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**Solar Energy Facilities Tax**

**TO:** Assessors and Equalization Directors  
**FROM:** Michigan State Tax Commission  
**SUBJECT:** Solar Energy Facilities

### **Solar Energy Facilities Taxation Act (MCL 211.1151)**

Public Acts 108 and 109 were approved by the Governor on July 26, 2023. The Acts provide for the establishment of solar energy districts and exempt “qualified solar energy facilities” from ad valorem property taxes under the General Property Tax Act. Instead of ad valorem property tax payments, these facilities would be subject to the solar energy facilities specific tax.

More detailed information can be found in the *Solar Energy Facilities FAQ* available at [www.michigan.gov/statetaxcommission](http://www.michigan.gov/statetaxcommission).

### **Qualified Solar Energy Facility Definition**

MCL 211.1152(f) states:

"Qualified solar energy facility" or "qualified facility" means a facility, whether owned or leased, that when constructed and placed in service is located in a solar energy district and that uses or will use solar energy as the sole source for the generation of at least 2 megawatts of nameplate capacity, alternating current, including any solar modules, inverter, racks, tracking, on-site battery storage systems if identified in the application pursuant to section 4(1)(a), controls, electric interface, and all components that are positioned up to, and including, the inversion of the current delivered from the facility. Qualified solar energy facility or qualified facility also includes all land improvements, except buildings, exclusively used for the generation of solar energy at the facility, including access roads, security fences, and communication facilities. Qualified solar energy facility or qualified facility does not include any distribution or transmission lines.

### **Establishment of Solar Energy District**

A solar energy district may be established in one of the following ways under MCL 211.1153:

1. Under MCL 211.1153(2) – (4), by resolution of the legislative body of the qualified local governmental unit that has a zoning ordinance within its zoning jurisdiction.
2. By the existence or establishment of a zoning ordinance designating the area within the qualified local governmental unit where a qualified solar energy facility can be located as a permitted or special use.
3. All land within an unzoned qualified local governmental unit is considered a solar energy district for purposes of this act, unless the qualified local governmental unit, before receiving an application under MCL 211.1154, establishes a solar energy district by resolution of its governing body, which action is not subject to MCL 211.1153(2) and (3).

### **Solar Energy Facility Exemption Certificate Application**

Under MCL 211.1154, after a district is established, or simultaneously with a request for a district, the owner or lessee of a qualified solar energy facility not yet placed in service may file Form 6052, *Application for Solar Energy Facility Exemption Certificate*. The application must be filed with the clerk of the qualified local governmental unit. The application must contain or be accompanied by all the following:

- a) A general description of the qualified facility, including the proposed nameplate capacity and itemized list of facility components, including any on-site battery storage.
- b) A general description of the proposed use of the qualified facility.
- c) A description of the general nature and extent of the new construction.
- d) A time schedule for undertaking and completing the qualified facility.
- e) Information relating to the requirements in MCL 211.1154(4). All cost information regarding the claim for the exemption must be considered taxpayer confidential information whether in possession of the department or the local assessing unit and is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- f) The proposed location of the qualified facility.
- g) For a leased qualified facility, a copy of the lease agreement or other writing confirming that the lessee is liable for payment of the specific tax for the length of the certificate as defined in MCL 211.1157, and proof of that liability.
- h) For a qualified facility located on leased real property or an easement, a copy of the memorandum of lease or memorandum of easement, which must confirm that the duration of any lease of the real property where the qualified facility is located, including all options to extend the duration of the lease, is equal to or exceeds the duration of the certificate as described in MCL 211.1157.

The qualified local governmental unit may charge a fee to process an application. Except as provided in MCL 211.1164, the application fee must not exceed the actual cost incurred by the qualified local governmental unit in processing the application or \$30,000.00, whichever is less.

Once Form 6052, *Application for Solar Energy Facility Exemption Certificate* is received, the clerk must provide written notice of the application, in a form and manner as prescribed by the Commission. The Commission has determined that the notice from the clerk must have the following:

- Date received by the clerk
- Name of the applicant
- Location of the qualified solar energy facility
- A general description of the qualified facility, including the proposed nameplate capacity
- A proposed schedule and process for review and approval by the governing body of the qualified local governmental unit

MCL 211.1154 requires that this notice be sent to the assessor of the local tax collecting unit in which the qualified facility is located and the legislative body of each taxing unit that levies ad valorem property taxes in the qualified local governmental unit in which the qualified facility is located.

### **Incomplete Applications**

If Form 6052, *Application for Solar Energy Facility Exemption Certificate* is determined to be incomplete, the clerk shall notify the applicant in writing within 60 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 120-day period to approve or disapprove the application is reset and tolled upon notification by the clerk of a deficiency until all the information requested by the clerk is received. The applicant has 60 days to correct the deficiency, or the application is void unless the applicant and the qualified local governmental unit agree in writing to an extension of this period not to exceed an additional 30 days. The extension agreement must be completed in a form and manner prescribed by the Commission. Any extension signed by the parties must be completed prior to expiration of the 60 days to correct the deficiency.

The Commission has determined that this up to 30 day extension must be in writing, be dated, include the final date for submission by the applicant of a completed application, and be signed by the applicant and local governmental unit clerk or chief administrative officer.

The determination of the completeness of an application is not an approval of the application.

### **Local Governmental Unit Resolution**

Before acting on the application, unless a public hearing has been held under MCL 211.1153, the legislative body of the qualified local governmental unit shall hold a public hearing on the application and give public notice to the applicant, the assessor, a representative of each affected taxing unit, and the general public. Public notice must be provided by online posting on the qualified local governmental unit's website if online

posting is available and by physical posting in a location open to the public in the office of the qualified local governmental unit.

Under MCL 211.1155, within 120 days after receipt of the application by the clerk, the legislative body of the qualified local governmental unit shall either approve or disapprove the application for a certificate by resolution.

### **Resolution Approving the Certificate**

If the certificate is approved, the clerk shall forward a copy of the application, the resolution, and the assessed and taxable value estimate from the assessor under MCL 211.1154(4) to the State Tax Commission within 60 days after approval, or before September 30 of the year, whichever is first, for the applicant to be able to receive the certificate for the following year. A resolution approving the application is not effective unless approved by the State Tax Commission.

### **Resolution Disapproving the Certificate**

If the certificate is not approved, the reasons must be set forth in writing in the resolution, and the clerk shall send, by certified mail, a copy of the resolution to the applicant, the assessor, and the State Tax Commission. Within 14 days after the adoption of a resolution disapproving the application, the owner or lessee may request the legislative body of the qualified local governmental unit to reconsider the application by submitting information not previously included in the application submitted. Within 60 days after receipt of the request for reconsideration, the legislative body of the qualified local governmental unit shall review the new information and by resolution either approve or disapprove the request for reconsideration.

### **State Tax Commission Issuance of a Certificate**

Within 90 days after receipt of a copy of a complete Form 6052, *Application for Solar Energy Facility Exemption Certificate* and resolution approving the application, the State Tax Commission shall approve the application if it determines that the qualified facility complies with all provisions of the Act. Placement of a qualified facility in service after the date of application under MCL 211.1154 does not disqualify the facility from receiving approval by a qualified local governmental unit or the State Tax Commission.

If the application is approved by the State Tax Commission, a certificate will be filed with the clerk of the local governmental unit and be sent by certified mail to the assessor and the applicant. The certificate will contain the following:

- a) The address of the real property on which the qualified facility is located.
- b) The time schedule for undertaking and completing the qualified facility.
- c) A statement that unless revoked as provided in this act, the certificate will remain in force for the period stated in the certificate.
- d) A statement of the estimated taxable value of the qualified facility for the tax year immediately preceding the effective date of the certificate after deducting the taxable value of the land as determined under MCL 211.1154(4).

The effective date of the certificate is the December 31 immediately following the date of issuance of the certificate.

A qualified facility for which a certificate is in effect, but not the land on which the qualified facility is located, for the period on and after the effective date of the certificate and continuing for 20 years is exempt from ad valorem property taxes collected under the General Property Tax Act.

### **Revocation of a Certificate**

Under MCL 211.1160, the holder of a certificate or the legislative body of the qualified local governmental unit may request the State Tax Commission to revoke a certificate.

The order of the State Tax Commission revoking a certificate is effective on the December 31 next following the date of the order. The State Tax Commission will send by certified mail copies of the order of revocation to the holder of the certificate, the local legislative body, the assessor, and the legislative body of each taxing unit that levies taxes on property in the qualified local governmental unit in which the qualified facility is located.

If the State Tax Commission revokes a certificate for nonpayment of the specific tax under MCL 211.1160(2)(b), the holder of the certificate shall within 90 days of the revocation repay all of the prior years' net tax savings under the certificate, calculated by the State Tax Commission by subtracting the specific tax paid from the amount of property tax that would have been levied on the qualified facility if the certificate had not been in effect based on the value determined under MCL 211.1158(2). If not repaid, the prior years' net tax savings must be added to the next property tax bill for the qualified facility.

### **Reinstatement of a Certificate**

The State Tax Commission shall reinstate a revoked certificate if all the following conditions are met during the 20-year period described in MCL 211.1157:

- a) A written request for reinstatement is submitted to the legislative body of the qualified local governmental unit in which the qualified facility is located and the State Tax Commission by either the holder of the revoked certificate or a subsequent owner of the qualified facility seeking transfer of the revoked certificate.
- b) The legislative body of the qualified local governmental unit submits to the State Tax Commission a resolution of concurrence in the requested reinstatement.
- c) The qualified facility continues to qualify under this Act.

### **Annual Reporting Requirement**

Under MCL 211.1158, an owner or lessee shall provide to the qualified local governmental unit an annual form as of December 31 of each year indicating the nameplate capacity in alternating current of the qualified facility.

The annual form must be filed in the manner and form prescribed by the Commission and must include, but not be limited to, the addition to the facility or retirement from the facility

of any equipment during that year. The Commission will be issuing this required annual form and additional guidance at a later date.

### **Assessor Responsibilities**

Upon receipt of notice of the filing of an application by the clerk as provided in MCL 211.1154(2), the assessor shall furnish to the local legislative body of the qualified local governmental unit an estimate of the assessed value and the taxable value of the qualified facility stated in the application not yet placed in service.

For facilities with an exemption certificate approved by the State Tax Commission, the assessor shall determine annually as of December 31 the assessed value, taxable value, and nameplate capacity of each qualified facility separately.

### **Denials and Appeals**

A party aggrieved by the issuance, refusal to issue, revocation, transfer, or modification of a certificate may appeal a final decision of the State Tax Commission by filing a petition with the Michigan Tax Tribunal, [www.michigan.gov/taxtrib](http://www.michigan.gov/taxtrib), within 35 days. MCL 205.735a(6).

### **Solar Energy Facilities Specific Tax**

Once qualified for the Solar Energy Facilities Exemption, a qualified solar energy facility will be exempt from ad valorem taxes and instead pay the specific tax as provided by MCL 211.1159. The specific tax is an annual tax, payable at the same time as taxes imposed under the General Property Tax Act.

Please refer to the *Solar Energy Facilities FAQ* for more information and calculation of the specific tax amount.