

State Tax Benefits for Corporate Investors in Residential Solar

This week's Industry Current is written by **David Burton**, partner, and **Richard Page**, associate, at **Akin Gump Strauss Hauer & Feld** in New York.

This article evaluates the tax and cash incentives that might apply to corporate investors in residential solar systems installed in the following 10 U.S. states: California, Connecticut, Hawaii, Louisiana, Massachusetts, New Jersey, New York, North Carolina, Rhode Island and Utah.

◆ The following six states provide tax or cash incentives directly to the business-entity installer of residential solar systems: Connecticut, Hawaii, Louisiana, Massachusetts, North Carolina and Rhode Island.

◆ Two states, California and New Jersey, have assignable rebates in place that allow consumers to assign their rebates to business-entity installers. A third state, New York, has previously allowed rebates to be assignable; this will likely remain the case under the new incentive plan that is going into effect this year.

◆ Utah does not yet have an incentive regime to provide a credit or other benefit to business-entity installers of residential solar systems.

◆ Finally, at least two of the states, California and Massachusetts, have local subsidies that further incentivize solar system installations by third-party providers.

Incentive plans for solar energy installation evolve regularly. This is particularly true in states where legislatures allocate fixed amounts of money for given programs over set periods of time (e.g., Massachusetts, as described below).

CALIFORNIA

California offers several statewide incentives for the installation of solar modules on residential properties. Additionally, several California municipalities and utilities have offered a variety of cash incentives and rebates to encourage solar module installation. Such municipalities and utilities have included San Francisco, Corona, Glendale and Pasadena, and **Moreno Valley Electric**

Utility, Roseville Electric, Silicon Valley Power and Azusa Light & Water. For example, San Francisco's program, GoSolarSF Incentive, gives an assignable incentive of \$500 to \$2,000 (according to the amount of kW capacity installed) to any resident who installs a solar module on his/her property located with the city. The program adds an additional \$2,000 to \$7,000 if the recipient is a low-income resident.

On a statewide level, the State of California has rebate programs to encourage solar system installations. The California Solar Initiative Program provides assignable rebates to homeowners who install solar energy systems and live in regions that are serviced by one of California's three investor-owned utilities (this covers roughly 68% of residents). The three investor-owned utilities are **Pacific Gas & Electric, San Diego Gas & Electric, and Southern California Edison.**

These rebates are paid in accordance with one of two methods: (1) the expected performance-based buydown method, and (2) the performance-based incentive method. Under the first method, payment is given at the time of installment based on expected electrical output and under the second method, the payment is given over a period of five years based on the actual metered output of the system. Payment amounts are determined using a calculator that includes factors such as utility territory, system size, customer class, and performance and installation factors. Additional benefits are available for low-income homeowners. Assignments can be made with the consent of the local utility company and such utility companies "shall" consent without unreasonable delay for the parties involved.

A separate program, the New Solar Homes Partnership, provides assignable incentives of \$0.75/watt to \$3.50/watt based on various factors for newly constructed residences served by one of the following utilities: PG&E, SoCalEd, SDG&E and **Bear Valley Electric**



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Service.

CONNECTICUT

Connecticut's PBI program provides incentives directly to eligible third-party solar system owners that contract with homeowners to install residential solar systems. The incentive is paid out over six years, based on energy output. Over a given twelve-month period, up to the first 10 kW of energy consumed per home is subsidized at \$0.08/kWh, but only up to the amount of energy that was previously consumed in the prior 12-month period. Energy consumed by a home above the amount that was consumed in the prior 12-month period is subsidized at \$0.06/kWh up to 20 kW of consumption. Connecticut does not want to encourage overconsumption.

HAWAII

Hawaii allows corporations to directly claim a state corporate income tax credit for installing solar energy systems on residential properties. The credit equals 35% of the cost of the installed property, up to a cap. This cap is \$5,000 for a single family home and \$350 per unit per system for multi-family residential property.

LOUISIANA

Louisiana offers an income tax credit for the installation of solar electric systems or solar thermal systems at single-family residences within the state. The credit may be claimed by an individual or an entity. If the credit is claimed by a corporation, the credit should be noted on the corporation's state income

● INDUSTRY CURRENT

◀ FROM PAGE 7

tax return and franchise tax return. The credit is equal to 38% of the first \$25,000 of the cost of purchase for each system installed between Jan. 1, 2014, and Dec. 31, 2017.

On Jan. 10, 2014, the **Louisiana Department of Revenue** issued a Revenue Information Bulletin explaining some limitations on the application of the credit. First, the bulletin notes that the credit does not apply to costs that are not necessary components of a solar-electrical or solar-thermal system, such as air-conditioning units, heating units and ductwork. Second, the bulletin notes that stand-alone, solar-powered air-conditioning and heating units, which do not service any additional electrical or thermal energy needs of a residence, are ineligible for the credit.

MASSACHUSETTS

Massachusetts's Commonwealth Solar II program provides rebates to taxpayers that install solar energy systems, including to

third-party providers of residential systems. The incentive is \$0.25/watt. If Massachusetts company components are used, \$0.05/watt is added. The final funding block for this program (Block 20-A) has closed and the program is no longer accepting applications. Residents served by **Marblehead Municipal Light Department** can apply directly to this utility in a program that mirrors the state program. A corporation might wish to consider contacting this utility to inquire if it is still accepting applications.

Massachusetts also maintains a Solar Renewable Energy Certificates (SREC) program. The program is now in Phase II, which went into effect in April 2014. A "SREC II" is issued each time a solar energy system generates 1 MWh (or 1,000 kWh) of SREC II-qualified generation. When the SREC II is issued it is deposited directly into the account of the solar energy system owner. This account holder can then sell SREC IIs to buyers that need to acquire them to meet regulatory compliance requirements.

NEW JERSEY

Similar to Massachusetts, New Jersey's SRECs are issued to a solar system owner each time a solar installation generates 1,000 kWh of electricity. The SRECs can then be sold to electricity suppliers on the SREC Tracking System. System owners can assign their rights to SRECs to third parties, such as installers or financiers. This program has been in place since 2004. New Jersey SREC pricing has recently reached \$225 MWh after hitting a low of \$70 MWh in 2012.

NEW YORK

In New York, **PSEG Long Island**, a utility company, has provided an assignable rebate to encourage investment in solar energy systems, in relation to New York's Solar Pioneer program. The Solar Pioneer program is now being replaced with the Megawatt Block program. The details of the Magawatt Block program are still being finalized, with an incentive calculator expected to be released soon by the **New** PAGE 12 »



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