

## Assembly Bill No. 792

### CHAPTER 534

An act to add and repeal Section 7284.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 4, 2013. Filed with  
Secretary of State October 4, 2013.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 792, Mullin. Utility user tax: exemption: distributed generation systems.

Existing law generally provides that the legislative body of any city and any charter city may make and enforce all ordinances and regulations with respect to municipal affairs, as provided, including, but not limited to, a utility user tax on the consumption of gas and electricity. Existing law provides that the board of supervisors of any county may levy a utility user tax on the consumption of, among other things, gas and electricity in the unincorporated area of the county.

This bill would, until January 1, 2020, exempt from any utility user tax imposed by a local jurisdiction, as defined, the consumption of electricity generated by a clean energy resource, as defined, for the use of a single customer or the customer's tenants.

*The people of the State of California do enact as follows:*

SECTION 1. Section 7284.5 is added to the Revenue and Taxation Code, to read:

7284.5. (a) For the purposes of this section, the following terms have the following meanings:

(1) "Local jurisdiction" means any city, county, city and county, including any chartered city, county, or city and county, district, or public or municipal corporation.

(2) "Clean energy resource" means either of the following:

(A) A device or technology used for a renewable electrical generation facility, as set forth in paragraph (1) of subdivision (a) of Section 25741 of the Public Resources Code.

(B) A technology that meets all of the following requirements:

(i) The emissions standards adopted by the State Air Resources Board pursuant to the distributed generation certification program requirements of Article 3 (commencing with Section 94200) of Subchapter 8 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations.

(ii) Produces de minimis emissions of sulfur oxides and nitrogen oxides.

(iii) The greenhouse gases emission performance standard established by the Public Utilities Commission pursuant to Section 8341 of the Public Utilities Code.

(iv) Has a total electrical efficiency of no less than 45 percent.

(v) Is sized to meet the generator’s onsite electrical demand.

(vi) Has parallel operation to the electrical distribution grid.

(vii) Utilizes renewable or nonrenewable fuel.

(viii) Pays any applicable utility users tax for nonrenewable fuels used in electricity generation.

(b) (1) There is exempt from any utility user tax on the consumption of electricity, imposed by any local jurisdiction, a customer’s consumption of electricity generated by a clean energy resource that is located on the customer’s premises and used solely for the customer or the customer’s tenants.

(2) This section does not exempt from any utility users tax imposed by any local jurisdiction any electricity or gas, not described in paragraph (1), that is provided to a customer by an electrical corporation, publicly owned utility, electrical cooperative, or irrigation district.

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 2. The Legislature finds and declares that exempting the consumption of electricity generated by a clean energy resource, that is installed for the exclusive use of a single customer, or the customer’s tenants, from local utility user taxes will ensure statewide uniformity and fairness in the overall imposition of the utility user tax. Therefore, exempting from utility user taxes the consumption of electricity generated by a clean energy resource, that is installed for the exclusive use of a single customer is a matter of statewide concern, and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution.