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Moving Forward With The NY-Sun Initiative

Law360, New York (September 04, 2012, 10:53 AM ET) -- It has been a busy month for the solar industry in the state of New York. This activity includes the announcement that \$107 million is available for businesses that install large photovoltaic systems in New York, new solar tax credits, a new sales tax exemption for certain solar equipment and the extension of a real property tax abatement.

Before we delve into the specifics, we need to put this in context. In his 2012 State of the State address, Gov. Andrew Cuomo initially outlined a new program called the NY-Sun Initiative. The initiative was designed to double the amount of customer-sited solar power installed in New York in 2012 and quadruple that amount by 2013.

According to the New York State Energy Research and Development Authority, this initiative brings together and expands existing programs administered by NYSERDA, the New York Power Authority and the Long Island Power Authority to ensure a coordinated and well-funded solar energy expansion plan. A website details the initiative's goals, progress and the availability of its incentives. See <http://ny-sun.ny.gov/>.

\$107 Million Available for Large Photovoltaic Projects

On Aug. 9, Cuomo announced that \$107 million is now available through the NY-Sun Initiative for a major solar power incentive program that will increase the amount of electricity generated by PV systems throughout New York. The NY-Sun Competitive PV Program seeks proposals for large PV systems — more than 50 kilowatts — to be installed at businesses, factories, municipal buildings and other larger commercial and industrial customers.

The program is available through the end of 2013 for PV projects in New York City and upstate New York at eligible customer sites. This is an expansion — both in territory and funding — of a two-year-old program that previously focused on large PV systems for the commercial, industrial and municipal sectors exclusively in New York City, Westchester County and lower Hudson Valley.

Through the newly established NY-Sun Competitive PV Program, \$36.4 million will be available in 2012, and \$70.5 million will be available in 2013. All projects will require co-funding to best leverage state resources, capped at \$3 million per project. Proposals under the first round of the NY-Sun Competitive PV Program are due Nov. 8, with the remaining two due dates in the first and third quarters of 2013.

In addition to the Competitive PV Program, NYSERDA also expanded its smaller-scale solar PV program — less than 50 kilowatts — under the NY-Sun Initiative. Monthly funding under this program has increased from \$2 million to \$3.5 million for the remainder of 2012 and will continue at \$3.1 million per month in 2013. With this standard offer, the non-competitive open-enrollment program provides funding for systems up to seven kilowatts

for residential sites and up to 50 kilowatts for non-residential sites. For more information see NYSERDA's website.

New or Extended Tax Credits, Abatements and Exemptions for Solar Material

On Aug. 17, Cuomo signed a series of bills as part of the NY-Sun initiative that created new tax credits, exemptions and abatements for certain solar equipment. The new laws include statewide tax credits for the lease of solar equipment and power purchase agreements, statewide sales tax exemptions for commercial solar equipment and an extension of the real property tax abatement in New York City for solar installations.

Tax Credit for Leased Solar System

The new law provides statewide tax credits for homeowners who obtain solar equipment through a lease agreement or a power purchase agreement, which spans at least 10 years. In order to qualify for the credit, the property must be located New York, and it must be used by the taxpayer as his or her principal residence at the time the solar energy system equipment is placed in service. The tax credit would be available for up to 14 years with a maximum of \$5,000 for all years. The law takes effect immediately. See Tax Law § 606(g-1).

Sales Tax Exemption of Commercial Solar Systems

The new law exempts the sale and installation of commercial solar energy systems equipment from sales taxes and allows municipalities and cities to exclude these costs from local sales tax. The term "commercial solar energy systems equipment" is defined to include any arrangement or combination of components installed upon non-residential premises that utilize solar radiation to produce energy designed to provide heating, cooling, hot water and/or electricity. The law takes effect Jan. 1, 2013. See Tax Law § 1115(hh).

New York City Real Property Tax Abatement

The law extends the property tax abatement available to solar energy generating systems in New York City through 2013 and 2014. Eligible solar electric generating system expenditures include reasonable expenditures for materials, labor costs properly allocable to onsite preparation, assembly and original installation, architectural and engineering services and designs and plans directly related to the construction or installation of the solar electric generating system. The abatement equals the lesser of 2.5 percent of eligible solar electric generating system expenditures, the amount of taxes payable in such tax year or \$62,500. The law takes effect Jan. 1, 2013. See Real Property Tax Law § 499-bbbb. For more information, see NYSERDA's website.

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