



Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

JUNE 7, 2011

Sales Tax Exemption on Solar and Other Renewable Energy Systems Change to Program

Background

Beginning July 1, 2009, purchases of machinery and equipment used directly in generating electricity from solar energy are exempt from state and local sales and use taxes. Labor charges to install such machinery and equipment are also exempt. Until July 1, 2011, a full exemption applies regardless of the size of the solar energy system (there is no minimum or maximum capacity (kW).)

In addition, the law provides a sales and use tax exemption on machinery and equipment used to produce at least 1kW of electricity using as the principal source of power fuel cells, wind, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas. This exemption also applies to labor charges to install such machinery and equipment. The full exemption at the point of sale expires July 1, 2011.

To take advantage of these exemptions, the buyer provides the seller with a completed Buyer's Retail Sales Tax Exemption Certificate. The exemption is itemized on page 2 under *Other*.

What is the change?

On July 1, 2011, certain purchases will no longer be exempt at the point of sale, but will require the buyer to pay the sales tax to the seller and installer, and then apply to the Department of Revenue for a refund equal to 75 percent of the tax paid. This refund program applies to:

- Solar energy systems that produce more than 10kW of electricity;
- Qualified renewable energy systems that produce at least 1kW of electricity.

The refund program expires July 1, 2013.

There are no changes to the exemption for purchasers, sellers, and installers of solar energy systems that are capable of producing no more than 10kW of electricity. The exemption for such systems also expires July 1, 2013.

Solar systems 10kW or less

RCW 82.08.963 and 82.12.963 provide a sales and use tax exemption on purchases of machinery and equipment used directly in a solar energy system capable of generating 10kW of electricity or less. Installation charges are also exempt. There is no change in reporting for sellers or installers of these products. This exemption will remain in effect until July 1, 2013.

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To document the exemption at the time of sale, the buyer must provide the seller (and installer if the seller is not the installer) with a completed Buyer's Retail Sales Tax Exemption Certificate to keep in their records for up to 5 years. The exemption is itemized on page 2 under *Other*.

Solar Systems over 10kW

From July 1, 2011, through June 30, 2013, the buyer of a solar energy system capable of generating more than 10kW of electricity will need to pay the total amount of the sales tax due on the purchase of the machinery and equipment and installation charges to the seller (and installer if the seller is not the installer). The buyer may then apply to the Department of Revenue for a refund of 75 percent of the state and local sales taxes paid. (RCW 82.08.962)

Qualified renewable energy systems 1kW and greater

RCW 82.08.962 and 82.12.962 provide a sales and use tax exemption on machinery and equipment used directly in renewable energy systems that generate at least 1kW of electricity using one of the principle power sources listed below.

From July 1, 2009, through June 30, 2011, the exemption applied to 100 percent of the sales and use tax that would otherwise be due on such purchases. However, beginning July 1, 2011, through June 30, 2013, buyers must pay the total amount of the sales tax due on the purchase of qualifying machinery /equipment and installation charges to the seller (and installer if the seller is not the installer). The buyer may then apply to the Department of Revenue for a refund of 75 percent of the state and local sales taxes paid. (RCW 82.08.962).

Qualified power sources include:

- fuel cells,
- wind,
- biomass energy,
- tidal or wave energy,
- geothermal resources,
- anaerobic digestion,
- technology that converts otherwise lost energy from exhaust, or
- landfill gas.

Calculating sales tax during transition period

Generally, in determining when a sale takes place, the Department looks to WAC 458-20-103 which provides:

For the purpose of determining tax liability of persons selling tangible personal property, a sale takes place in this state when the goods sold are delivered to the buyer in this state, irrespective of whether title to the goods passes to the buyer at a point within or without this state.

With respect to the charge made for performing services which constitute sales as defined in RCW 82.04.040 and 82.04.050, a sale takes place in this state when the services are performed herein.

For the machinery and equipment to qualify for the 100 percent sales tax exemption under RCW 82.08.962, the machinery and equipment must be received by the buyer in Washington before July 1, 2011. For the installation charges to be fully exempt from sales tax under RCW 82.08.962, the installation must take place prior to July 1, 2011. Any equipment received by the buyer or installed in the system on or after July 1, 2011, will be subject to sales tax collected by the seller (and installer if the seller is not the installer). In order to take advantage of the partial exemption, the buyer will need to apply to the Department for a refund of 75 percent of the state and local sales taxes paid.

Application

The Application for Sales Tax Refund on Purchases & Installation of Qualified Renewable Energy Equipment is available through our web site at <http://dor.wa.gov> under "Get a form or publication". The application must be completed in full and mailed to the address provided.

The purchaser must provide, in adequate detail, records to enable the Department to determine whether the purchaser is entitled to a refund, including: invoices; proof of tax paid; and documents describing the machinery and equipment, including the electrical capacity of the system.

Definitions

"Machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas as the principal source of power.

A support facility must be specially designed and necessary for the proper functioning of the fixture or device and must perform a function beyond being a building or a structure or an improvement. It must have a function relative to a fixture or device. To determine if some portion of a building is a support facility, the parts of the building are examined. For example, a highly specialized structure, like a vibration reduction slab under generators in a landfill gas generating facility, is a support facility. Without the slab, the generators would not function properly. The ceiling and walls of the building housing the generator are not support facilities if they only serve to define the space and do not have a function relative to a fixture or device.

"Machinery and equipment" does not include:

- Hand-powered tools;
- Property with a useful life of less than one year;
- Repair parts required to restore machinery and equipment to normal working order;
- Replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment;
- Buildings; or
- Building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

Used Directly

Machinery and equipment is “used directly” in generating electricity by wind energy, solar energy, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, by fuel cells, technology that converts otherwise lost energy from exhaust, or landfill gas power if it:

- (1) provides any part of the process that captures the energy of the wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, fuel, technology that converts otherwise lost energy from exhaust, or landfill gas;
- (2) converts that energy to electricity; and
- (3) stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

Examples of qualified M&E

This list is illustrative only and is not intended to provide an exhaustive list of possible qualifying machinery and equipment.

(a) Where solar energy is the principal source of power: Solar modules; power conditioning equipment; batteries; transformers; power poles; power lines; and connectors to the utility grid system or point of use.

(b) Where wind is the principal source of power: Turbines; blades; generators; towers and tower pads; substations; guy wires and ground stays; power conditioning equipment; anemometers; recording meters; transmitters; power poles; power lines; and connectors to the utility grid system or point of use.

(c) Where landfill gas is the principal source of power: Turbines; blades; blowers; burners; heat exchangers; generators; towers and tower pads; substations; guy wires and ground stays; pipe; valves; power conditioning equipment; pressure control equipment; recording meters; transmitters; power poles; power lines; and connectors to the utility grid system or point of use.

(d) Where fuel cells are the principal source of power: Fuel cell assemblies; fuel storage and delivery systems; power inverters; transmitters; transformers; power poles; power lines; and connectors to the utility grid system or point of use.

Installation charges

As noted above, labor charges to install qualified machinery and equipment are either fully or partially exempt from sales and use taxes. However, there is no exemption for charges for labor and services rendered in respect to constructing buildings or access roads that may be necessary to install or use qualifying machinery and equipment. Nor is there an exemption for tangible personal property, such as a crane or forklift, used by the buyer to install qualifying machinery and equipment.

For more information

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