VERMONT DEPARTMENT OF TAXES
TECHNICAL BULLETIN

TAX: Renewable Energy **TB-67**

SUBJECT: Uniform Capacity Tax on Renewable Energy Plants Commissioned to Generate Solar Power **ISSUED:** June 24, 2013

STATUTORY REFERENCE: 32 V.S.A. §8701, §3802(17), §5401(10)(J), §3101(b)(13)

Introduction

Act 127 of the 2012 Legislative Session created a new taxation method for renewable energy plants commissioned to generate solar power. Plants over 10kW are subject to a statewide uniform capacity tax that goes to the education fund. Such plants may be exempted from municipal property taxes, or have their value stabilized by a municipality, without that municipality incurring any liability to the education fund. Plants 10kW or less are exempt from both the statewide education property tax and municipal property tax. To the extent that a plant is not stabilized or exempted by a municipality, the Department is charged to advise a method of valuation from time to time. Finally, the taxation or exemption of land associated with a solar plant is not affected by the new law.

Solar Plants

The new uniform capacity tax established in 32 V.S.A. §8701 applies to the fixtures and personal property of a solar power plant with a plant capacity over 10kW. Plant capacity is defined in 30 V.S.A. §8002(15) and is tied to the rated electrical AC nameplate for the plant. The tax applies to plants connected to the grid, whether solely for the sale of electricity or for purposes of net-metering.

State Uniform Capacity Tax on Solar Plants

The new state uniform capacity tax is an annual tax of $4.00 per kW plant capacity. It is payable to the Department of Taxes on or before April 15. The only exemption from the uniform capacity tax is for plants with a plant capacity of 10kW or less.[1] Taxation or exemption under the

[1] As discussed below, the exemption for solar plants 10kW and less applies also to municipal property tax. This exemption extends for 10 years until January 1, 2023 (through the grand list prepared on April 1, 2022). At that time, the exemption is automatically repealed unless the Legislature acts to extend the exemption.

uniform capacity tax is in lieu of the statewide property tax, and the revenue from the tax is deposited in the education fund.

Since the capacity tax is on the plant, it is due from the owner. The tax is on "commissioned" plants, which the Department interprets pursuant to 30 V.S.A. §8002(2) as meaning a plant that has been put into operation prior to December 31 of the tax year. Plants subject to the capacity tax will have been issued a certificate of public good (CPG) prior to commissioning, and the Department will assume that the rated nameplate capacity is as stated on that CPG unless the taxpayer can demonstrate otherwise.

Municipal Property Tax on Solar Plants

Solar plants with a plant capacity of 10kW or less are exempt from municipal property tax.[2] For plants over 10kW, municipalities may vote exemptions or stabilizations pursuant to 32 VSA § 3845 and 24 VSA § 2741 without incurring any obligation to the education fund. That is, the municipal property tax on a solar plant is now a discrete matter since the municipality is not obligated to collect any statewide property taxes on such plants.

The new law obligates the Department to advise municipalities from time to time on recommended methods for determining the fair market value of solar plants with a plant capacity over 10kW. As with any generation facility, the value will in large part be determined by the amount of electricity that the plant produces. The Division of Property Valuation and Review (PVR) has identified an income approach to value model that under most circumstances it recommends that municipalities use in valuing solar facilities. The valuation model was developed by Sandia National Laboratories to be used specifically for the fair market valuation of solar plants and is available on their website at no charge. PVR also has developed recommendations on the inputs that can be used within the Sandia solar valuation model and has developed a sample inventory form that can be used to collect from owners the necessary data inputs to operate the model. Different projects will have different inputs, for example, with respect to production, value of production, operation and maintenance costs. Finally, PVR has developed detailed instructions on how to use the spreadsheet that performs the model's calculations. Directions on the use of the valuation model as well as a downloadable version of the inventory form are on the Department's website.

Taxation of Land Associated with on Solar Plants

The statute is explicit that the new taxation scheme for the fixtures and personal property of a solar power plant does not impact the taxation, or exemption, of the land underlying the plant. The existence of a plant does not alter the exemption status of such land.

[2] As noted above, the exemption extends for ten years.

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6/24/13
Date