

UNDERSTANDING NEW YORK STATE'S REAL PROPERTY TAX LAW § 487



This fact sheet outlines important points for local governments that are considering opting out of RPTL § 487.

What is the Real Property Tax Law § 487?

This law provides a 15-year real property tax exemption for properties located in New York State with renewable energy systems, including solar electric systems. This law only applies to the value that a solar electric system adds to the overall value of the property; it does not mean that landowners with an installed renewable energy system are exempt from all property tax. A local government that does not opt out can still benefit financially through payment-in-lieu-of-taxes (PILOT) agreements.

In local governments that have taken no action one way or the other, the exemption is in effect. If a local law, ordinance, or resolution opting out of the exemption is adopted, a copy must be filed with the New York State Department of Taxation and Finance, and the New York State Energy Research and Development Authority (NYSERDA).

What is the local economic impact of solar?

New York State's solar market is one of the fastest growing solar markets in the country. Installations grew by 575 percent from 2012 to 2015. During the same time period, the U.S. as a whole saw a 146 percent increase. New York State ranked seventh nationwide for cumulative solar installed capacity in 2015.¹

The solar industry is creating jobs across the State with more than 600 solar companies employing more than 8,250 people. In 2015, the solar industry added approximately 1,000 new jobs throughout the State, a 13.3 percent increase over 2014 job growth. The solar job market in the State is projected to grow another 11.6 percent in 2016, which means adding nearly 1,000 more jobs.

With an average wage of \$22.02 per hour, the solar industry is responsible for creating thousands of living-wage jobs that allow workers to contribute to their local economies. Most jobs are local or regional and cannot be outsourced.²

Why would jurisdictions opt out of the RPTL § 487?

All local governments must offer the RPTL § 487 exemption unless they have opted out not to. Local governments can decide to opt out. As the solar market in New York continues to grow, many large-scale solar projects are being proposed throughout New York. Some local governments are opting out of RPTL § 487 so they can tax these multimillion-dollar projects and generate additional property tax revenue. However, these jurisdictions may find that they will not actually collect substantially more tax revenue from solar or other renewable energy systems because the systems may not be built if they are fully taxable. Property taxes can have a significant impact on the financial viability of solar electric projects, sometimes impacting project economics in a way that unintentionally prohibits solar electric development. Jurisdictions that opt out of RPTL § 487 may unintentionally prevent solar electric development at the local level. Activity in other states suggest there is less solar development in jurisdictions that opt out of the property tax exemption, with little to no additional tax revenue collected.³

Can jurisdictions opt out of RPTL § 487 for large-scale solar only?

No. Under RPTL § 487, jurisdictions are not permitted to conditionally opt out of the property tax exemption. In other words, jurisdictions cannot choose to tax large systems but not small ones. A jurisdiction that opts out of RPTL § 487 to generate tax revenue from larger projects makes solar installations more expensive for homeowners and local businesses.

Can jurisdictions capture revenue from installations without opting out of RPTL § 487?

Yes. The law allows jurisdictions that offer the RPTL § 487 exemption to negotiate payments in lieu of taxes (PILOTs). The purpose of a PILOT is to reduce the tax burden and tax rate uncertainty on the property and/or system owner, while preserving some of the forgone revenue that would have been paid in property taxes. PILOTs are often used for large-scale⁴ renewable energy projects, including solar electric systems. They are annual payments commonly related to the system's size (often in dollars per megawatt [MW]) and cannot exceed the amount of taxes that would be owed without the exemption.

¹ NY-Sun, nyserda.ny.gov/All-Programs/Programs/NY-Sun Solar Energy Industry Association (SEIA). "Top 10 Solar States 2015." www.seia.org/research-resources/top-10-solar-states

² The Solar Foundation. "New York Solar Jobs Census 2015." www.TSFCensus.org and SolarStates.org

³ Barnes et al. 2013. "Property Taxes and Solar PV Systems: Policies, Practices, and Issues." <https://ncleantech.ncsu.edu/wp-content/uploads/Property-Taxes-and-Solar-PV-Systems-2013.pdf>

⁴ In this fact sheet, large scale is considered solar electric projects that are in the megawatt range.

Each taxing jurisdiction (except the school districts of New York, Buffalo, Rochester, Syracuse, and Yonkers) that has not opted out of RPTL § 487 may require the owner of a solar installation to enter a PILOT. The PILOT may not exceed a 15-year term, but it cannot require payments that exceed the value of taxes that would be paid without the exemption provided by RPTL § 487.⁵

PILOT agreements can be an effective tool for jurisdictions to generate comparable revenue without making solar costs prohibitive for most homeowners and businesses.

Can a municipality that has opted out of RPTL § 487 opt back in?

Yes. The New York State Department of Taxation and Finance has stated that local governments can reinstate the RPTL § 487 exemption simply by repealing the local law, ordinance, or resolution that implemented the opt out. The final step to reinstate the exemption is to provide a copy of the new law, ordinance, or resolution to the New York State Department of Taxation and Finance and NYSERDA.⁶

Do other states have property tax exemptions for solar electric systems?

Yes. Thirty-three states offer some form of tax exemptions for renewable energy. Twenty-two of those states mandate property tax exemptions for 100 percent of the value of solar energy installations over 10 or more years.⁷ These states include ones with significant solar development such as California, Massachusetts, and New Jersey, as well as states with minimal solar capacity such as South Dakota, Kansas, and Montana. The majority of states recognize the positive financial impact property tax exemptions can have on solar electric development and the local economic benefits of a robust solar industry.

Email info@training.ny-sun.ny.gov for more information about your municipality's individual situation.

More information about RPTL § 487

NYS Department of Taxation and Finance. "Recent Questions on the Real Property Tax Law and Solar Energy Systems."

www.tax.ny.gov/pdf/publications/orpts/legal/raq2.pdf?_ga=1.225179802.1031257166.1423842465

New York Solar Energy Industry Association (NYSEIA). "Webinar: Understanding the Property Tax Exemption for Solar in New York,"

www.youtube.com/watch?v=A3Url11-T0k

Barnes et al. "Property Taxes and Solar PV Systems: Policies, Practices, and Issues."

nccleantech.ncsu.edu/wp-content/uploads/Property-Taxes-and-Solar-PV-Systems-2013.pdf

NYSERDA Wind Energy Toolkit: "Section 7.2, page 30. Property Tax: Exemptions and PILOTS"

nysesda.ny.gov/-/media/Files/EERP/Renewables/wind-energy-toolkit.pdf

NY-Sun, a dynamic public-private partnership, will drive growth in the solar industry and make solar technology more affordable for all New Yorkers. NY-Sun brings together and expands existing programs administered by the New York State Energy Research and Development Authority (NYSERDA), Long Island Power Authority (LIPA), PSEG Long Island, and the New York Power Authority (NYPA), to ensure a coordinated, well-supported solar energy expansion plan and a transition to a sustainable, self-sufficient solar industry.

⁵ New York State Department of Taxation and Finance. January 2016. "Recently Asked Questions About the Real Property Tax Law on the Topic of Solar Energy." Available at: https://www.tax.ny.gov/pdf/publications/orpts/legal/raq2.pdf?_ga=1.225179802.1031257166.1423842465

⁶ New York State Department of Taxation and Finance, *supra* note 13.

⁷ Solar Power Rocks. <https://solarpowerrocks.com/new-york/>