

NOTICE OF INTENT

Department of Revenue Policy Services Division

Income Tax Credits for Wind or Solar Energy Systems

(LAC: 61:I.1907)

Under the authority of R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6030, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1907 relative to income tax credits for wind or solar energy systems.

This amendment to the Rule clarifies the application of the credits for those taxpayers who purchase and install wind or solar energy systems.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered By the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions

§1907. Income Tax Credits for Wind or Solar Energy Systems

A. Revised Statute 47:6030 provides an income tax credit for the purchase and installation of a wind or solar energy system by a Louisiana taxpayer, the owner of a residential rental apartment project, or by a taxpayer who purchases and installs such a system in a residence or a residential rental apartment project which is located in the state. In order for costs associated with the purchase and installation of a wind or solar energy system to qualify for this credit, the expenditure must be made on or after January 1, 2008. The amount of the credit is equal to 50 percent of the first \$25,000 of the cost of a wind or solar energy system.

B. Definitions

Charge Controller—an apparatus designed to control the state of charge of a bank of batteries.

Grid-Connected, Net Metering System—a wind or solar electric system interconnected with the utility grid in which the customer only pays the utility for the net energy used from the utility minus the energy fed into the grid by the customer. All interconnections must be in accordance with the capacity, safety and performance interconnection standards adopted as part of the Louisiana Public Service Commission's, the New Orleans City Council's, or other Louisiana utility regulatory entities, as appropriate, established Net Metering rules and procedures.

Inverter—an apparatus designed to convert direct current (DC) electrical current to alternating current (AC) electrical energy. Modern inverters also perform a variety of safety and power conditioning functions that allow them to safely interconnect with the electrical grid.

Photovoltaic Panel—a panel consisting of a collection of solar cells capable of producing direct current (DC) electrical energy when exposed to sunlight.

Residence—a single family dwelling, one dwelling unit of a multi-family, owner occupied complex, or one residential dwelling unit of a rental apartment complex. To be considered a residence, the physical properties of the space must provide the basic elements of a home, including appropriate and customary appliances and facilities and the occupant must use the facilities as a home with the intent to remain for a period exceeding thirty days. All eligible residences must be located in Louisiana.

Residential Rental Apartment Complex—a multi-family dwelling composed of multiple units in which the physical properties of each separate unit provides the basic elements of a home, including appropriate and customary appliances and facilities. To be considered a residential rental apartment complex, the taxpayer occupant or occupant(s) of the unit(s) must use the facilities as a home with the intent to remain for a period exceeding thirty days. All eligible residential rental apartment complexes must be located in Louisiana.

Solar Electric System—a system consisting of photovoltaic panels with the primary purpose of converting sunlight to electrical energy and all equipment and apparatus necessary to connect, store and process the electrical energy for connection to and use by an electrical load. Multiple system components working in tandem to connect, store and process the electrical energy needs for each residence or dwelling unit in a residential rental apartment complex shall constitute a single system for purposes of the tax credit.

Solar Thermal System—a system consisting of a solar energy collector with the primary purpose of converting sunlight to thermal energy and all devices and apparatus necessary to transfer and store the collected thermal energy for the purposes of heating water, space heating, or space cooling. Multiple system components working in tandem to connect, store and process

the electrical energy needs for each residence or dwelling unit in a residential rental apartment complex shall constitute a single system for purposes of the tax credit.

Supplemental Heating Equipment—a device or apparatus installed in a solar thermal system that utilizes energy sources other than wind or sunlight to add heat to the system, with the exception of factory installed auxiliary heat strips that are an integral component of a specifically engineered solar hot water storage tank.

Wind Energy System—a system of apparatus and equipment with the primary purpose of intercepting and converting wind energy into mechanical or electrical energy and transferring this form of energy by a separate apparatus to the point of use or storage. Multiple system components working in tandem to connect, store and process the electrical energy needs for each residence or dwelling unit in a residential rental apartment complex shall constitute a single system for purposes of the tax credit.

C. Eligibility for Wind and/or Solar Energy Systems Tax Credits

1. Regardless of the number of system components installed on each qualifying residence or residential apartment complex, such components shall constitute a single system for each residence or dwelling unit in a residential rental apartment complex for purposes of the tax credit.

2. All wind or solar energy systems must be installed in the immediate vicinity of the residence or apartment project claiming the credit such that the electrical, mechanical or thermal energy is delivered directly to the residence or apartment project.

3. In order to claim a tax credit(s) for a wind energy system, solar electric energy system, or solar thermal energy system, the components for each system must be purchased and installed at the same time as a system.

4. For a taxpayer other than the owner of the residence or residential rental apartment project to claim a tax credit for a wind energy system, solar electric energy system, or solar thermal energy system, the taxpayer must provide the department with a copy of the contract in which the owner of the residence has clearly and unambiguously stated that he is not entitled to and will not claim the tax credit. Absent such a contract, the owner of the residence or residential rental apartment project is the only taxpayer eligible to claim the credit and the installer or developer shall have no right to the credit.

D. Claiming the Wind and Solar Energy Systems Tax Credit

1. The credit for the purchase and installation of a wind energy system or solar energy system by a taxpayer at his residence shall be claimed by the taxpayer on his Louisiana individual income tax return.

2. The credit for the purchase and installation of a wind energy system or solar energy system by the owner of a residential rental apartment project shall be claimed by the owner on his Louisiana individual, corporate or fiduciary income tax return.

3. The credit for the purchase and installation of a wind energy system or solar energy system by a taxpayer who purchases and installs such a system in a residence or a residential rental apartment project of which he is not the owner shall be claimed by the taxpayer on his Louisiana individual, corporate or fiduciary income tax return.

E. Wind and Solar Energy Systems Eligible for the Tax Credit

1. The credit provided by R.S. 47:6030 is only allowed for complete and functioning wind energy systems or solar energy systems. Local and state sales and use taxes are an eligible system cost. Any equipment added at a later date cannot use existing system components and has to have every element of a complete system in order to qualify for the credit.

a. Exceptions to General Rule Allowing Credit Only for Complete Systems

i. Exception in the Case of a Multi-Family Residence

(a). In order to be eligible to receive the credit, the owner of a single unit in a multi-family residence project must have an undivided interest in the wind or solar energy system that is being installed.

(b). If a component of a wind or solar energy system is shared, documentation must be supplied dividing up the costs of the component between all those eligible for the credit.

(c). Subsequent purchasers of units in the multi-family residence not in possession of an undivided interest at the time of installation, will not be eligible for the credit.

2. Wind Energy Systems. Eligible wind energy systems under the tax credit include systems designed to produce electrical energy and systems designed to produce mechanical energy through blades, sails, or turbines and may include the following.

System Type	Eligible System Components
DC Wind Electric Generation Systems	DC output wind turbine, controllers, towers & supports, charge controllers, inverters, batteries, battery boxes, DC & AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load

AC Wind Electric Generation Systems	AC output wind turbine, controllers, towers & supports, charge controllers, power conditioners/grid interconnection devices, batteries, battery boxes, AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
Mechanical Wind Systems	mechanical output wind turbine, towers & supports, mechanical interconnection between turbine and mechanical load

3. Solar Electric Systems

Eligible solar electric systems under the tax credit include grid-connected net metering systems, grid-connected net metering systems with battery backup, stand alone alternating current (AC) systems and stand alone direct current (DC) systems, designed to produce electrical energy and may include the following.

System Type	Eligible System Components
Grid-Connected, Net Metering Solar Electric Systems	photovoltaic panels, mounting systems, inverters, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Grid-Connected, Net Metering Solar Electric Systems with Battery Backup	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric AC Systems	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric DC Systems	photovoltaic panels, mounting systems, charge controllers, batteries, battery cases, DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load

4. Solar Thermal Systems

Solar thermal systems eligible under the tax credit include systems designed to produce domestic hot water, systems designed to produce thermal energy for use in heating and cooling systems and may include the following.

System Type	Eligible System Components
Domestic Solar Hot Water Systems	solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Heating and Cooling Thermal Energy Systems	solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks

5. Solar energy systems not installed on the rooftop of the residence or multifamily apartment project but installed on the qualifying property shall constitute a free standing ground mounted system. Ground mounted solar energy systems include but are not limited to single pole mounted structures, multiple pole mounted structures utilizing a foundation if necessary. Additional walls, interior finishes, foundations, roofing structures not directly related to the solar energy system, or any other addition not directly related to the solar energy structure are not eligible system costs. Ground mounted systems must be more than 8' feet in height at its lowest point if titled unless specific building codes and/or flood plain restrictions apply. Each qualifying free standing ground mounted system must be separately itemized from any and all other energy systems included in a taxpayer's submitted Form R-1086.

6. All wind and solar energy systems for which a tax credit is claimed shall include an operations and maintenance manual containing a working diagram of the system, explanations of the operations and functions of the component parts of the system and general maintenance procedures.

7. All photovoltaic panels, wind turbines, inverters and other electrical apparatus claiming the tax credit must be UL listed and installed in compliance with manufacturer specifications and all applicable building and electrical codes.

8. All photovoltaic systems installed at a tilt angle greater than 5 degrees shall have an azimuth greater than 80 degrees E and no more than 280 degrees W. North facing solar panels generally do not conform to industry best practices unless criteria above is satisfied.

9. All solar thermal apparatus claiming the tax credit must be certified by the Solar Rating and Certification Corporation (SRCC) and installed in compliance with manufacturer specifications and all applicable building and plumbing codes.

10. Applicants applying for the tax credit on any system(s) must provide proof of purchase to the Louisiana Department of Revenue detailing the following as applicable to your particular solar or wind energy system installation:

- a. type of system applying for the tax credit;
- b. output capacity of the system:
 - i. Solar Electric Systems—total nameplate listed kW of all installed panels;
 - ii. Solar Thermal Systems—listed SRCC annual BTU or equivalent kWh output;
 - iii. Wind Electric Systems—total rated kW of all alternators and generators;
 - iv. Wind Mechanical Systems—shaft horsepower as rated by manufacturer, licensed contractor or licensed professional engineer;
- c. physical address where the system is installed in the state;
- d. total cost of the system as applied towards the tax credit separated in an itemized list by:
 - i. equipment costs;
 - ii. installation costs;
 - iii. taxes;
- e. make, model, and serial number of generators, alternators, turbines, photovoltaic panels, inverters, and solar thermal collectors applied for in the tax credit;
- f. name and Louisiana contractor's license number of installer;
- g. if applicable, copy of the modeled array output report using the PV Watts Solar System Performance Calculator developed by the National Renewable Energy Laboratory and available at the website www.nrel.gov/rredc/pvwatts. The analysis must be performed using the default PV Watts de-rate factor;
- h. copy of a solar site shading analysis conducted on the installation site using a recognized industry site assessment tool such as a Solar Pathfinder or Solmetric demonstrating the suitability of the site for installation of a solar energy system.
- i. conveyance certificate, deed or other legal document which evidences the owner of the residence or residential rental apartment complex.
- j. when a system is installed by a third party owner, a complete and signed fourth page of Form R-1086.

F. Eligible Costs

1. Eligible Costs. Eligible costs that can be included under the tax credit are reasonable and prudent costs for equipment and installation of the wind and solar energy systems defined in Subsection B and described in Subsection E above.

a. All installations must be performed by a contractor duly licensed by and in good standing with the Louisiana Contractors Licensing Board with a classification of Solar Energy Equipment and a certificate of training in the design and installation of solar energy systems from an industry recognized training entity, or a Louisiana technical college, or the owner of the residence.

2. Ineligible Costs. Labor costs for individuals performing their own installations are not eligible for inclusion under the tax credit. For purposes of this Paragraph, "individuals" shall mean natural persons as defined in Civil Code Article 24. For all other taxpayers, labor costs, including, but not limited to tree trimming and tree removal are not eligible under the tax credit.

Supplemental heating and cooling (HVAC) equipment costs used with solar collectors are not eligible for inclusion under the tax credit. Other items ineligible for wind and/or solar energy systems tax credits include, but are not limited to the following: stand alone solar powered attic fans or ventilation systems, solar powered lights, solar powered air conditioning or heating units, solar day lighting apparatuses, solar powered pool pumps, solar pool heating systems, and all other stand-alone wind or solar device(s).

3. Whenever, in return for the purchase price or as an inducement to make a purchase, marketing rebates or incentives are offered, the eligible cost shall be reduced by the fair market value of the marketing rebate or incentive received. Such marketing rebates or incentives include, but are not limited to, cash rebates, prizes, gift certificates, trips, energy efficiency improvements not directed related to wind or solar energy installation, including, but not limited to spray foam insulation, radiant barrier, window sealing and/or caulking, heating and air conditioning improvements, blower door testing, thermostat upgrades which are not an integral part of the solar energy monitoring system, domestic hot system upgrades not related to solar hot water system insulation, or any other thing of value given by the installer or manufacturer to the customer as an inducement to purchase an eligible wind or solar energy system.

4. Only one wind or solar energy systems tax credit is available for each eligible system. Once a wind or solar energy systems tax credit is claimed by a taxpayer for a particular system, that same system is not eligible for any other tax credit pursuant to this Section. If the residential property or system is sold, the taxpayer who claimed the tax credit must disclose his use of the tax credit to the purchaser.

G. Other Tax Benefits Disallowed

1. A taxpayer shall not receive any other state tax credit, exemption, exclusion, deduction, or any other tax benefit for wind and solar property for which the taxpayer has received a wind energy system, solar electric energy system, or solar thermal energy system credit under R.S. 47:6030.

2. Exception. The credit may be used in addition to any federal tax credits earned for the same system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6030 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 34:2206 (October 2008), amended LR 36:0000 (September 2010), amended LR 38:0000 (November 2012).

Family Impact Statement For Administrative Rules

Rule Title: LAC 61:I.1907 Income Tax Credits for Wind or Solar Energy Systems

The proposed amendment of LAC 61:I.1907, regarding income tax credits for wind or solar energy systems, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule will have no known or foreseeable effect on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to Brad Blanchard, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4:00 p.m., Wednesday, September 26, 2012. A public hearing will be held on Thursday, September 27, 2012, at 10:30 a.m. in the Calcasieu Room, on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

Jane Smith
Acting Secretary, Department of Revenue