

Solar Panels: Can owners get tax credits for use and installation of solar panels in a condominium?

State¹ and federal² tax incentives are available to individuals, households, businesses, and local governmental entities that produce electricity via a renewable energy system such as solar panels. An individual owner or group of owners may claim either incentive for solar panels purchased and installed on property owned by the owner. However, the two incentives treat solar panels installed by an Association differently. Individual owners may not claim the Washington incentive for solar panels installed by an Association on common elements, though the Association itself will be able to claim it in some circumstances. In contrast, an Association can never claim a federal tax credit for solar panels it installs on common elements, though it may “pass along” the credit to individual owners, each of whom may claim a proportionate share.

Washington Renewable Energy System Cost Recovery Program³

Under Washington’s solar energy incentive program, the state essentially buys each kilowatt-hour produced by solar energy systems (and other qualified renewable energy systems) in order to offset the costs associated with the purchase of the system. Under this program, the state will make incentive payments to persons who install solar panels, up to \$5,000.⁴

A person applying for the program must certify that they own the solar energy system and that they own the property on which that system is situated. Owners and Associations who invest in solar panels face different standards for satisfying this “unity of ownership” requirement.

If a single owner in a planned community installs solar panels, the owner is eligible for the incentive up to the \$5,000 cap if:

- 1) the individual owns the panels; and
- 2) the individual owns either the property on which the panels are installed OR a fractional interest therein.

If a group of owners pool their resources to purchase solar panels to benefit the units they own, installing them units on a common element or joint limited common element, each owner in the group is eligible for the incentive up to the \$5,000 cap if:

- 1) the group collectively owns the panels; and
- 2) each member of the group owns a fractional interest of the common element or joint limited common element where the panels are installed.

If an Association installs the solar panels, as opposed to individual owners, the Association — but not individual owners — will be eligible for the incentive up to the \$5,000 cap if:

- 1) the Association, in its corporate capacity, owns the panels; and
- 2) the Association has an ownership interest in the common element or joint limited common element where the panels are installed.

Federal Solar Investment Tax Credit⁵

The federal government offers homeowners a thirty percent federal tax credit for the purchase and installation of solar panels. The credit is a dollar-for-dollar reduction in the income taxes that a person claiming the credit would otherwise pay the federal government based on the amount of investment in solar property, with no monetary cap on the amount of credit. If the federal tax credit exceeds an individual's federal income tax liability for the year the solar energy system is installed, the individual may carry the tax credit forward to the next year.

As with the Washington incentive program, individual owners, or groups of owners who pool their resources, may claim the credit for solar panels installed on property they own. Unlike the Washington incentive program, however, individual owners may also claim a proportionate share of the tax credit for solar panels installed by the Association on common elements.⁶

Note: As with other tax related matters, Associations and owners are advised to consult with their accountant or tax preparer for concerns related to tax liability and eligibility for credits or other incentives.

¹ Washington has a renewable energy system cost recovery program set forth at RCW 82.16.110 to .130 and WAC 458-20-273.

² The Energy Policy Act of 2005 (109 P.L. 58 § 25D) provides a federal tax credit for residential energy property, including solar-electric systems.

³ For more detailed information for condo dwellers regarding Washington's incentive program, including examples, see, the Washington Department of Revenue's Excise Tax Advisory 3197.2015, available at <http://dor.wa.gov/Docs/Rules/eta3000/ETA31972015FINAL.pdf>.

⁴ WAC 458-20-273.

⁵ For more information on the Solar Investment Tax Credit, see <http://www.seia.org/policy/finance-tax/solar-investment-tax-credit>.

⁶ But, for the owners to qualify for the credit, the community must be primarily owner-occupied and the Association must be a "homeowners association" as defined in section 528(c) of the federal tax code, which provides:

(1) Homeowners association

The term "homeowners association" means an organization which is a condominium management association, a residential real estate management association, or a timeshare association if—

(A) such organization is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property,

(B) 60 percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from—

- (i) owners of residential units in the case of a condominium management association,
- (ii) owners of residences or residential lots in the case of a residential real estate management association, or
- (iii) owners of timeshare rights to use, or timeshare ownership interests in, association property in the case of a timeshare association,

(C) 90 percent or more of the expenditures of the organization for the taxable year are expenditures for the acquisition, construction, management, maintenance, and care of association property and, in the case of a timeshare association, for activities provided to or on behalf of members of the association,

(D) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual, and

(E) such organization elects (at such time and in such manner as the Secretary by regulations prescribes) to have this section apply for the taxable year.

26 U.S.C. § 528(c)(1).