

# DEPARTMENT OF TAXATION

## 2012 Fiscal Impact Statement

1. **Patron** Alfonso H. Lopez

3. **Committee** House Finance

4. **Title** Retail Sales and Use Tax; Refund for  
Certain Renewable Energy Equipment

2. **Bill Number** HB 787

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would grant a refund from the Retail Sales and Use Tax for the purchase of certain renewable energy equipment. The maximum aggregate amount of refunds the Department would issue each fiscal year would be \$1 million, and the refunds would be issued in the order that complete applications are received. Renewable energy equipment would mean equipment used to generate energy through: 1) solar photovoltaic, 2) hydrokinetic, 3) solar thermal wind power, or 4) geothermal means.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** Yes.

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7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

### 8. **Fiscal implications:**

#### Administrative Costs

This bill would require the Department to refund both state and local sales taxes collected and submitted by the retailer for qualifying renewable energy equipment. Implementing the proposal could present significant challenges that may result in considerable costs for the Department. If a significant volume of purchasers applied for the rebate, the Department would need to develop an automated process that has the potential to be complex and expensive to implement.

The Department would need to issue refunds to purchasers, which would require a complex process of crediting sales tax from the applicable state funds and from the locality that received the local portion of the sales tax, adjusting the retailer's sales tax return, and ensuring that any refunds are eligible to be offset against delinquent taxes and other state debts. In order to ensure that the \$1 million threshold is not exceeded, the Department also would need to track and account for each refund, and to segregate these refunds from those that are issued for a variety of other reasons each day.

Additionally, the Department would need to design forms detailing each purchase, including the complete address of the store, description of the item purchased, sales price, and the date and exact time of purchase, and to capture this detail in its systems for each purchase in order to properly charge back the correct locality for any local sales tax refunded.

If the volume of purchases is limited to a small number, the Department could likely handle the refund requests manually, and the administrative costs would substantially decrease.

#### Revenue Impact

The rebate proposed by this bill would result in a decrease in state revenues, the magnitude of which is unknown, but would not exceed \$1 million annually. In order to reach the \$1 million ceiling, sales of renewable energy equipment would need to reach \$20 million annually. Based on data obtained from the Department of Mines, Minerals, and Energy, a total of \$0.09 million in sales tax refunds would be issued for photovoltaic equipment alone. Data on geothermal systems, hydrokinetic equipment and solar thermal wind power equipment is unavailable.

#### **9. Specific agency or political subdivisions affected:**

Department of Taxation

#### **10. Technical amendment necessary: No.**

#### **11. Other comments:**

##### Other Exemptions and Deductions

##### ***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 clothes washers, room air conditioners, dishwashers, and standard size refrigerators 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.

### **Other States**

**Arizona:** Gross receipts from the sale of solar energy devices are exempt from the retail classification of the transaction privilege tax when sold by registered solar energy retailers.

**Connecticut:** Provides an exemption on the sales and use of solar energy electricity generating systems, passive or active solar water or space heating systems, and geothermal resource systems. There is also an exemption available for sales and the storage, use or other consumption of machinery, equipment, tools, materials, supplies, and fuel used directly in the renewable energy and clean energy technology industries.

**Florida:** Exempts solar energy systems and components from the sales and use tax.

**Idaho:** Until June 30, 2011, there was a rebate available to 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 equipment, if the purchaser used those items to develop a facility that met certain statutory specifications.

**Maryland:** Exempts sales of geothermal equipment, solar energy equipment or residential wind energy equipment.

**Nebraska:** Grants a tax credit for producers of electricity generated by a new renewable electric generation facility. The credit can be used to obtain a refund of state sales and use taxes paid by the producer of electricity generated by a new renewable electric generation facility.

**New Mexico:** From July 1, 2007 through June 30, 2017, offers a deduction from gross receipts tax for receipts from the sale and installation of solar energy systems. To qualify, the system must be: 1) an installation that utilizes solar panels that are not also windows; 2) a dark-colored water tank exposed to sunlight; and 3) a non-vented trombe wall.

**Rhode Island:** Exempts gross receipts from the following renewable energy products: 1) solar photovoltaic modules or panels; 2) solar thermal collectors; 3) geothermal heat pumps; 4) wind turbines; 5) towers used to mount wind turbines if specified by or sold by a wind turbine manufacturer; 6) DC to AC inverters that interconnect with utility power

lines; and 7) manufactured mounting racks and ballast pans for solar collector, module or panel installation.

**Washington:** Exempts 75% of the sales and use taxes for sales and leases of machinery and equipment used directly to generate electricity using fuel cells, wind, sun, biomass, energy, tidal or wave energy, geothermal resources, anaerobic digestion, conversion of otherwise-lost energy from exhaust or landfill gas.

**Wyoming:** The exemption available for equipment used to generate electricity from renewable resources expired on December 31, 2011.

### Proposal

This bill would grant a refund from the Retail Sales and Use Tax for the purchase of certain renewable energy equipment. Renewable energy equipment would mean equipment used to generate energy through: 1) solar photovoltaic, 2) hydrokinetic, 3) solar thermal wind power, or 4) geothermal means. The maximum aggregate amount of refunds the Department would issue each fiscal year would be \$1 million, and the refunds would be issued in the order complete applications are received.

In order to obtain the refund, purchasers of qualifying equipment would need to complete a Department-issued form and file such form with the Tax Commissioner, along with any certifications required by the Commissioner and a copy of the receipts of the items purchased. The Department would have the discretion to investigate any issue it deems necessary before refunding the tax to the applicant, and would be permitted to investigate even after the refund has been issued.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/28/2012 KP  
DLAS File Name: HB787F161