NYC Solar Energy Generating System Property Tax Abatement:
Federal, State and Local Incentives and Financing Mechanisms

The City of New York, the State of New York, and the United States government offer a variety of incentives and grants to owners for installing solar energy generating systems. Availability is generally dependent upon relevant factors such as an individual's finances and the location of the property where the solar equipment will be installed. A building owner must consult professionals experienced in these areas before making solar installation decisions. Through this document and on the website nycsolarcity.com, the NYC Solar provides general information on the New York City Solar Energy Generating System Property Tax Abatement (PTA) and how it may interact with other incentive programs, including links to the various programs that building owners may want to consider. Please note that it is only an aid and not a substitute for professional advice.

Summary and rationale for the PTA

The law is summarized by the New York State Senate in the following way:

"This bill would amend subdivision one of section 499-bbbb of the Real Property Tax Law (RPTL) by adding a new paragraph (c) and would amend subdivision one of section 499-cccc of the RPTL.

If the solar electric generating system is placed in service on or after January 1, 2014 and before January 1, 2017, the amount of the tax abatement would be 5 percent of eligible solar electric generating system expenditures in each year of the four-year compliance period. However, the benefit in each tax year would be limited to the lesser of the amount of taxes payable or $62,500. 'Eligible solar electric generating expenditures' include reasonable expenditures for materials, labor costs properly allocable to on-site 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."

Justification for this incentive program as stated in the Law:

"This legislation would extend and strengthen an existing incentive program to encourage the installation of solar electric generating systems, in connection with class one, class two and class four properties in the City.

This program is aligned with the longstanding commitment of New York State and the City of New York to reduce greenhouse gas emission reduction and providing cleaner, more reliable power for every New Yorker. These goals will be achieved through efforts to improve energy efficiency and clean our energy supply. In the near term, the City will still rely on conventional energy sources, such as natural gas. Solar power in New York City has historically cost more per kilowatt of installed capacity than in other parts of the State of New York, primarily because of more stringent requirements of the NYC Department of Buildings and increased complexity in the building sites. Data from the New York State Energy Research and Development Authority indicates that solar energy projects in New York City cost approximately 25% more than the state average. Continuation of the property tax abatement is necessary to offset a portion of the extra costs associated with NYC solar energy installation, thus further stimulating clean energy investment and job creation throughout New York City."

Implementation of the PTA

An important provision to note within the Property Tax Abatement is the definition of an "eligible expenditure."

Eligible expenditures are defined as follows:

"Eligible solar electric generating system expenditures" shall mean reasonable expenditures for materials, labor costs properly allocable to on-site preparation, assembly and original installation, architectural and engineering services, and designs and plans directly related to the construction or installation of a solar electric generating system installed in connection with an eligible building. Such eligible expenditures shall not include interest or other finance charges, or any expenditures incurred using a federal, state or local grant."

Interaction with City, State, and Federal Incentive Programs

New York City Incentives

New York City offers various incentive programs related to the built environment that are administered by the Department of Finance (DOF). With the DOF's assistance, Sustainable CUNY has developed the following lists. **'Permitted with PTA'** refers to incentive programs that are permitted to be taken in conjunction with the New York City property tax abatement (PTA). For example, an eligible property owner may benefit from BOTH the PTA as well as the ICIP exemption and abatement. '**NOT Permitted with PTA'** refers to programs that are NOT permitted to be taken at the same time as the PTA. In this instance, a building owner may not benefit from the PTA if he or she has, for example, the ICAP abatement. **"Other,"** describes two other pertinent programs: a property tax exemption for solar energy generating systems and a program for payments in lieu of property tax.

Permitted with PTA

- ICIP exemption and abatement (see ICAP for more information on the program)
- J-51 exemption and abatement - Residential rehabilitation or conversion to multiple dwellings
- 420-a exemption - Not-For-Profit Organizations
- 420-b exemption - Not-For-Profit Organizations
- Co-op/Condo abatement
- Commercial Expansion Program (CEP) abatement - Development of commercial and industrial areas
- Commercial Revitalization Program (CRP) abatement - Investment in older commercial space or conversion to residential

NOT Permitted with PTA

- ICAP abatement - Industrial and commercial buildings
- 420-c exemption - Low-income housing
- 421-a exemption - Multi-Family Residential
- 421-b exemption - New one- and two-family housing
- 421-g exemption and abatement - Conversion of commercial buildings to multiple dwellings

Other

- Real Property Tax exemption 487
  - NYC participates in the property tax exemption. As such, if a property's Assessed Value has increased as a result of installing solar equipment (and it has met all the requirements under the law and state rules), then 487 provides a property tax exemption solely for the increase attributable to the installation.
  - Applications should be submitted to:
    ATTN: Ted Oberman
NYC Department of Finance
59 Maiden Lane, 22nd Floor
New York, New York 10038

Commercial Exemptions Unit PILOT Program:

  - As of the date this document was published, a building cannot have a solar PTA and a PILOT agreement since the solar abatement is an abatement of property tax and a property with a PILOT agreement does not pay property tax. For more detailed information, discuss options and alternatives with your Industrial Development Agency representative.

New York State Incentives

The New York State Energy Research and Development Authority (NYSERDA) through the NY-Sun Incentive offers various incentives, or Public Opportunity Notices (PONs), for solar electric generating systems from the Renewable Portfolio Standard RPS) fund. PON 2112 and PON 2589 are two solar PV incentive programs offered by NYSERDA. There have been questions relating to whether these incentives are deducted from eligible expenditures of the PTA.

New York State Energy Research and Development Authority (NYSERDA) PON 2112

- PON 2112 is deducted from eligible expenditures of the PTA.
    - According to **Title 4-C 499-aaaa 8**, "eligible expenditures" are based on the equipment and installation costs. These "expenditures" should not include any costs incurred using a grant. Equipment and installation expenditures are incurred using PON 2112.

        '"*Eligible solar electric generating system expenditures" shall mean reasonable* ***expenditures for materials, labor costs properly allocable to on-site preparation, assembly and original installation, architectural and engineering services, and designs and plans directly related to the construction or installation*** *of a solar electric generating system installed in connection with an eligible building. Such eligible expenditures shall not include interest or other finance charges, or any* ***expenditures incurred*** *using a federal, state or local grant.' [Emphasis added]*

New York State Energy Research and Development Authority (NYSERDA) PON 2589 The New York Sun Competitive Photovoltaic (PV) Program, an expansion of the Renewable Portfolio Standard (RPS) Customer-Sited Tier Regional Program. PON 2589 is now closed, but plans for a new program is under development.

- **PON 2589 is not deducted from eligible expenditures of the PTA.**

New York State Energy Research and Development Authority (NYSERDA) Regional Program

- PON 2156 and PON 2484 (both now closed) are not deducted from eligible expenditures of the PTA.
    - According to **Title 4-C 499-aaaa 8**, "eligible expenditures" should not include expenditures incurred using a grant. PON 2156, PON 2484 and PON 2589 are based on electricity production, not investment expenditures.

        '"*Eligible solar electric generating system expenditures" shall mean reasonable expenditures for materials, labor costs properly allocable to on-site preparation, assembly and original installation, architectural and engineering services, and designs and plans directly related to the construction or installation of a solar electric generating system installed in connection with an eligible building.* ***Such eligible expenditures shall not include interest or other finance charges, or any expenditures incurred using a federal, state or local grant****.' [Emphasis added]*

New York State Personal Income Tax Credit NY CLS Tax § 606 (g-1)

- The Personal Income Tax Credit is not deducted from eligible expenditures of the PTA
    - According to City Rule enabling the PTA, **1 RCNY 105-02(f)(3)(ii)**, tax credits are not considered "grants": *"A federal, state or local grant shall not include another tax benefit, including a tax abatement, tax credit, tax exemption or tax rebate". [Emphasis added]*

U.S. Federal Incentives

The U.S. federal government also offers tax credits for solar electricity generating systems. The Investment Tax Credit (ITC) program is worth 30% of the initial investment.

Investment Tax Credit (ITC)

- The ITC is not deducted from eligible expenditures of the PTA
    - According to **1 RCNY 105-02(f)(3)(ii)**, tax credits are not considered "grants": *"A federal, state or local grant shall not include another tax benefit, including a tax abatement, tax credit, tax exemption or tax rebate". [Emphasis added]*

Payments for Specified Energy Property in Lieu of Tax Credits 1603 Program

- Since the 1603 Payments for Specified Energy Property in Lieu of Tax Credits is a temporary substitute incentive for the ITC during the financial crisis, it is treated in the same way as the ITC (i.e. not deducted).

Other

Third Party Ownership
The PTA is based on eligible expenditures incurred on eligible buildings. Third party ownership does not affect the abatement.

- In **Title 4-C 499-aaaa 8**, "eligible expenditures" are associated with the costs of the solar project itself, in relation to an eligible building. While it does not specify that the costs be incurred by the building owner, it is important to note that any expenditures incurred using a grant, still must be deducted from eligible expenditures:

    '"*Eligible solar electric generating system expenditures" shall mean reasonable* ***expenditures for materials, labor costs properly allocable to on-site preparation, assembly and original installation, architectural and engineering services, and designs and plans directly related to the construction or installation of a solar electric generating system installed in connection with an eligible building.*** *Such eligible expenditures shall not include interest or other finance charges, or any expenditures incurred using a federal, state or local grant.' [Emphasis added]*

- **Title 4-C 4999-aaaa 7** defines eligible buildings as:

    "a class one, class two or class four real property, as defined in subdivision one of section eighteen hundred two of this chapter, located within a city having a population of one million or more persons. No building shall be eligible for more than one tax abatement pursuant to this title."

"Use or Lose"
Subdivision 2 of the Solar Energy Generating System Property Tax Abatement law specifies that the PTA is a "use or lose" opportunity. If the benefits cannot be used in the time allotted, the building owner cannot carry the tax benefit forward to other years.

"Such tax abatement shall commence on July first following the approval of an application for tax abatement by a designated agency, and ***may not be carried over to any subsequent tax year****." [Emphasis added]*

Condominium
Subdivision 3 of the Solar Energy Generating System Property Tax Abatement law clarifies how the benefits of the PTA are to be distributed if the eligible building in question is a condominium.

> *"With respect to any eligible building held in the condominium form of ownership that receives a tax abatement pursuant to this title, such **tax abatement benefits shall be apportioned among all of the condominium tax lots** within such eligible building. [Emphasis added]"*

Changes in Assessed Value (see also Real Property Tax exemption 487 in the *New York City Incentives* section)
Subdivision 4 of the Solar Energy Generating System Property Tax Abatement law advises that the PTA may be recalculated if the assessed value of the property changes.

> *"If, as a result of application to the tax commission or a court order or action by the department of finance, the billable assessed value for any fiscal year in which the tax abatement is taken is reduced after the assessment roll becomes final, the department of finance shall recalculate the abatement so that the abatement granted shall not exceed the annual tax liability as so reduced. The amount equal to the difference between the abatement originally granted and the abatement as so recalculated shall be deducted from any refund otherwise payable or remission otherwise due as a result of such reduction in billable assessed value."*

Summary Table 1: City-administered Tax Programs and Interaction with the PTA

	Compatible with PTA?	
Program	**Yes**	**No**
ICIP exemption and abatement	x	
J-51 exemption and abatement	x	
420-a exemption	x	
420-b exemption	x	
420-c exemption		x
Co-op/Condo abatement	x	
Commercial Expansion Program (CEP) abatement	x	
Commercial Revitalization Program (CRP) abatement	x	
ICAP abatement		x
421-a exemption		x
421-b exemption		x
421-g exemption and abatement		x
RPT Exemption 487	x	
PILOT Program		x*

*Consult your IDA representative to discuss options

Summary Table 2: State/Federal/Other Financing Interactions with PTA Eligible Expenditures

		Deducted?		Comments
Issue	Agency	Yes	No	
PON 2112	NYSERDA	x		Incentive per Watt, expenditures incurred using PON 2112 (Title 4-C 499-aaaa 8)
PON 2589(closed)	NYSERDA		x	Incentive for electricity production, no expenditures incurred using PON 2589 (Title 4-C 499-aaaa 8)
PON 2156(closed)	NYSERDA		x	Incentive for electricity production, no expenditures incurred using PON 2156 (Title 4-C 499-aaaa 8)
PON 2484(closed)	NYSERDA		x	Incentive for electricity production, no expenditures incurred using PON 2484 (Title 4-C 499-aaaa 8)
Personal Income Tax Credit	NYS Department of Taxation and Finance		x	Tax credits not considered grants (1 RCNY 105-02(f)(3)(ii))
ITC	U.S. IRS		x	Tax credits not considered grants (1 RCNY 105-02(f)(3)(ii))
1603 Program	U.S. Treasury		x	Temporary incentive in lieu of ITC treated the same as ITC as per 1 RCNY 105-02(f)(3)(ii)
3rd Party Ownership	N/A	N/A	N/A	Eligible expenditures connected with an eligible building (Title 4-C 499-aaaa 8), not the building owner. Third party ownership has no bearing on eligible buildings (Title 4-C 4999-aaaa 7)