

**DEPARTMENT OF TAXATION
2009 Fiscal Impact Statement**

1. Patron R. Creigh Deeds

3. Committee House Finance

4. Title Retail Sales and Use Tax; Exemption for
Certain Energy Efficient Systems

2. Bill Number SB 1216

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would provide an exemption from the Retail Sales and Use Tax for the purchase of qualifying solar photovoltaic systems, solar thermal systems, and wind-powered electric generators purchased for installation in or on residential real property. The exemption would be available to any purchaser, including real property contractors who have contracted to install the equipment.

The effective date of this bill is not specified.

6. Fiscal Impact Estimates are: Final. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

Administrative Costs Impact

TAX considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

The introduced Executive Budget incorporates the fiscal impact of this bill. As a result, this bill would have no revenue impact. The following chart shows the impact assumed in the introduced Executive Budget:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2009-2010	(\$ 225,300)	GF
	(\$ 32,200)	TTF
	(\$ 64,400)	Local
2010-2011	(\$ 225,300)	GF
	(\$ 32,200)	TTF
	(\$ 64,400)	Local
2011-2012	(\$ 236,500)	GF
	(\$ 33,800)	TTF
	(\$ 67,600)	Local
2012-2013	(\$ 248,400)	GF
	(\$ 35,500)	TTF
	(\$ 71,000)	Local
2013-2014	(\$ 260,800)	GF
	(\$ 37,300)	TTF
	(\$ 74,500)	Local
2014-2015	(\$ 273,800)	GF
	(\$ 39,100)	TTF
	(\$ 78,200)	Local

The sales tax exemption proposed in this bill is estimated to reduce revenues by \$321,900 in both Fiscal Years 2010 and 2011, \$337,900 in Fiscal Year 2012, \$354,900 in Fiscal Year 2013, \$372,600 in Fiscal Year 2014, and \$391,100 in Fiscal Year 2015. This estimate is based on estimates provided to the Department of Mines, Minerals and Energy by industry sources of the number of installations of solar photovoltaic systems, solar thermal systems, and wind-powered electrical generators and the average prices of the systems. The estimate assumes annual exempt sales of \$6.4 million in Fiscal Years 2010 and 2011, with exempt sales growing by 5 percent annually thereafter.

9. Specific agency or political subdivisions affected:

TAX

Department of Mines, Minerals and Energy

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Energy Star and WaterSense Sales Tax Holiday

The 2007 General Assembly enacted House Bill 1678 and Senate Bill 867 (*Acts of Assembly 2007*, Chapters 176 and 817), which provide for an annual four-day exemption period in which purchases of certain Energy Star qualified products with a maximum sales price of \$2,500 can be made exempt of the Retail Sales and Use Tax. The 2008 General Assembly expanded this exemption through House Bill 1229 (*Acts of Assembly 2008*, Chapter 554) to include certain WaterSense products. WaterSense qualified products are defined as “those products that have been recognized as being water efficient by the WaterSense program sponsored by the U.S. Environmental Protection Agency as indicated by a WaterSense label. An Energy Star qualified product includes any dishwasher, clothes washer, air conditioner, ceiling fan, compact fluorescent light bulb, dehumidifier, programmable thermostat, or refrigerator, the energy efficiency of which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency’s requirements under the Energy Star Program. The current Energy Star and Water Sense Sales Tax Holiday is set to expire on July 1, 2012.

Energy Efficient Products Income Tax Deduction

The 2006 General Assembly enacted Senate Bill 262 (*Acts of Assembly 2006*, Chapter 939) which established an energy policy for the Commonwealth. Senate Bill 262 provided a state personal income tax deduction available in the amount of 20% of the sales tax paid on certain energy efficient equipment or appliances, as well as qualifying fuel cells, gas heat pumps, central air conditions, advanced gas, oil or water heaters, oil fired furnaces, and programmable thermostats. The law currently permits a maximum deduction of \$500.

Contractors

Under current law, contractors are deemed the users and consumers of all tangible personal property purchased in connection with the provision of their construction, reconstruction, installation, repair and other service contracts. As such, contractors are required to pay the Retail Sales and Use Tax for the purchase of such tangible personal property. In addition, if a contractor contracts to perform services in Virginia and is furnished tangible personal property for use in providing the service, and no tax has been paid on the item by the supplier, the contractor shall be deemed to be the consumer of the tangible personal property and must pay a use tax based on the fair market value of the tangible personal property.

Other States

Arizona: Exempts gross receipts from the sale of solar energy devices from the retail classification of the transaction privilege (sales) tax when sold by registered solar energy retailers. Solar energy devices can be used for heating, cooling, lighting, or power

generation, and include wind generator systems used to produce electricity. (Ariz. Rev. Stat. Ann. §42-5001(14), §42-5001(15)). There are no corresponding use tax exemptions.

Colorado: Gives localities the option of authorizing a sales tax credit or rebate to residential or commercial property owners who install renewable energy fixtures on their residential or commercial property. Renewable energy fixtures mean any fixture, product, device, system, or interacting group of devices that produce electricity from renewable resources including, but not limited to, photovoltaic systems, solar thermal systems, small wind systems, biomass systems, or geothermal systems. (Colo. Rev. Stat. § 30-11-107.3(2)(b); Colo. Rev. Stat. § 31-20-101.3(2)).

Connecticut: Exempts commercial solar equipment in solar heating and/or cooling systems and domestic hot water systems, and wind energy conversion systems used to generate electricity. (See Conn. Agencies Regs. 16a-14-102).

Florida: Exempts solar energy systems and their components. Solar energy systems are the equipment and requisite hardware that provide and are used for collecting, transferring, converting, storing, or using incidental solar energy for water heating, space heating and cooling, or other applications that would otherwise require the use of a conventional source of energy.

Idaho: Entitles purchasers of machinery and equipment used directly in generating electricity through fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, solar power, or landfill gas as the principal source of power to a rebate of the sales or use taxes paid on the machinery and equipment, if the purchaser uses those items to develop a facility capable of generating at least 25 kilowatts of electricity. The rebate will expire on June 30, 2011. (Idaho Code § 63-3622QQ(3); § 63-3622QQ(4)).

Iowa: Exempts solar energy equipment, wind energy conversion property to be used as an electric power source, and materials used to construct, manufacture, or install such property. (IA Code Section 423.3(90), 423.3(54)).

Maryland: Exempts geothermal equipment or solar energy equipment. Geothermal equipment means equipment that uses solar energy to heat or cool a structure, generate electricity to be used in a structure, or provide hot water for use in a structure. Solar energy equipment means equipment that uses solar energy to heat or cool a structure, generate electricity to be used in a structure or provide hot water for use in a structure. In addition, beginning in calendar year 2011, a sales tax holiday will be offered during which solar water heaters can be purchased exempt of the sales and use tax. The holiday will begin on the Saturday immediately preceding the third Monday in February and end on the third Monday in February.

Massachusetts: Exempts sales of equipment directly related to a solar, wind-powered, or heat pump system that serves as the primary or auxiliary heat source for taxpayer's principal residence.

Minnesota: Exempts solar energy systems and wind energy conversion systems, and the materials used to make, install, construct, repair, or replace wind energy conversion systems. (Minn. Stat. § 297A.67, Subd.29, § 297A.68, Sub.12).

New Jersey: Exempts sales of solar energy devices or systems designed to provide heating, cooling or electrical or mechanical power by collecting and transferring solar-generated energy, including mechanical or chemical devices for storing solar generated energy. (N.J. Rev. Stat. § 54:32B-8.33).

New York: Exempts the sale and installation of residential solar energy systems equipment, which are defined as arrangements or combinations of components installed in residences that utilize solar radiation to produce energy designed to provide heating, cooling, hot water and/or electricity. Municipalities are also authorized to grant the exemption. (N.Y. Tax. Law § 1115(ee), § 1210(a)(1).

Rhode Island: Exempts certain renewable energy products, including solar photovoltaic modules and panels, solar thermal collectors, geothermal heat pumps, wind turbines, towers used to mount wind turbines, DC to AC inverters that interconnect with utility power lines and manufactured mounting racks and ballast pans for solar collector, module, or panel installation.

Vermont: Exempts the sale of net metering systems, “off-the-grid” energy systems (systems not connected to the electric distribution system of a regulated utility), and hot water heating systems that convert solar energy into thermal energy used to heat water, provided the property is directly necessary for and used to capture, convert, or store solar energy for this purpose. (Vt. Stat. Ann. 32 § 9741 (46)(C).)

Washington: Exempts sales of solar water heating systems and provides a corresponding use tax exemption. The exemption covers OG 300 rated solar water heating systems, OG-100 rated solar water heating collectors, solar heat exchangers or differential solar controllers, as well as repair and replacement parts for this equipment. The exemption will expire on July 1, 2009. (Wash Rev. Code § 82.08.835, § 82.12.835).

Wyoming: Exempts sales of equipment used to generate electricity from renewable resources. Renewable resources include wind generation, solar, biomass, landfill gas, hydro, hydrogen and geothermal energy. The exemption is limited to the acquisition of equipment used in a project to make it operational up to the point of interconnection with an existing transmission grid including wind turbines, generating equipment, control and monitoring systems, power lines, substation equipment, lighting, fencing, pipes and other equipment for locating power lines and poles. (Wyo. Stat. § 39-15-105, 39-16-105).

Proposal

This bill would provide a year-round Retail Sales and Use Tax exemption for the purchase of solar photovoltaic systems, solar thermal systems, and wind-powered electrical generators. The exemption would be available to any purchaser of qualifying items, including contractors. Under the terms of this bill, whenever a customer furnished any of

the exempt items to a contractor, the contractor would not be liable for use tax on the exempt items.

“Solar photovoltaic system” would be defined as an energy system or solar panel that collects or absorbs sunlight for conversion into electricity and that has been certified as meeting all applicable safety standards of Underwriters Laboratories. Systems that are interconnected with the utility grid shall comply with performance and safety standards established by the Virginia State Corporation Commission in accordance with *Va. Code* § 56-594.”

“Solar thermal system” would be defined as a solar energy system that collects or absorbs solar energy to generate hot water or air for space heating or water heating. Solar water heating systems would be required to meet the operational guidelines for an OG-300 certified solar water heating system as established by the Solar Rating and Certification Corporation. Solar space heating panels that heat air would be required to meet operational guidelines for an OG-100 certified solar panel.

“Wind-powered electrical generator” would be defined as an electrical generating unit that (i) has a capacity of not more than 10 kilowatts, (ii) uses wind as its total source of fuel, (iii) is intended primarily to offset all or part of the owner’s electricity requirements, (iv) meets all applicable performance and quality standards specified by the Virginia Department of Mines, Minerals, and Energy; and (v) for units that are interconnected with the utility grid, complies with performance and safety standards established by the Virginia State Corporation Commission in accordance with § 56-594.

The effective date of this bill is not specified.

Similar Legislation

Senate Bill 1141 would provide a tax credit for individuals and corporations for renewable energy property placed in service for taxable years beginning on and after January 1, 2009. Renewable energy property would include, solar photovoltaic systems, solar thermal systems, or wind-powered electrical generators.

cc : Secretary of Finance

Date: 2/9/2009 KP
DLAS File Name: SB1216FE161.doc