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Guidance Letter 12-001

Date: 3-7-2012

To: County Assessors

From: Terry E. Rubald, Chief, Division of Assessment Standards

CC: Bill Chisel, Executive Director, Department of Taxation
Bruce Bartolowits, Supervisor, Locally Assessed Properties

Subject: Application of Exemption Afforded under NRS 701A.200

SUMMARY: The exemption for heating and cooling systems granted under NRS 701A.200 has significantly changed with the passage of SB 426 (2011). This guidance letter discusses those changes.

AUTHORITY: NRS 360.250(2)(a): The Nevada Tax Commission may confer with, advise and direct county assessors, sheriffs as ex officio collectors of licenses and all other county officers having to do with the preparation of the assessment roll or collection of taxes or other revenues as to their duties.

APPLICATION:

Pursuant to the changes enacted by SB 426(2011), the exemption provided in NRS 701A.200 was expanded. Qualified systems which may be exempted from property taxation now include property designed to heat or cool buildings or water used in buildings, but such property need not be physically installed in or on the buildings. A qualified system need only be adjacent to the buildings which it serves. For example, a photo-voltaic solar facility need not be attached to the roof of a building, but may qualify if its location is adjacent to the building and produces power used by a building or buildings, or used to heat water used in the building or buildings. A qualified system now also includes property adjacent to an irrigation system in an agricultural operation, such as a wind turbine generator which generates electricity used in an adjacent irrigation system.

The qualified system need not be owned by the same person who owns the building or irrigation system. The qualified system may be owned by a third-party vendor and serve multiple buildings owned by multiple people.

The owner of the building or irrigation system also does not need to participate in a net-metering system. A net metering system is a facility or energy system which generates electricity from a renewable energy source, has a generating capacity of not more than 1 megawatt, is located on the customer-generator's premises, operates in parallel with the utility's transmission and distribution facilities, and is intended primarily to offset part or all of the customer-generator's requirements for electricity. (See, NRS 704.766 to 704.775). None of these components of a net metering system need be present in order for a system to qualify for the exemption. For example, a solar facility owned by Developer X which generates 9.5 megawatts and is located on the land where Customer Y of Developer X owns a building may qualify for the exemption. Customer Y need not participate in

the local utility's net metering program. The qualified system does not have to meet safety and power quality standards required of a net metering system.

Systems which do not qualify for exemption include those which are subject to any other abatement or exemption afforded in NRS Chapter 361.045 to 361.159 or in NRS Chapter 701A. For example, a commercial warehouse with an adjacent wind turbine generator and subject to a partial abatement granted by the Commission on Economic Development under NRS 361.0687 would not be eligible for exemption under this statute. In addition, renewable energy wholesale generation facilities constructed after July 1, 2009 which would be eligible for the partial abatement afforded under NRS 701A.360 are also not eligible for the exemption. For example, the Solar Star facility located at the Nellis Air Force Base in Clark County would remain eligible for this exemption because it was built prior to July 1, 2009.

Finally, instead of value of the qualified system not being included in the assessed value of the building, the qualified system must now be valued and then exempted from taxation. This will affect the discovery process used by assessors because the qualified systems must be listed and valued before they are eligible for exemption. NAC 361.058 requires an annual list of the buildings which have qualified systems to be submitted by April 1. Because of the expansion of the types of property to be exempted, the written list will have to include free-standing systems as well.

Recently the Nevada Tax Commission determined in a case before it that the changes enacted by SB 426 were not retroactive to years prior to 2012-13. Since the effective date of the legislation is July 1, 2011, a system in existence on or after July 1, 2011 could become qualified for exemption for the 2012-2013 tax year. See *In the Matter of CleanPath Renewable Development (January 23, 2012)*.

WEBSITE LOCATIONS:

Nevada Revised Statutes (NRS): <http://www.leg.state.nv.us/NRS/>
Nevada Administrative Code: <http://www.leg.state.nv.us/NAC/CHAPTERS.html>

Department of Taxation Guidance letters: <http://www.tax.state.nv.us>; then select "Publications;" then select Assessment Standards Publications and "Guidance letters."