



25 Sigourney Street Ste 2  
Hartford CT 06106-5032

## STATE OF CONNECTICUT DEPARTMENT OF REVENUE SERVICES

# SN 2010(9.1)

### SPECIAL NOTICE

## Exemption From Sales and Use Taxes for Items Used Directly in the Renewable Energy and Clean Energy Technology Industries

**Purpose:** This Special Notice describes the exemption under Conn. Gen. Stat. §12-412(117)(B) for the sale of and the storage, use, or other consumption of machinery, equipment, tools, materials, supplies and fuel used directly in the renewable energy and clean energy technology industries. This Special Notice defines many key terms and elaborates on how the exemption applies to purchases by companies engaged in the renewable energy and clean energy technology industries.

For a description of the exemption under Conn. Gen. Stat. §12-412(117)(A), see **Special Notice 2007(7)**, *2007 Legislation Granting a Connecticut Sales and Use Tax Exemption for Sales of Solar Heating Systems, Solar Generating Systems, and Ice Storage Cooling Systems*.

**Effective Date:** Effective for sales and purchases occurring on and after July 1, 2010.

**Statutory Authority:** Conn. Gen. Stat. §12-412(117), as amended by 2010 Conn. Pub. Acts 75, §11.

**Definitions:** These definitions apply for purposes of the exemption under Conn. Gen. Stat. §12-412(117)(B):

**Renewable energy and clean energy technology industries** means industries that apply technologies to produce, improve, or develop solar energy electricity generating systems, passive or active solar water or space heating systems, geothermal resource systems, and wind power electric generation systems, including equipment related to the systems.

**Solar energy electricity generation system** means a system that converts sunlight directly into electricity.

**Passive solar water or space heating system** means a system that collects the heat from solar energy for heating water or air in an occupied space and delivers it to where it is needed by utilizing natural convection, conduction, and radiation without the use of powered devices such as fans and pumps.

**Active solar water or space heating system** means a system that collects the heat from solar energy for heating water or air in an occupied space and delivers it to where it is needed through the use of powered equipment such as circulating pumps or fans.

**Geothermal resource system** means a system that utilizes energy below the ground surface as a source/sink to heat or cool buildings.

**Wind power electric generating system** means a system that transforms the kinetic energy of the wind into electrical energy for homes and businesses and for sale to utilities.

### **Machinery and Equipment**

**Machinery** means the basic machine itself including all of its component parts and contrivances and all equipment or devices used or required to control, regulate, or operate the machinery including computers and data processing equipment.

**Equipment** means a device or apparatus used in the renewable energy and clean energy technology industries required for the process to take place. The fact that equipment is required by practical necessity, such as ceiling lights, does not of itself qualify the equipment for exemption.

Because prewritten (canned) software used on a machine eligible for the exemption under Conn. Gen. Stat. §12-412(117)(B) is considered equipment or a device used or required to control, regulate, or operate the machinery, its purchase qualifies for exemption whether or not the software is purchased in the same transaction with the machinery on which it is used.

The cost of services rendered in connection with either the creation of custom software or the customization of software — when the software is purchased with the machinery on which it is to be used, which is exempted under the renewable energy and clean energy technology industries exemption — is part of the sales price and gross receipts under Conn. Gen. Stat. §12-407(a)(8) and (9). The cost of the software will be included within this exemption.

However, because this exemption applies only to tangible personal property and not to services, charges for computer and data processing services rendered in connection with the purchase of custom or customized software in a transaction *separate* from the purchase of the machinery on which the software is to be used are taxable under Conn. Gen. Stat. §12-407(a)(37)(A). See **Policy Statement 2006(8)**, *Sales and Use Taxes on Computer-Related Services and Sales of Tangible Personal Property*.

**Materials** and **supplies** are items that become ingredient or component parts of an end product resulting from, or items that are used or consumed in, the renewable energy and clean energy technology industries.

**Tools** include instruments and utensils used or consumed in the renewable energy and clean energy technology industries.

**Fuel** is a substance that is generally regarded as such that is used or consumed in the renewable energy and clean energy technology industries such as coal, gas or oil. Electricity is not considered fuel.

**Predominantly** means more than 50 percent.

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**How the Department of Revenue Services (DRS) Construes "Used Directly in the Renewable Energy and Clean Energy Technology Industries":** To determine whether items are used directly in the renewable energy and clean energy technology industries, DRS will examine the facts and circumstances of each case using the following principles as guidelines:

1. Machinery, equipment, tools, materials, supplies, or fuel that directly transform or have a direct effect upon the form, composition, or character of raw materials in the production, improvement, or development of renewable energy and clean energy technology are used directly.
2. Machinery, equipment, tools, materials, supplies, or fuel, other than items described in subdivision

(1), that are used predominantly in connection with or to perform an activity occurring during the production, improvement, or development of renewable energy and clean energy technology are used directly.

3. Machinery, equipment, tools, materials, supplies, or fuel, other than items described in subdivisions (1) and (2), that are used predominantly to control or monitor an activity occurring during the production, improvement, or development of renewable energy and clean energy technology, or predominantly to design a product as well as to control or monitor an activity occurring in such production, improvement, or development of renewable energy and clean energy technology, are used directly.
4. Machinery, equipment, tools, materials, supplies, or fuel used predominantly during the production, improvement, or development of renewable energy and clean energy technology to test or measure materials and products being produced, improved, or developed are items used directly.

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### **How DRS Construes "Renewable Energy and Clean Energy Technology Industries":**

DRS considers renewable energy and clean energy technology industries to begin when research activities are performed and to end when the product is ready for delivery or storage, including overpacking and crating. DRS considers renewable energy and clean energy technology industries to include all activities performed in research, development, testing, and manufacturing that take place within those starting and ending points.

**Example:** A business has a concept to develop and mass produce a solar energy electricity generation system. The business will first create a prototype in its research and development division. Over the next two years the prototype is refined and finally perfected. During this period of research, development, and testing of its product, the business will purchase the needed qualifying machinery, equipment, tools, materials, supplies, and fuel exempt from tax under Conn Gen Stat §12-412(117)(B). Once the final product is ready to be produced, the business will purchase the qualifying machinery, equipment, tools, materials, supplies, and fuel needed to manufacture the solar energy electricity generation system exempt from tax under Conn Gen Stat §12-412(117)(B).

## **Items That Do Not Qualify for the Exemption for Items Used Directly in the Renewable Energy and Clean Energy Technology Industries:**

**Administration and General Management:** The exemption for purchases of machinery, equipment, tools, materials, supplies, and fuel does not apply to items used predominantly in administration, general management, or any other activity that does not constitute the renewable energy and clean energy technology industries as described herein.

**Example:** A suite of computer applications including word processing, spreadsheet, and organizer applications purchased for use by the entire organization, does not qualify for exemption.

**Services:** The exemption does not apply to the purchase of any services. As an example, the following services are taxable: maintenance or repair services for machinery, equipment, or tools; computer and data processing services such as subscriptions to databases on the Internet and the creation of custom software; janitorial services; and personnel services. Providers of the services must collect tax on their charges and may not purchase their machinery, equipment, tools, materials, supplies, or fuel exempt from tax under Conn. Gen. Stat. §12-412(117)(B).

**Real Property:** The exemption does not apply to real property, including fixtures.

**Example:** Construction materials purchased to build a new facility at which technologies will be applied in the renewable energy and clean energy technologies industries do not qualify for exemption.

**Repair or Replacement Parts:** The renewable energy and clean energy technology industries exemption does not apply to repair or replacement parts for machinery, equipment, or tools. However, repair or replacement parts may qualify for exemption under Conn. Gen. Stat. §12-412(34) or for partial exemption under Conn. Gen. Stat. §12-412i. See **Informational Publication 2009(13)**, *Sales and Use Taxes Guide for Manufacturers, Fabricators and Processors*.

**Purchases of Utilities:** Only fuel used directly in the renewable energy and clean energy technology industries is exempt under Conn. Gen. Stat. §12-412(117)(B). Gas or heating fuel not used directly, and electricity are exempt from tax only if their purchase qualifies under Conn. Gen. Stat.

§12-412(3) or (16). For additional information about these exemptions, see **Policy Statement 94(3.2)**, *Gas, Electricity and Heating Fuel Purchased for Residential Use or for Use in Agricultural Production, in the Fabrication of Finished Products to Be Sold, or in an Industrial Manufacturing Plant*.

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**Certificate of Exemption:** The purchaser of machinery, equipment, tools, materials, supplies, or fuel must present **CERT 142**, *Items Used Directly in the Renewable Energy and Clean Energy Technology Industries*, to the seller to claim the renewable energy and clean energy technology industries exemption. This certificate relieves the seller of the burden of proving that the property purchased is subject to the renewable energy and clean energy technology industries exemption when the seller accepts it in good faith from a purchaser engaged in the renewable energy and clean energy technology industries. If the purchaser makes any use of the property other than the use stated on the certificate, the property becomes subject to tax at the time of such use based upon the full purchase price. CERT-142 is available on the DRS website at [www.ct.gov/DRS](http://www.ct.gov/DRS).

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**Effect on Other Documents: Special Notice 2010(9.1)** modifies and supersedes Special Notice 2010(9), *Exemption From Sales and Use Taxes for Items Used Directly in the Renewable Energy and Clean Energy Technology Industries*.

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**Effect of This Document:** A Special Notice announces a new policy or practice in response to changes in state or federal laws or regulations or to judicial decisions. A Special Notice indicates an informal interpretation of Connecticut tax law by DRS.

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**For Further Information:** Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only); or
- **860-297-5962** (from anywhere).

**TTY, TDD, and Text Telephone users only** may transmit inquiries anytime by calling 860-297-4911.

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**Forms and Publications:** Visit the DRS website at [www.ct.gov/DRS](http://www.ct.gov/DRS) to download and print Connecticut tax forms and publications.

**Paperless Filing/Payment Methods (fast, easy, free, and confidential):**

Business and individual taxpayers can use the **Taxpayer Service Center (TSC)** at [www.ct.gov/TSC](http://www.ct.gov/TSC) to file a variety of tax returns, update account information, and make payments online.

**File Electronically:** You can choose first-time filer information and filing assistance or can log directly into the **TSC** to file returns and pay taxes.

**Pay Electronically:** You can pay taxes for tax returns that cannot be filed through the **TSC**. Log in and select the *Make Payment Only* option. Designate

a payment date up to the due date of the tax and mail a paper return to complete the filing process.

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**DRS E-Alerts Service:** Get connected to the latest news from DRS. Receive notification by email of changes to legislation, policies, and procedures. **DRS E-Alerts** provide information for employer's withholding tax, News – Press Releases, and Top 100 Delinquency List. Visit the DRS website at [www.ct.gov/DRS](http://www.ct.gov/DRS) and select *e-alerts* from the left navigation bar.

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