

**Arizona Department of Revenue reinterprets tax law  
on third-party owned solar installations**

June 2014

***The essentials***

- In 2013 the Arizona Department of Revenue reinterpreted A.R.S. §42-11054(C)(2) and A.R.S. §§ 42-14155(B)(C) to require third-party financed solar installations to be assessed a property tax. Homeowners, governments, businesses, and other entities that own their rooftop systems would continue to be exempt from property tax assessments.
- Taxing leased systems would add roughly \$150/year to system costs. The added cost is expected to be passed onto the solar equipment lessees.
- During the most recent legislative session, some legislators proposed a bill codifying the DOR's reinterpretation while others worked to exempt all solar panels from property taxation, regardless of how they are financed. However, neither position was codified.
- Preliminary tax assessments will begin June 2015.

**Background on AZ DOR's reinterpretation**

Prior to April 2013, county tax assessors did not assess property taxes for any rooftop solar panel equipment, pursuant to A.R.S. §42-11054(C)(2). This statute exempts from taxation "solar energy devices, as defined in section 44-1761, grid-tied photovoltaic systems and any other device or system designed for the production of solar energy primarily for on-site consumption." However, in April 2013 the Department of Revenue issued a ruling stating that A.R.S. §42-11054(C)(2) must be read in conjunction with A.R.S. §42-14155(B) and (C), which governs "renewable energy equipment" depreciation for utilities. Under A.R.S. §42-14155(C), renewable energy equipment is defined as

electric generation facilities, electric transmission, electric distribution, gas distribution or combination gas and electric transmission and distribution and transmission and distribution cooperative property that is located in this state, that is used or useful for the generation, storage, transmission or distribution of electric power, energy or fuel derived from solar, wind or other

nonpetroleum renewable sources not intended for self-consumption, including materials and supplies and construction work in progress, but excluding licensed vehicles and property valued under sections 42-14154 and 42-14156.

The crux of the reinterpretation focuses on whether “the on-site renewable energy equipment produces energy that is not intended for self consumption.” Under this view, if the system is primarily generating electricity for anyone other than the owner of the panels, the system will be taxed at 20 percent the depreciated cost.

For example:

Owner of PV panels= SolarCity    Lessor = Homeowner, Business, or Town  
PV panels generate electricity on lessor’s property. Under DOR’s reinterpretation, electricity is produced off-site of SolarCity’s property, and must be taxed at utility equipment rates.

According to the DOR,<sup>1</sup> they are still determining certain key details, including how many third-party owned systems are installed throughout Arizona, what would happen in the event of a solar lessor bankruptcy, and the DOR’s cost of implementing the tax. Revenues from the tax will go to traditional property tax recipients such as cities and school districts. The DOR stated their expected timeline for tax assessment of third-party owned solar installations is as follows:

- Preliminary assessments in June 2015
- Finalized assessments in August 2015
- First half of tax bill will be due in October 2015
- Second half of tax bill will be due in May 2016

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<sup>1</sup> Source: Personal Communication, Sean Laux, June 12, 2014.

### Arguments in favor of property tax for third-party owned systems

At a [hearing on HB 2595](#), a bill to codify the DOR rule, bill sponsor Rep. John Allen stated that the bill's purpose was to prevent solar leasing companies from "using a homeowner to avoid paying taxes . . . which is not proper." Marc Osborn, representing the [Arizona Prosperity Alliance](#), a "pro-growth" policy group, pointed out that HB 2595 was "justified" by the DOR ruling because "leased power providers . . . act and look more like a utility and should be assessed more like a centralized property." Proponents opine that solar leasing companies are de facto utilities, but are avoiding the regulatory oversight that come with that designation.

### Arguments opposed to property tax for third-party owned systems

Opponents of the tax<sup>2</sup> argue it critically threatens the highly successful solar leasing financing model by significantly cutting into the savings that solar rooftop lessees receive on their energy bills. At the same hearing on HB 2595 noted above, Chris Wall, a regional sales director for Solar City, challenged the reasoning of the bill and of the DOR ruling, arguing that "residential solar equals self-consumption . . . the power that's produced on a leased solar system never touches the [leasing] company." Opponents also point out that since customers who own their solar rooftop systems would not have to pay this tax, it effectively operates as a reward for the rich and a tax on poorer owners who rely on the leasing model for financing.

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<sup>2</sup> Opponents of the bill included the Arizona Solar Industry Association, Solar City, Sun Run, and Solar Energy Industry Association.

### Potential negative impacts of the reinterpretation

As of now, the DOR ruling will come into effect in 2015, creating approximately \$2,000 in taxes over 30 years for a \$30,000 leased solar system, or approximately \$140/year including depreciation.<sup>3</sup> This tax would affect the vast majority of residential solar rooftop customers; over 80% of solar rooftop customers in Arizona lease their systems from a third party.<sup>45</sup> This could drastically affect current lessors by cutting into their monthly savings, while affecting future potential customers' assessment of the costs of going solar.

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<sup>3</sup> DOR spokesman Sean Laux said a \$30,000 solar system would pay \$2,000 in property taxes over 30 years. <http://www.bizjournals.com/phoenix/news/2014/03/08/arizonas-solar-fight-moves-to.html?page=all>

<sup>4</sup> <http://www.greentechmedia.com/articles/read/Charging-a-Fee-to-Solar-Owners-Preserves-Net-Metering-in-Arizona>

<sup>5</sup> Reliable figures for commercial and government lessees v. owners could not be found.