



Sales and Use Tax Exemption for Solar-Generated Electricity Sold Under a Solar Power Purchase Agreement

This memorandum describes recently enacted legislation that provides an exemption from sales and use tax for certain sales of electricity generated by solar energy systems equipment and sold under a solar power purchase agreement. The new law also provides an option for localities to elect this exemption.

Effective December 1, 2015, Part Z of Chapter 59 of the Laws of 2015 provides an exemption from sales and use tax for certain sales of electricity generated by residential or commercial solar energy systems equipment and sold under a written solar power purchase agreement (PPA).¹

Residential electricity

The new exemption provides that counties, cities, and certain school districts that impose local sales and use taxes on sales of residential electricity can elect to provide the new exemption. **Note:** Sales of residential electricity are already exempt from the 4% state and the 3/8% Metropolitan Commuter Transportation District (MCTD) sales and use taxes.

Commercial (nonresidential) electricity

The new exemption applies to the 4% state and the 3/8% MCTD sales and use taxes imposed on sales of commercial electricity. Also, the new law allows counties, cities, and certain school districts to elect the new exemption for local sales and use taxes on sales of commercial electricity.

Qualifying sales of electricity

The new exemption applies to electricity sold by a person primarily engaged in the sale of residential or commercial solar energy systems equipment and/or electricity that is generated by such equipment when the electricity is sold under a written PPA. *Primarily engaged* means that 50% or more of the person's receipts are derived from such sales.

Under a PPA, the owner of the solar energy equipment installs the equipment on a customer's premises at no charge to the customer, and sells the power generated by the equipment to the customer at a fixed rate established in the agreement. The equipment generating the electricity must be used to provide heating, cooling, hot water, or electricity at the customer's premises.

¹ The new exemption described in this memorandum is in addition to the existing exemptions for the sale and installation of residential and commercial solar energy systems equipment. See [TSB-M-05\(11\)S, Sales and Use Tax Exemption for Residential Solar Energy Systems Equipment](#), and [TSB-M-12\(14\)S, Sales and Use Tax Exemption for the Sale and Installation of Commercial Solar Energy Systems Equipment](#).

Local sales and use tax rates

[Publication 718-PPA](#), *Local Sales and Use Tax Rates on Sales of Electricity under Solar Power Purchase Agreements*, provides a listing of the local sales and use tax rates for qualifying sales of electricity generated under a solar PPA.

(Tax Law sections 1115(ee), 1115(ii), 1210(a), 1210(b), 1210(d), 1212, and 1224)

Note: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department 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.