



Revenue Information Bulletin No. 13-013
July 1, 2013

Solar Energy Systems Tax Credit and Component Compliance with the American Recovery and Reinvestment Act of 2009

Act 428 of the 2013 Louisiana Legislative Regular Session both amended and repealed portions of the former wind or solar energy systems tax credit contained in La. R.S. 47:6030. Pursuant to La. R.S. 47:6030(A)(1), system components purchased on or after July 1, 2013 must be compliant with the requirements of the federal American Recovery and Reinvestment Act of 2009 (ARRA). This requirement applies to all credit-eligible components, which are contained in La. R.S. 47:6030(C)(3)-(4). Pursuant to La. R.S. 47:6030(A)(2), non-ARRA compliant components purchased prior to July 1, 2013 may qualify for credit provided that: (1) such system components are incorporated into a system that is placed in service prior to January 1, 2014; and (2) the purchaser provides written documentation of the pre-July 1, 2013 date of purchase of the eligible components.

Section 1605 of the ARRA contains a “Buy American” requirement which prohibits *the use of ARRA funds* for a project for the construction, alteration, maintenance, or repair of a *public building or public work* unless: (1) the *public building or public work* is located in the United States; and (2) all of the iron, steel, and manufactured goods used as a construction material in the project are produced or manufactured in the United States. Section 1605 further provides that the “Buy American” requirement is not applicable where the iron, steel or manufactured goods are from countries with which the United States has an international agreement mandating the iron, steel or manufactured goods be treated the same as domestic goods. Effectively, such international agreements consist of signatories to the World Trade Organization Government Procurement Agreement and other countries with which the United States has Free Trade Agreements meeting certain criteria. In addition, under ARRA, such obligations only apply to projects which have an estimated value of \$7,804,000 or more and projects that are not specifically excluded from the application of those agreements.

La. R.S. 47:6030(A)(1) requires that “...with respect to any system components purchased on or after July 1, 2013, the system shall be compliant with the requirements of the federal American Recovery and Reinvestment Act (ARRA)...” Because the solar energy systems tax credit was created and is available only for “a single-family residence located in Louisiana,” enforcing all of the requirements of ARRA likely would have the practical consequence of rendering it meaningless as the entire body of “Buy American” provisions provided in ARRA is only applicable to, among other things, projects using ARRA funds and involving a public building or public work. Further, the obligation regarding international agreements is only applicable to parties who are bound by such agreements and only when the project has an estimated value of \$7,804,000 or more.

La. C.C. art. 9 provides “When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature.” La. C.C. art. 10 provides, “When the language of the law is susceptible of different meanings, it must be interpreted as having the meaning that best conforms to the purpose of the law.” In addition, the Louisiana Supreme Court has long

recognized that “it will not be presumed that the Legislature inserted idle, meaningless, or superfluous language in the statute or that it intended for any part or provision of the statute to be meaningless, redundant, or useless.” *McLane Southern, Inc. v. Cynthia Bridges, Secretary of the Department of Revenue of the State of Louisiana*, 11-1141 (La. 1/24/12), 84 So.3d 484, citing *ABL Management, Inc. v. Board of Sup’rs of Southern University*, 00-798 (La. 11/28/00), 773 So.2d 131, 135.

While this Revenue Information Bulletin does not address all issues relating to the scope of ARRA requirements mandated by La. R.S. 47:6030(A)(1), the Department desires to provide information to industry participants and taxpayers as to how it will apply any country of origin requirement of ARRA to any claim for a Solar Energy Systems Tax Credit. Accordingly, any system components purchased on or after July 1, 2013 will comply with the country of origin requirements of ARRA if such components are manufactured or produced in the United States or in a country with which the United States is a party to an international agreement meeting the criteria of ARRA. Such countries include parties to the World Trade Organization Government Procurement Agreement and countries with which the United States has a Free Trade Agreement meeting such criteria. A link to a comprehensive list of qualifying countries may be found at <http://www.law.cornell.edu/cfr/text/2/176.90>. As additional countries become parties to the previously referenced agreements, they shall be incorporated by referenced.

The effective date of the Act is July 1, 2013.

Interested parties should contact the Policy Services Division at (225) 219-2780.

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Secretary

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