



State of Vermont
Department of Taxes
133 State Street
Montpelier, VT 05633-1401

Agency of Administration

MEMORANDUM

TO: Senate Committees on Finance and on Natural Resources and Energy
House Committees on Ways and Means and on Energy and Technology

FROM: The Vermont Department of Taxes

DATE: January 15, 2021

RE: Uniform Capacity Tax Report

The Department of Taxes provides this report as required by Act 127 of 2012, Section 4, as amended by Act 174 of 2013, Section 30, below.

Title 32 Chapter 215 imposes a tax on the generation of power by a renewable energy plant at the rate of \$4.00 per kilowatt plant capacity (the “Uniform Capacity Tax”). The tax was enacted in 2011 and generated an average of approximately \$600,000 per year for FY 2018, 2019, and 2020 deposited into the Education Fund. 32 V.S.A. § 8701(b). Both the amount of revenue and the number of filers is steadily growing. The number of filers were 121, 143, and 161 in FY 2018, 2019, and 2020, respectively.

There is an exemption to the tax for facilities that generate electricity from solar energy and have a plant capacity less than 50 kW. 32 V.S.A. § 8701(c). There is a corresponding exemption from property tax for these small solar plants. Real and personal property, except land, composing a renewable solar plant with a capacity less than 50kW and either operated on a net-metered system or off the grid is exempt from property tax. 32 V.S.A. § 3802(17).

By Act 174 of 2013, the Department of Taxes was directed to report to the Committees listed above with a recommendation on whether the exemption for the small solar plants and the exemption under 3802(17) should be retained or repealed; and whether the rate of tax of \$4 per kW should be altered.

The Department of Public Service (DPS) reports to the Department of Taxes that there are 371 megawatts of solar generation plants installed in the State. Approximately 96.8 megawatts are generated by facilities of less than 50kW. Therefore, the tax expenditure for the exemption for small plants is approximately \$387,200.





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DPS reports that small rooftop installations are typically 6-15 kW systems. Systems that are 50kW and under are usually installed on buildings or next to buildings, on the premises of an owner who uses the site for residential or commercial purposes. In other words, systems less than 50kW are typically not stand-alone solar generation facilities.

We presume that the legislative intention of the exemption for small systems was to encourage the installation and use of such systems for both environmental and economic reasons. Further, we note that for residential or commercial properties, while small systems are exempt from this tax and property tax, the installation of the systems on a residence or business may increase the value of the property because of the appeal or advantage of the solar generation. The increased value of the underlying residence or business is taxed by the property tax.

Recommendations

We recommend maintaining both the existing exemption and the existing rate of the tax. The intention of the legislature is being met – the DPS statistics show steady growth of small systems. Further, the absence of the exemption would mean that a homeowner or business owner considering solar would face both increased property tax and a new compliance obligation and liability with the Uniform Capacity Tax. This could discourage the continued installation of small systems.





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Act 127 of 2012, Section 4, as amended by Act 174 of 2013, Section 30,

Sec. 4. ~~PROSPECTIVE REPEAL;~~ REPORT

~~32 V.S.A. §§ 8701(c) and 3802(17) (exemptions for small renewable energy plants) shall be repealed on January 1, 2023.~~ By January 15, 2021, the ~~department of taxes~~ Department of Taxes shall report to the ~~senate committees on finance and on natural resources and energy and the house committees on ways and means and on natural resources and energy~~ Senate Committees on Finance and on Natural Resources and Energy and the House Committees on Ways and Means and on Natural Resources and Energy with a recommendation on whether the exemptions in 32 V.S.A. §§ 8701(c) and 3802(17) should be retained or allowed to be repealed and whether the rate of tax in 32 V.S.A. § 8701(b) should be altered.

