

Sales and Use Tax Exemption For Residential Solar Energy Systems Equipment

Governor George E. Pataki recently signed Chapter 306 of the Laws of 2005 into law. Chapter 306 provides an exemption from the 4% state sales and use taxes and the 3/8% sales and use taxes imposed by the state in the Metropolitan Commuter Transportation District (MCTD), for receipts from the retail sale and installation of residential solar energy systems equipment. This amendment also provides the authority for cities and counties, including New York City, to grant this exemption from their local sales and use taxes. Unless the locality specifically enacts the exemption, receipts from the sale or installation of residential solar energy systems equipment are exempt only from the 4% state sales tax and, where applicable, the state imposed 3/8% MCTD sales and use tax.

Residential solar energy systems equipment means an arrangement or combination of components installed in a residence that utilizes solar radiation to produce energy designed to provide heating, cooling, hot water or electricity. For purposes of this definition, the term *residence* means a dwelling, whether owned or rented, and may include a single-family house, a multi-family building which consists exclusively of residential dwelling units, or a residential dwelling unit or units within such a multi-family building, including an apartment, a cooperative apartment or a condominium unit.

Such arrangement or combination of components does not include equipment that is part of a non-solar energy system or which uses any sort of recreational facility or equipment as a storage medium. Therefore, *residential solar energy systems equipment* does not include, for example, such items as pipes, controls, insulation, or other equipment that are part of a conventional gas, oil, or electric heating or cooling system. Also, *residential solar energy systems equipment* does not include equipment that uses any sort of recreational facility, such as a swimming pool or a hot tub, as a storage medium.

A contractor who purchases residential solar energy systems equipment must submit to the vendor a properly completed Form ST-120.1, *Contractor Exempt Purchase Certificate*, in order to claim this exemption. Persons other than contractors, who purchase residential solar energy systems equipment or the service of installing such equipment, must submit to the vendor/contractor a properly completed Form ST-121, *Exempt Use Certificate*, using Part III, Box T, in order to claim this exemption. For purposes of this exemption, persons who purchase such equipment or service and who are not required to have a *Certificate of Authority* are not required to list a *Certificate of Authority* number on Form ST-121.

This exemption applies to sales made and services rendered on or after September 1, 2005.

Note: As a result of additional legislation (Chapter 378 of the Laws of 2005), effective for taxable years beginning on or after January 1, 2006, the New York State personal income tax credit for the purchase of solar electric generating equipment has been revised to include the purchase of solar energy system equipment. In addition, effective September 1, 2006, the maximum amount of the credit is increased. The Tax Department will be issuing a future notification to taxpayers about these changes.

(See Tax Law sections 1115(ee), 1210(a) 1210(n) and 606(g-1).)