

Energy Update

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Renewable Energy Update:

Certain Renewable Energy Project Costs Excluded from Pennsylvania Sales and Use Tax

As Pennsylvania's renewable energy market matures, there are recent sales and use tax developments that could lead to significant project cost savings for developers of renewable energy in Pennsylvania.

Pennsylvania's sales and use tax law provides a narrow exclusion from the tax for property purchased and used directly in a manufacturing operation. Pennsylvania considers the generation of electricity for nonresidential use (e.g., sold to a public utility) to be "manufacturing." As a result, sales tax will not be due on the purchase of machinery, equipment, parts and supplies that are used and consumed by the purchaser (or a construction contractor operating on its behalf) directly in generating electricity for nonresidential use.

Pennsylvania has long recognized the applicability of this exclusion to traditional methods of generating electricity. In 2008, the Pennsylvania Department of Revenue issued a private letter ruling applying the exclusion to materials purchased to construct and operate a wind turbine facility, and now, in a private letter ruling issued to one of our clients, has applied this exclusion to materials purchased to construct and operate a solar energy facility. The ruling will result in saving Pennsylvania's 6% sales tax on the multi-

million dollar purchase price for the photovoltaic solar panels, trackers, motors, underground transmission system and other items that are directly used in converting the sun's rays into electricity.

A private letter ruling can be relied upon only by the person to whom it is addressed. Therefore, due to the significant cost of materials, anyone considering a renewable energy project in Pennsylvania should consider obtaining a ruling that is directed to the particular project being considered. ■



For more information on this Renewable Energy Update, please contact:

Nicholas A. Giannasca
212.885.5018 • NGiannasca@BlankRome.com

David M. Kuchinos
215.569.5729 • Kuchinos@BlankRome.com

Thomas P. Dwyer
215.569.5672 • Dwyer@BlankRome.com