City of Carson City Agenda Report

Date Submitted: 03/27/12 Agenda Date Requested: 04/05/12

Time Requested: 5 min.

To: Mayor and Supervisors

From: Assessors Office

Subject Title: For Possible Action: To approve the removal of the unpaid taxes and penalties from the 2011/12 personal property taxes for commercial business account number CB 045276 (Sierra Solar 1 LLC, located at 2444 Fairview Dr) per NRS 701A.200 in the amount of \$150,612.59 (Dave Dawley, Assessors Office).

Staff Summary: In September of 2011, The Assessors office asked for the removal of taxes for Sierra Solar 1 from both the 2010/11 and the 2011/12 fiscal years. The Board of Supervisors requested that the Assessors office obtain a guidance letter from the Department of Taxation which provided more information on whether or not the change in the law was in fact retroactive and that the qualified systems were not only exempt from taxation as of July 1, 2011, but that any Qualified Systems built prior to that date were exempt as well. The Assessors Office has received a Guidance Letter from the Department of Taxation, Division of Assessment Standards in regards to exemption afforded under NRS 701A.200.

Type of Action Requested:	(check one)		
() Resolution (X) Formal Action/Motion	L		dinance her (Specify)
Does This Action Require A Busin	ess Impact Sta	tement:	() Yes (_X_) No

Recommended Board Action: To approve the removal of the unpaid taxes and penalties from the 2011/12 personal property taxes for commercial business account number CB 045276 (Sierra Solar 1 LLC, located at 2444 Fairview Dr) per NRS 701A.200 in the amount of \$150,612.59 (Dave Dawley, Assessors Office).

Explanation for Recommended Board Action: The Assessors office has received a Guidance Letter from the Department of Taxation, Division of Assessment Standards in regards to exemptions afforded under NRS 701A.200. The letter states that the Nevada Tax Commission has determined that since the effective date of the legislation was July 1, 2011, a system in existence on or after July 1, 2011 could become qualified for exemption for the 2012/13. Because the solar units in Carson City were constructed prior to July 1, 2011, the 2010/11 taxes are not exempt, however, the 2011/12 taxes in which the lien date is July 1, 2011, are in fact exempt.

The Assessors Office is requesting that the taxes and penalties be removed from the 2011/12 Personal Property tax roll. This will result in a decrease to the Personal Property tax roll in the amount of \$146,939.11 plus \$3,673.48 of penalties for the 2011/12 tax year. The 2010/11 tax amount of

\$150,612.59 will remain on the 2010/11 Personal Property tax roll and is past due.

Applicable Statue, Code, Policy, Rule or Regulation: NRS 701A.200.

Fiscal Impact: A decrease of \$146,939.11 and \$3,673.48 of penalties to the 2011/12 Personal Property Tax Roll for a total of \$150,612.59.

Explanation of Impact: Decrease of the 2011/12 Personal Property Tax Roll.

Funding Source: Various Tax Entities.

Alternatives: Approve, Modify, or Deny.

Supporting Material: State of Nevada, Department of Taxation Guidance Letter and Notice of Decision Letter.

Prepared By: k	Kimberly Adams, Senior Property Apprai	iser	
Reviewed By:	(Department Head) Assessor) (City Manager) (District Attorney) (Finance Director)	Date: $3/31/13$ Date: $3/27/13$ Date: $3/27/13$ Date: $3/37/13$	12
Board Action T	Γaken:		
Motion:	1) _ 2) _		Aye/Nay
(Vote Record	ded By)		



BRIAN SANDOVAL Governor ROBERT R. BARENGO Chair, Nevada Tax Commission WILLIAM CHISEL Executive Director

STATE OF NEVADA DEPARTMENT OF TAXATION

Web Site: http://tax.state.nv.us

1550 College Parkway, Suite 115 Carson City, Nevada 89706-7937 Phone: (775) 684-2000 Fax: (775) 684-2020

LAS VEGAS OFFICE Grant Sawyer Office Building, Suite 1300 555 E. Washington Avenue Las Vegas, Nevada 89101 Phone: (702) 486-2300 Fax: (702) 486-2373

RENO OFFICE 4600 Kietzke Lane Building L. Suite 235 Reno, Nevada 89502 Phone: (775) 687-9999 Fax. (775) 688-1303

HENDERSON OFFICE 2550 Paseo Verde Parkway, Suite 180 Henderson, Nevada 89074 Phone: (702) 486-2300 Fax: (702) 486-3377

Guidance Letter 12-001

Date:

3-7-2012

To:

County Assessors

Terry E. Rubald, Chief, Division of Assessment Standards Wy Rubald

Bill Chief Every 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 <u>In the Matter of CleanPath Renewable Development</u> (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."



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WILLIAM CHISEL
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555 E. Washington Avenue
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In the Matt	er of:	
CleanPath	Renewable	Development

Appeal from an Advisory Opinion Issued by the Department

NOTICE OF DECISION

Appearances

Scott Scherer with Holland and Hart, PC appeared on behalf of CleanPath Renewable Development.

Gina Session, Chief Deputy Attorney General, appeared on behalf of the Department of Taxation.

Summary

The matter of the appeal of CleanPath Renewable Development came before the Nevada Tax Commission (Commission) for hearing in Carson City, Nevada, with video conferencing to Las Vegas, Nevada on January 23, 2012.

The Department's advisory letter determined that the solar energy facilities, consisting of solar photovoltaic panels on buildings or in adjacent parking lots owned by the City of Reno, were not entitled to an exemption from real property taxes as a "qualified system" under NRS 701A.200 (formerly NRS 361.052). Subsequent to the issuance of the advisory letter, Senate Bill 426 (2011) was passed which allowed systems like the Petitioner's to be exempt. The remaining question was whether the provisions of SB 426 could be applied retroactively in order to exempt property in prior years.

DECISION

The Commission, having considered all evidence and testimony pertaining to the matter, found no clear or express indication that Senate bill 426 (2011) was intended to apply retroactively. The Commission denied the appeal of the Taxpayer.

BY THE NEVADA TAX COMMISSION THIS 29^{49} DAY OF FEBRUARY, 2012.

William Chisel, Executive Director

cc: Washoe County Assessor

Gina Session, Chief Deputy Attorney General