayer's principal residence at the time the equipment is placed in service. The written agreement must be entered into on or after August 17, 2012, and must span at least ten years. Prior to August 17, 2012, a taxpayer was required to **purchase** and install an eligible solar energy system at his or her principal residence in New York State in order to qualify for the credit.

Effective August 17, 2012, the definition of *qualified solar energy system equipment expenditures* includes all of the following:

- Expenditures for the purchase of solar energy system equipment that is installed in connection with residential property located in New York State. The residential property must be the taxpayer's principal residence at the time the equipment is placed in service.

These expenditures include expenditures for: materials; labor costs properly allocated to on-site preparation, assembly, and original installation; architectural and engineering services; and designs and plans directly related to the construction or installation of the solar energy system equipment. *Qualified solar energy system equipment expenditures* for the purchase of solar energy equipment **do not** include expenditures made with nontaxable federal, state, and local grants or any interest or other finance charges.

- The total amount of all payments to be made under a written agreement that spans at least ten years for the lease of solar energy system equipment. The solar energy system equipment cannot be owned by the taxpayer and must be installed in connection with residential property located in New York State. The residential property must be the taxpayer's principal residence at the time the equipment is placed in service. *Qualified solar energy system equipment expenditures* in this instance **do not** include expenditures made with nontaxable federal, state, and local grants.
- The total amount of payments made each year under a written agreement that spans at least ten years for the purchase of power generated by solar energy system equipment. The power purchased cannot be generated by solar energy system equipment owned by the taxpayer. The equipment must be installed in connection with residential property located in New York State. The residential property must be the taxpayer's principal residence at the time the equipment is placed in service. *Qualified solar energy system equipment expenditures* in this instance **do not** include expenditures made with nontaxable federal, state, and local grants.

Proportionate share. In the case of a cooperative housing corporation or a condominium, a percentage of the qualified solar energy system equipment expenditures may be attributed to each unit within the building. This information should be provided to each tenant-shareholder or condominium owner by the cooperative housing corporation or condominium management association.

Note: The solar energy system equipment credit is subject to the temporary deferral of tax credits under sections 33 and 34 of the Tax Law. For more information, see [TSB-M-10\(5\)C. \(11\)I](#), *Temporary Deferral of Certain Tax Credits*.

Amount of credit

The credit is equal to 25% of a taxpayer's qualified solar energy system equipment expenditures and is limited to \$5,000 where the equipment is placed in service on or after September 1, 2006.¹

A taxpayer who shares his or her principal residence may prorate the credit allowed according to the percentage of the total qualified expenditures contributed by each eligible taxpayer. However, a married couple filing a joint return does not prorate the credit.

Computing the credit

The credit is allowed in the first tax year in which the solar energy system equipment is placed in service at a taxpayer's principal residence in New York State.

¹ For solar energy system equipment placed in service before September 1, 2006, the credit was limited to \$3,750.

- A taxpayer who purchases and installs a solar energy system at his or her principal residence in New York State is allowed a credit equal to 25% of the qualified solar energy system equipment expenditures or \$5,000, whichever is less.
- A taxpayer who leases solar energy system equipment that is installed at his or her principal residence in New York State is allowed a credit equal to the payments made under the terms of the written agreement (lease) for the tax year. However, the total amount of credit allowable for all tax years during the term of the lease is limited to 25% of the total of all payments required to be made under the lease or \$5,000, whichever is less. In addition, no credit may be claimed for payments made in a year after the 15th year for a lease agreement that exceeds 15 years in duration, even if the credit limit has not been reached.

Example: Taxpayer X signed a 20-year lease for solar energy system equipment on August 19, 2012. Under the terms of the lease, Taxpayer X will pay a one-time installation fee of \$1,000 and then make monthly payments as prescribed in the lease. The total amount of all payments due under the 20-year lease, including installation, monthly payments, and inflation adjustments, is \$39,600. Therefore, Taxpayer X's qualified solar energy system equipment expenditures are \$39,600. Because 25% of the expenditures exceeds \$5,000 ($\$39,600 \times .25 = \$9,900$), Taxpayer X is allowed the maximum credit of \$5,000.

The solar energy system equipment is installed at Taxpayer X's principal residence in New York State on August 25, 2012, and it is placed in service on August 31, 2012.

Taxpayer X determines that the total of the payments made in tax year 2012 under the terms of the lease (including installation fees and monthly payments) is \$1,440. Accordingly, Taxpayer X may claim a credit of \$1,440 for tax year 2012.

Taxpayer X has an amount of unused credit of \$3,560 ($\$5,000 - \$1,440$) available for tax year 2013. However, the amount of credit claimed for tax year 2013 cannot exceed the total amount of payments made under the terms of the lease for tax year 2013.

- A taxpayer who purchases power generated by solar energy system that is installed at his or her principal residence in New York State is allowed a credit equal to 25% of the amount of payments made each tax year under a power purchase agreement. However, the total amount of credit allowed to a taxpayer for all tax years during the terms of the power purchase agreement cannot exceed \$5,000. In addition, no credit is allowed after the 15th year for a power purchase agreement that exceeds 15 years in duration.

Example: Taxpayer Y signed a 20-year solar power purchase agreement with a solar energy contractor on September 14, 2012. Under the terms of the agreement, the solar energy contractor will install solar energy system equipment at Taxpayer Y's principal residence in New York State. Taxpayer Y will make monthly payments to purchase the electric power generated by the equipment, with the first payment due 30 days after the equipment is placed in service. The equipment will be placed in service on

January 1, 2013. Therefore, Taxpayer Y may claim the solar energy system equipment credit for tax year 2013, the year the equipment is placed in service.

Taxpayer Y determines that the total of the payments made in tax year 2013 under the terms of the agreement is \$2,380. Therefore, Taxpayer Y's qualified solar energy system equipment expenditures for tax year 2013 are \$2,380, and Taxpayer Y is allowed a credit of \$595 for tax year 2013 ($\$2,380 \times .25$).

*Taxpayer Y will be allowed a credit for each of the next 14 tax years **or** until the total amount of credit claimed equals \$5,000, whichever occurs first. Accordingly, Taxpayer Y must apply the \$595 credit claimed in 2013 against the credit limit of \$5,000 when computing the credit amount available for tax year 2014.*

Since no credit is allowed after the 15th year of the agreement, Taxpayer Y is not allowed any credit (based on this agreement) for tax years beginning on or after January 1, 2028, even if the total amount of credit allowed as of tax year 2027 is less than \$5,000.

Carryover of credit

If the credit allowed in a tax year exceeds the amount of tax owed by the taxpayer, the balance will not be refunded. However, any credit amount in excess of the tax due can be carried over for a maximum of up to five years.

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.