

NOTICE OF INTENT

Department of Revenue Policy Services Division

Income Tax Credits for Solar Energy Systems (LAC 61:I.1907)

Under the authority of R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6030, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1907 relative to income tax credits for solar energy systems.

The primary purpose of this proposed regulation is to amend LAC 61:I.1907 to update the income tax regulation relative to changes resulting from Act 428 of the 2013 Regular Session of the Louisiana Legislature.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered By the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions

§1907. Income Tax Credits for Solar Energy Systems

A. Revised Statute 47:6030 provides an income tax credit for the purchase and installation of a solar electric system, solar thermal system or any combination of components thereof, collectively referred to as a “system,” at a single family residence located in Louisiana. In order for costs associated with the purchase and installation of a solar electric system or solar thermal system to qualify for this credit, the expenditure must be made on or after January 1, 2008, and before January 1, 2018.

1. Purchase of Solar Energy System. The amount of the credit for the purchase and installation of a system at a Louisiana residence or for a system which is already installed in a newly constructed home located in Louisiana is equal to 50 percent of the first \$25,000 of the cost of a solar electric system, solar thermal system, or any combination of components thereof.

2. Lease of Solar Energy System

a. The amount of the credit for the purchase and installation of a system before January 1, 2014, at a Louisiana residence by a third party through a lease with the owner of the residence is equal to 50 percent of the first \$25,000 of the cost of a solar electric system, solar thermal system, or any combination of components thereof.

b. The amount of the credit for the purchase and installation of a system on or after January 1, 2014 and before January 1, 2018, at a Louisiana residence by a third party through a lease with the owner of the residence is equal to 38 percent of the first \$25,000 of the cost of a solar electric system, solar thermal system, or any combination of components thereof.

3. Additional Lease of Solar Energy System Restrictions. For purposes of determining the amount of credit for the purchase and installation of a system at a Louisiana residence by a third party through a lease with the owner of the residence, eligible costs of the system shall be subject to the following provisions.

a. For a system purchased and installed on or after July 1, 2013 and before July 1, 2014, the system shall cost no more than four dollars and fifty cents per watt and provide for no more than six kilowatts of energy.

b. For a system purchased and installed on or after July 1, 2014 and before July 1, 2015, the system shall cost no more than three dollars and fifty cents per watt and provide no more than six kilowatts of energy.

c. For a system purchased and installed on or after July 1, 2015 and before January 1, 2018, the system shall cost no more than two dollars per watt and provide for no more than six kilowatts of energy.

B. Definitions

Charge Controller—an apparatus designed to control the state of charge of a bank of batteries.

Grid-Connected, Net Metering System—a solar electric system interconnected with the utility grid in which the customer pays the utility for only the net energy used from the utility minus the energy fed into the grid by the customer. All interconnections must be in accordance with the capacity, safety and performance interconnection standards adopted as part of the appropriate, established net metering rules and procedures of the Louisiana Public Service Commission, the New Orleans City Council, or other Louisiana utility regulatory entity.

Home—a single-family detached dwelling.

Inverter—an apparatus designed to convert direct current (DC) electrical energy to alternating current (AC) electrical energy. Modern inverters also perform a variety of safety and power conditioning functions that allow them to safely interconnect with the electrical grid.

Manufactured or Produced—wholly the growth, product, or *manufacture* of the United States or a country to which the United States is a party to an international agreement meeting the criteria of the American Recovery and Reinvestment Act of 2009 (ARRA) or in the case of a *manufactured* good that consists in whole or in part of materials from a non-ARRA compliant country, has been substantially transformed in an ARRA-compliant country into a new and different *manufactured* good distinct from the materials from which it was transformed. This definition has been adopted in accordance with 2 CFR §176.160.

Photovoltaic Panel—a panel consisting of a collection of solar cells capable of producing direct current (DC) electrical energy when exposed to sunlight.

Placed in Service—fully operational and in a current state of delivering solar energy to the qualifying residence in a manner consistent with the intended purpose of the solar energy system.

Residence—a single family detached dwelling. To be considered a *residence*, the physical properties of the space must provide the basic elements of a home, including appropriate and customary appliances and facilities and the occupant must use the facilities as a home. All eligible *residences* must be located in Louisiana.

Solar Electric System—a system consisting of photovoltaic panels with the primary purpose of converting sunlight to electrical energy and all equipment and apparatus necessary to connect, store and process the electrical energy for connection to and use by an electrical load.

Solar Thermal System Photovoltaic Panel—a panel consisting of a collection of solar cells capable of producing direct current (DC) electrical energy when exposed to sunlight. a system consisting of a solar energy collector with the primary purpose of converting sunlight to thermal energy and all devices and apparatus necessary to transfer and store

the collected thermal energy for the purposes of heating water, space heating, or space cooling.

Supplemental Heating Equipment—a device or apparatus installed in a solar thermal system that utilizes energy sources other than sunlight to add heat to the system, with the exception of factory installed auxiliary heat strips that are an integral component of a specifically engineered solar hot water storage tank.

C. Eligibility for Solar Energy Systems Tax Credits

1. Regardless of the number of system components installed on each qualifying residence, such components shall constitute a single system for each residence for purposes of the tax credit.

2. All solar energy systems must be installed in the immediate vicinity of the residence claiming the credit such that the electrical, mechanical or thermal energy is delivered directly to the residence.

3. In order to claim a tax credit for either a solar electric energy system, solar thermal energy system, or a combination of components thereof, the components of a system must be purchased and installed at the same time as a system.

4. For a taxpayer other than the owner of the residence to claim a tax credit for a solar electric energy system, solar thermal energy system, or combination of components thereof, the taxpayer must provide the department with a copy of the contract in which the owner of the residence has clearly and unambiguously stated that he is not entitled to and will not claim the tax credit and thereby transfers his right to claim the tax credit to the installer, developer or third-party taxpayer. Absent such a contract, the owner of the residence is the only taxpayer eligible to claim the credit and the installer, developer or third-party taxpayer shall have no right to the credit. For an installer, developer, or third-party taxpayer who purchases a system for installation at another person's residence in connection with a lease of the system by the owner of the residence, the transfer of the right to obtain the credit from the homeowner to the installer, developer or third-party taxpayer shall be regarded as taxable consideration received in exchange for the homeowners' right to use or possess the solar energy system. In such instances, the installer, developer or third-party taxpayer shall be responsible for collecting and remitting the sales tax on the full amount of the credit received.

D. Claiming the Solar Energy Systems Tax Credit

1. The credit for the purchase and installation of a solar energy system by a taxpayer at his residence shall be claimed by the taxpayer on his Louisiana individual income tax return for the taxable year in which the system is completed and placed in service. If a taxpayer purchases a newly constructed home with a system already installed, the credit shall be claimed on the tax return for the taxable year in which the act of sale occurred.

2. The credit for the purchase and installation of a solar energy system by a third-party taxpayer at another person's residence through a lease with the owner of the residence shall be claimed by the taxpayer on his Louisiana individual, corporate or fiduciary income tax return for the taxable year in which the system is completed and placed in service.

E. Solar Energy Systems Eligible for the Tax Credit

1. The credit provided by R.S. 47:6030 is only allowed for a complete and functioning solar energy system. Local and state sales and use taxes are an eligible system

cost. With respect to each residence, only one tax credit for the purchase and installation of a single system shall be allowed. Any additional system(s) or equipment added at a later date will not qualify for additional credit. This provision also applies to residences which have claimed a solar tax credit prior to July 1, 2013 and shall in no way be construed or interpreted to allow more than one tax credit for any residence.

2. System components purchased on or after July 1, 2013, for all solar electric or solar thermal energy systems must be compliant with the federal American Recovery and Reinvestment Act of 2009. This requirement applies to all credit-eligible components as described below in Subsection E. Components which are manufactured or produced in the United States or in a country with which the United States is a party to an international agreement meeting the criteria of ARRA will generally be regarded as ARRA compliant. For additional information, see *Revenue Information Bulletin 13-013*.

3. Non-ARRA compliant system components purchased prior to July 1, 2013, may qualify for credit provided that:

- a. such system components are incorporated into a system that is placed in service prior to January 1, 2014; and
- b. the purchaser provides written documentation of the pre-July 1, 2013 date of purchase of the eligible components.

4. Solar Electric Systems. Eligible solar electric systems under the provisions of R.S. 47:6030 include grid-connected net metering systems, grid-connected net metering systems with battery backup, stand alone alternating current (AC) systems and stand alone direct current (DC) systems, designed to produce electrical energy and may include the following.

System Type	Eligible System Components
Grid-Connected, Net Metering Solar Electric Systems	photovoltaic panels, mounting systems, inverters, AC and DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Grid-Connected, Net Metering Solar Electric Systems with Battery Backup	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC and DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric AC Systems	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC and DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric DC Systems	photovoltaic panels, mounting systems, charge controllers, batteries, battery cases, DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load

5. Solar Thermal Systems. Solar thermal systems eligible under the provisions of R.S. 47:6030 include

systems designed to produce domestic hot water, systems designed to produce thermal energy for use in heating and cooling systems and may include the following.

System Type	Eligible System Components
Domestic Solar Hot Water Systems	solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Heating and Cooling Thermal Energy Systems	solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks

6. Solar energy systems not installed on the rooftop of the residence but installed on the qualifying property shall constitute a free standing ground mounted system. Ground mounted solar energy systems include but are not limited to single pole mounted structures, multiple pole mounted structures utilizing a foundation if necessary. Additional walls, interior finishes, foundations, roofing structures not directly related to the solar energy system, or any other addition not directly related to the solar energy structure are not eligible system costs. Ground mounted systems must be more than 8' feet in height at its lowest point if titled unless specific building codes and/or flood plain restrictions apply. Each qualifying free standing ground mounted system must be separately itemized from any and all other energy components included in a taxpayer's submitted Form R-1086.

7. Any solar energy system for which a tax credit is claimed shall include an operations and maintenance manual containing a working diagram of the system, explanations of the operations and functions of the component parts of the system and general maintenance procedures.

8. All photovoltaic panels, inverters and other electrical apparatus claiming the tax credit must be tested and certified by a Federal Occupational Safety and Health Administration (OSHA) nationally recognized testing laboratory and must be installed in compliance with manufacturer specifications and all applicable building and electrical codes.

9. All photovoltaic systems installed at a tilt angle greater than 5 degrees shall have an azimuth greater than 80 degrees E and no more than 280 degrees W. North facing solar panels generally do not conform to industry best practices unless criteria above are satisfied.

10. All solar thermal apparatus claiming the tax credit must be certified by the Solar Rating and Certification Corporation (SRCC) and installed in compliance with manufacturer specifications and all applicable building and plumbing codes.

11. Applicants applying for the tax credit on either a solar electric or solar thermal system must provide proof of purchase and installation to the Louisiana Department of Revenue detailing the following as applicable to your particular solar energy system installation:

- a. type of system applying for the tax credit;
- b. output capacity of the system;

i. solar electric systems—total nameplate listed kW of all installed panels;

ii. solar thermal systems—listed SRCC annual BTU or equivalent kWh output;

c. physical address where the system is installed in the state;

d. total cost of the system as applied towards the tax credit separated in an itemized list by:

- i. equipment costs;
- ii. installation costs;
- iii. taxes;

e. make, model, and serial number of photovoltaic panels, inverters, and solar thermal collectors applied for in the tax credit;

f. name and Louisiana contractor's license number of seller/installer;

g. if applicable, copy of the modeled array output report using the PV watts solar system performance calculator developed by the National Renewable Energy Laboratory and available at the website www.nrel.gov/rredc/pvwatts. The analysis must be performed using the default PV watts de-rate factor;

h. copy of a solar site shading analysis conducted on the installation site using a recognized industry site assessment tool such as a solar pathfinder or solmetric demonstrating the suitability of the site for installation of a solar energy system;

i. conveyance certificate, deed or other legal document which evidences the owner of the residence.

j. when a system is installed by a third-party owner, a complete and signed declaration by residential property owner not claiming the solar energy income tax credit;

k. for a system already installed in a newly constructed home located in Louisiana, a copy of the sale agreement or other legal document which evidences the date of sale;

l. for a system other than one which is already installed in a newly constructed home located in Louisiana, a copy of the interconnection agreement for net metering or other document which evidences the effective placed in service date;

m. if applicable, an itemized list of all non-ARRA compliant components incorporated into the system which demonstrates a pre-July 1, 2013 purchase date. Additional documentation, such as an invoice, receipt, or other written documentation demonstrating the date of purchase of such components should be retained and made available for production by the taxpayer upon demand by the Department of Revenue;

n. For all components purchased on or after July 1, 2013, documentation which demonstrates ARRA compliance, such as a receipt, invoice, certification from the distributor, vendor, supplier or manufacturer or any other reasonable documentation which verifies the component was manufactured or produced in the United States or other qualifying country.

F. Costs

1. Eligible Costs. Eligible costs that can be included under the tax credit are reasonable and prudent costs for equipment and installation of the solar energy systems defined in Subsection B and described in Subsection E above.

a. All eligible solar energy systems must be sold and installed by a contractor duly licensed by and in good

standing with the Louisiana Contractors Licensing Board. For purposes of satisfying the requirement that a solar energy system be sold by and installed by a person who is licensed by the Louisiana State Licensing Board for Contractors, a lease between a third party and the owner of the residence shall not constitute a "sale."

b. In order for a homeowner who self-installs a solar energy system at the homeowner's own residence to qualify for the solar energy systems tax credit, the homeowner must be licensed by the Louisiana State Board for Contractors.

2. Ineligible Costs. Labor costs for individuals performing their own installations are not eligible for inclusion under the tax credit. For purposes of this Paragraph, "individuals" shall mean natural persons as defined in *Civil Code* article 24. For all other taxpayers, labor costs for unrelated services, including, but not limited to tree trimming and tree removal, are not eligible under the tax credit. Supplemental heating and cooling (HVAC) equipment costs used with solar collectors are not eligible for inclusion under the tax credit. Other items ineligible for a solar energy systems tax credit include, but are not limited to the following: stand alone solar powered attic fans or ventilation systems, solar powered lights, solar day lighting apparatuses, solar powered pool pumps, solar pool heating systems, and all other stand-alone solar device(s).

3. Whenever, in return for the purchase price or as an inducement to make a purchase, marketing rebates or incentives are offered, the eligible cost shall be reduced by the fair market value of the marketing rebate or incentive received. Such marketing rebates or incentives include, but are not limited to, cash rebates, prizes, gift certificates, trips, energy efficiency improvements not directed related to solar energy installation, including, but not limited to spray foam insulation, radiant barrier, window sealing and/or caulking, heating and air conditioning improvements, blower door testing, thermostat upgrades which are not an integral part of the solar energy monitoring system, domestic hot system upgrades not related to solar hot water system insulation, or any other thing of value given by the installer or manufacturer to the customer as an inducement to purchase an eligible solar energy system.

4. Only one solar energy systems tax credit is available for each residence. In addition, in the event of purchase and installation by a third-party taxpayer through a lease with the owner of the residence, only one solar energy systems tax credit is available for each eligible system. Once a solar energy systems tax credit is claimed by a taxpayer for a particular residence or system, that same residence or system is not eligible for any other tax credit pursuant to this Section. If the residential property or system is sold, the taxpayer who claimed the tax credit must disclose his use of the tax credit to the purchaser.

G. Other Tax Benefits Disallowed

1. A taxpayer shall not receive any other state tax credit, exemption, exclusion, deduction, or any other tax benefit for solar property for which the taxpayer has received a solar electric energy system or solar thermal energy system credit under R.S. 47:6030.

2. Exception. The credit may be used in addition to any federal tax credits earned for the same system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6030 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 34:2206 (October 2008), amended LR 36:2048 (September 2010), amended by the Department of Revenue, Policy Services Division, LR 37:3532 (December 2011), LR 39:99 (January 2013), LR 40:

Family Impact Statement

The proposed amendment of LAC 61:I.1907, regarding income tax credits for solar energy systems, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed amendment will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed amendments will have no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Brad Blanchard, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4 p.m., Friday, October 24, 2014.

Public Hearing

A public hearing will be held on Monday, October 27, 2014, at 10 a.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Tim Barfield
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Income Tax Credits for Solar Energy Systems**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This amendment adds documentation requirements for all systems related to the manufacture of system components (ARRA compliance as certified by manufacturers, vendors, distributors, suppliers or any other reasonable source deemed fit by the Department of Revenue), reduces the credit percentage from 50% to 38% in FY 15 for leased systems and adds credit basis (cost) restrictions for leased systems by lowering the cost per watt from \$4.50 in FY 14 to \$2 per watt by FY 16. The system size is also limited to 6kw, which is not expected to be a constraining factor since the \$25,000 cost cap

was retained. The amendment also provides for the eligibility of combined thermal and electric systems, as long as the cost cap is not breached. Combined systems are not expected to change the outcome of credit utilization materially since most systems were already receiving the maximum credit. Verification of compliance with these new requirements may require the reallocation of resources from other administrative functions to the administration of this credit. The elimination of systems installed on apartments should reduce the number of claims to be processed, potentially making resources available for verification of compliance with the new requirements. Any additional costs will be absorbed in the existing budget. Local governmental units are not affected by this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendment addresses changes to the wind and solar energy systems tax credit due to Act 428 of the 2013 Louisiana Legislative Session, including removal of wind systems from eligibility, allowing the credit only for detached residences, allowing the combination of solar electric and solar thermal systems under the cost cap and adding credit basis (eligible cost) restrictions to leased systems, which become more restrictive over time. Also the credit is terminated after year 2017 for both purchased and leased systems. In net, these changes serve to reduce the credit, leading to an anticipated increase in general fund revenue collections of the state, though the industry appears to have expedited installations in FY 14 to take advantage of higher credits. The amount of the increase is indeterminable but is estimated to approximate tens of millions of dollars annually by FY 17. As a historical measure, credits received under the program in FY 14 totaled about \$58.9M, thus the full elimination of the credit in FY 18 is expected to result in a substantial increase to the general fund. This proposal should have no impact on the revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

New requirements relative to the location of the manufacture of system components, including the submission of proof regarding those requirements, are expected to increase costs and workload of credit claimants by a minimal amount. Two new documentation submission requirements related to systems installed in newly constructed homes are also expected to increase costs and workload of credit claimants by a minimal amount. Business activity related to the installation of solar energy systems in non-detached dwellings will be reduced by the removal of eligibility. Lessors of solar energy systems are also expected to experience a reduction in business activity due to the tightened percentage and credit basis restrictions. Wind systems ineligibility is expected to have little or no impact since there were few claimants historically. Potential buyers and lessees of solar energy systems will also be impacted by reductions in credit availability through more restrictive eligibility requirements. These effects are indeterminable but are directly correlated with the calculations in Section II.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Leased systems, those dealers using components manufactured in non-ARRA compliant countries, and those targeting systems on structures other than detached residences will no longer be eligible for the full amount of the credit, though purchased systems will be eligible until credit expiration. This amendment is expected to directly have an indeterminable negative effect on employment by solar system installation businesses as related to fewer installations in response to more restrictive eligibility requirements over time.