



Sales and Use Tax Exemption for the Sale and Installation of Commercial Solar Energy Systems Equipment

This memorandum explains recently enacted legislation that provides a sales and use tax exemption for the sale and installation of commercial solar energy systems equipment.

Recently enacted legislation (Chapter 406 of the Laws of 2012) provides a sales and use tax exemption for receipts from the retail sale and installation of commercial solar energy systems equipment. The exemption applies to the 4% state sales and use tax and the 3/8% sales and use tax imposed by the state in the Metropolitan Commuter Transportation District (MCTD). This new law also allows cities and counties, including New York City, to grant a similar exemption from their local sales and use taxes. Unless the locality specifically enacts the exemption, receipts from the sale or installation of commercial solar energy systems equipment are exempt only from the state sales and use taxes (and the MCTD sales and use tax, where applicable).

This new exemption is in addition to the previously enacted sales and use tax exemption for the sale and installation of residential solar energy systems equipment that has been in effect since September 1, 2005. See [TSB-M-05\(11\)S](#), *Sales and Use Tax Exemption for Residential Solar Energy Systems Equipment*. With this new exemption for commercial solar energy systems equipment, the sale and installation of both residential and nonresidential solar energy systems equipment will be exempt from the state sales and use tax, the sales tax imposed in the MCTD, and the local sales and use taxes imposed by localities that elect to grant the exemptions.

The new law defines *commercial solar energy systems equipment* as an arrangement or combination of components installed upon nonresidential premises that utilize solar radiation to produce energy designed to provide heating, cooling, hot water and/or electricity. For purposes of this definition the term *nonresidential premises* means any premises that does not meet the definition of *residence*. TSB-M-05(11)S, referenced above, defines *residence* as 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 multi-family building, including an apartment, a cooperative apartment or a condominium unit.

Commercial solar energy systems equipment **does not include** equipment that is part of a non-solar energy system. Therefore, items such as pipes, controls, insulation, or other equipment that are part of a conventional gas, oil, or electric heating or cooling system are not exempt as *commercial solar energy systems equipment*.

A contractor who purchases commercial 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 commercial solar energy systems equipment or the service of installing the equipment, must submit to the vendor/contractor a properly completed [Form ST-121](#), *Exempt Use Certificate*, using Part III, Box U, in order to claim this exemption. For purposes of this exemption, persons who purchase this exempt equipment or installation services 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 new exemption applies to sales made and services rendered on or after January 1, 2013.

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.