New York State's Real Property Tax Law § 487

The following outlines important points for local governments that are considering opting out of the Real Property Tax Law § 487.

NYSERDA

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Overview

It is increasingly important for local governments to be aware of the New York State Real Property Tax Law § 487 as it relates to developing solar electric systems in your community. We provide answers to questions that may arise when local officials are deciding whether to opt-in or opt-out of the Real Property Tax Law.

1. Real Property Tax Law § 487

This law provides a 15-year real property tax exemption for properties located in New York State with renewable energy systems, including solar electric systems. This law only applies to the value that a solar electric system adds to the overall value of the property; it does not mean that landowners with an installed renewable energy system are exempt from all property tax. A local government that does not opt out can still benefit financially through payment-in- lieu-of-taxes (PILOT) agreements.

In local governments that have taken no action one way or the other, the exemption is in effect. If a local law, ordinance, or resolution opting out of the exemption is adopted, a copy must be filed with the New York State Department of Taxation and Finance, and the New York State Energy Research and Development Authority (NYSERDA).

1.1 Local Economic Impact of Solar

New York State's solar market is one of the fastest growing solar markets in the country. Installations grew by almost 1,000 percent from 2011 to December 2017. During 2011 to 2017, the U.S. as a whole saw a 452 percent increase. New York State ranked 12th nationwide for cumulative solar installed capacity in 2017.[10]

The solar industry is creating jobs across the State with more than 770 solar companies employing more than 9,000 people. In 2017, the solar industry added approximately 900 new jobs throughout the State, a 11 percent increase over 2016 job growth. New York is currently ranked number 3 in solar jobs. [11]

With average wages of $21 per hour, the solar industry is responsible for creating thousands of living-wage jobs that allow workers to contribute to their local economies.[12] Most jobs are local or regional and cannot be outsourced.

1.2 Why would jurisdictions opt out of the RPTL § 487?

All local governments must offer the RPTL § 487 exemption unless they have opted out not to. Local governments can decide to opt out. As the solar market in New York continues to grow, many large-scale solar projects are being proposed throughout New York. Some local governments are opting out of RPTL § 487 so they can tax these multimillion-dollar projects and generate additional property tax revenue. However, these jurisdictions may find that they will not actually collect substantially more tax revenue from solar or other renewable energy systems because the systems may not be built if they are fully taxable. Property taxes can have a significant impact on the financial viability of solar electric projects, sometimes impacting project economics in a way that unintentionally prohibits solar electric development. Jurisdictions that opt out of RPTL § 487 may unintentionally prevent solar electric development at the local level. Activity in other states suggest there is less solar development in jurisdictions that opt out of the property tax exemption, with little to no additional tax revenue collected.[13]

10 Greentech Media. "US Solar Market Insight 2017 Year in Review." https://www.greentechmedia.com/research/report/us-solar-market-insight-2017-year-in-review#gs.SscwdeE

11 The Solar Foundation. "New York Solar Jobs Census 2017." https://www.thesolarfoundation.org/solar-jobs-census-factsheet-2017-NY/

12 The Solar Foundation. "National Job Census." https://www.thesolarfoundation.org/national/

13 Barnes et al. 2013. "Property Taxes and Solar PV Systems: Policies, Practices, and Issues." https://ncsolarcen-prod.s3.amazonaws.com/wp-content/uploads/2015/06/Property-Taxes-and-Solar-PV-Systems-Policies-Practices-and-Issues.pdf

1.3 Can jurisdictions opt out of RPTL§ 487 for large-scale solar only?

No. Under RPTL § 487, jurisdictions are not permitted to conditionally opt out of the property tax exemption. In other words, jurisdictions cannot choose to tax large systems but not small ones. A jurisdiction that opts out of RPTL § 487 to generate tax revenue from larger projects makes solar installations more expensive for homeowners and local businesses.

1.4 Capturing revenue from installations without opting out of RPTL§ 487

The law allows jurisdictions that offer the RPTL § 487 exemption to negotiate payments in lieu of taxes (PILOTs). The purpose of a PILOT is to reduce the tax burden and tax rate uncertainty on the property and/or system owner, while preserving some of the forgone revenue that would have been paid in property taxes. PILOTs are often used for large-scale[14] renewable energy projects, including solar electric systems. They are annual payments commonly related to the system's size (often in dollars per megawatt [MW]) and cannot exceed the amount of taxes that would be owed without the exemption.

Each taxing jurisdiction (except the school districts of New York, Buffalo, Rochester, Syracuse, and Yonkers) that has not opted out of RPTL § 487 may require the owner of a solar installation to enter a PILOT. The PILOT may not exceed a 15-year term, but it cannot require payments that exceed the value of taxes that would be paid without the exemption provided by RPTL § 487.[15] PILOT agreements can be an effective tool for jurisdictions to generate comparable revenue without making solar costs prohibitive for most homeowners and businesses.

1.5 Opting back in

The New York State Department of Taxation and Finance has stated that local governments can reinstate the RPTL § 487 exemption simply by repealing the local law, ordinance, or resolution that implemented the opt out. The final step to reinstate the exemption is to provide a copy of the new law, ordinance, or resolution to the New York State Department of Taxation and Finance and NYSERDA.[16]

1.6 Property tax exemptions in other states

Thirty-three states offer some form of tax exemptions for renewable energy. Twenty-two of those states mandate property tax exemptions for 100 percent of the value of solar energy installations over 10 or more years.[17] These states include ones with significant solar development such as California, Massachusetts, and New Jersey, as well as states with minimal solar capacity such as South Dakota, Kansas, and Montana. The majority of states recognize the positive financial impact property tax exemptions can have on solar electric development and the local economic benefits of a robust solar industry.

Questions?

If you have any questions regarding New York State's Real Property Tax Law § 487, please email questions to cleanenergyhelp@nyserda.ny.gov or request free technical assistance at nyserda.ny.gov/SolarGuidebook. The NYSERDA team looks forward to partnering with communities across the state to help them meet their solar energy goals.

[14] In this guide, large scale is considered solar electric projects that are in the megawatt range.
[15] New York State Department of Taxation and Finance. January 2016. "Recently Asked Questions About the Real Property Tax Law on the Topic of Solar Energy." Available at: https://www.tax.ny.gov/research/property/legal/raq_index.htm
[16] New York State Department of Taxation and Finance, supra note 13.
[17] Solar Power Rocks. https://solarpowerrocks.com/new-york/