

# PUBLICATION

## Spotlight on Louisiana: Louisiana Legislature Reduces its Tax Credit for Wind and Solar Energy Systems

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With the passage of Act No. 428 in the 2013 Regular Session (Act 428), the Louisiana Legislature made significant changes to the wind and solar energy systems income tax credits allowed by Louisiana Revised Statutes 47:6030 (RS 47:6030). Effective July 1, 2013, Act 428 repealed the credit for wind energy systems and, with respect to solar energy systems, added component and installation requirements; narrowed the category of eligible properties on which they can be installed; reduced the credit amount for leased systems; and added a credit sunset date. This Alert explains the amendments in further detail. See also our March 8, 2012 Alert for a description of the benefits, requirements, special rules and limitations applicable to the Louisiana wind and solar energy systems income tax credits in effect prior to amendment by Act 428.

### Benefit of the Credit under Act 428

Act 428 removed from RS 47:6030 the income tax credit for the purchase and installation of wind energy systems. Except for solar energy systems that property owners lease from a third party, Act 428 left the credit amount for solar energy systems purchased and installed on or after January 1, 2008 unchanged at 50 percent of the first \$25,000 of the system's cost. The following chart summarizes how Act 428 now limits the credit amount when a third party installs a solar energy system for a property owner and then leases the system to the property owner:

Installation Date	Credit Allowed as a Percent of Cost	Maximum Cost Included	Maximum Credit Allowed
7/1/13 - 12/31/13	50 percent	lesser of \$25,000 or \$4.50 x system output in watts	\$12,500
1/1/14 - 6/30/14	38 percent	lesser of \$25,000 or \$4.50 x system output in watts	\$9,500
7/1/14 - 6/30/15	38 percent	lesser of \$21,000 or \$3.50 x system output in watts	\$7,980
7/1/15 - 12/31/17	38 percent	lesser of \$12,000 or \$2.00 x system output in watts	\$4,560

A form of the above chart appears in Revenue Information Bulletin No. 13-026 (September 24, 2013) which explains that Act 428 imposes not only an overall cap but also a per-watt limitation on the system cost that can be included in the credit calculation. The bulletin provides as an example of this two-pronged limitation a 5,000-watt system that became eligible for the credit on August 1, 2013 that cost \$25,000 to purchase and install. The bulletin states that this system would only be eligible for a maximum credit of \$11,250 even though 50 percent of the system's cost would yield a credit of \$12,500.

In addition to limiting the credit amount, Act 428 also clarifies that only one tax credit (up to the applicable maximum credit amount listed in the chart above) can be claimed per property for the purchase and installation of a solar energy system, whether a credit was claimed before or after the effective date of the Act 428 amendments. Prior to amendment by Act 428, RS 47:6030's language and the then-applicable regulation (LA. ADMIN. CODE tit. 61, Part I, § 1907 (2012) (Reg. 1907)) could be read to allow a taxpayer to claim an income tax credit of up to \$12,500 for each system installed on a given property until 100 percent of the property's energy was generated from solar energy. This is clearly not the case under the Act 428 amendments.

Finally, Act 428 provides that there shall be no tax credits authorized, issued or granted for systems installed after December 31, 2017.

Act 428 did not make any change with respect to the manner of, and timing for, claiming the credit.

### **Requirements under Act 428**

In addition to eliminating the income tax credit for wind energy systems, Act 428 also eliminated the income tax credit for solar energy systems installed on residential rental apartments and condominiums. Act 428 provides that the credit for solar energy systems is available only for installations on single-family homes which Act 428 further defines as "detached dwellings." However, under Act 428, a taxpayer remains eligible for the income tax credit whether the taxpayer purchases a newly-constructed home with a solar energy system already installed or purchases and installs the system on an existing home.

Act 428 also amended the definitions for eligible solar energy systems. Under Act 428 an eligible "solar energy system" includes either a "solar electric system," a "solar thermal system" or any combination of components of these two system types. Act 428 defines "solar electric system" to include systems consisting of a photovoltaic panel 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. Act 428 defines "solar thermal system" to include systems 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 purpose of heating water, space heating or space cooling.

To be eligible for the credit, Reg. 1907, not RS 47:6030, required that the system's installation be performed by the owner of the residence or a contractor duly licensed by and in good standing with the Louisiana Contractors Licensing Board. Act 428 adds to the statute the requirement that the system be sold and installed by a person who is licensed by the Louisiana Contractors Licensing Board. Act 428 also adds that any system components purchased on or after July 1, 2013 must be compliant with the requirements of the federal American Recovery and Reinvestment Act. Notwithstanding the foregoing, Act 428 provides that a purchaser will be eligible for the credit with respect to components purchased before July 1, 2013 if the purchaser can establish that the components were purchased before July 2013 and if the system is installed before January 1, 2014.

### **Special Rules and Limitations to Consider Under Act 428**

It remains the case under Act 428 that a taxpayer may not receive any other state tax credit, exemption, exclusion, deduction or other state tax benefit for property for which the taxpayer has received a credit under RS 47:6030. Also, a taxpayer who claims the tax credit with respect to a property must still disclose his use of the tax credit to the purchaser of the property.

Many of the other detailed rules and limitations applicable to the income tax credit for solar energy systems were not contained in RS 47:6030 but rather in Reg. 1907. These included, among others, documentation requirements for a third-party installer to establish its entitlement to the credit as between himself and the property owner, the prohibition on claiming the credit and depreciation deductions for capitalized system costs and the effect on eligible system costs on marketing rebates and incentives offered by the installer to the property owner. According to the Louisiana Department of Revenue, Reg. 1907 will be revised to remove any inconsistencies with the Act 428 amendments. It is not certain at this time what, if any, changes will be made to the additional detailed rules and limitations on the credit found in Reg. 1907 that are inconsistent with the Act 428 amendments. It is expected that a notice of public hearing regarding a new proposed Reg. 1907 will be published in the Louisiana Register on or about October 20, 2013, with the hearing to be held sometime in November and the final regulation to be published in the beginning of 2014.

## **Conclusion**

Like many other federal and state incentives, the purpose of the Louisiana solar energy system income tax credit is to incentivize private industry to create and sell a product that not only helps fuel the economy but does so in a way that is worthwhile to our environment. It remains to be seen how the Act 428 amendments, particularly the new limitations on leased systems, will impact the number of solar companies that have been doing a profitable business in Louisiana with the aid of this incentive.

This Alert is part of a series of Tax Alerts designed to highlight many of the tax and economic incentives available in Louisiana. For previously issued Alerts included in this series, see our [May 11, 2011](#), [June 30, 2011](#), [September 21, 2011](#), [October 20, 2011](#), [March 8, 2012](#), and [May 2, 2012](#) Alerts.

If you have any questions or would like to discuss strategies for earning and maximizing your benefit from the Louisiana Solar Energy Systems Tax Credit, or any other Louisiana tax issues, please contact this Alert's author, Rob Wollfarth, or any attorney in the Firm's Tax Group.