



Solar PILOTs - Harnessing the Power of the Sun to Warm Your Municipal Budgets.

MCAA Spring Education Meeting.

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Payment In Lieu of Tax Agreements,
commonly known as “PILOTs”,
are a great way for municipalities
to sustainably enhance their revenues
while reducing the costs associated
with annual Abatements
& ATB Appeals.

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Some Basics

- The Climate Act amended M.G.L. Chapter 59, Section 5, Cl. 45th to clarify the exemption and allow PILOTs.
- M.G.L. Chapter 59, Section 38(H)(b) Tax Agreements can not be used after January 1, 2022.



Some Basics

- Legislative Body of the municipality must designate an “authorized officer” to negotiate & execute Solar PILOTs.
- Legislative Body of the municipality must approve the negotiated Solar PILOT unless delegated without further legislative action.

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Some Basics

- Solar PILOT Revenue is an Estimated Receipt, not a Committed Revenue.
- DOR IGR 21-24
- Real Estate is not included unless the Real Estate and Solar Facility are under common ownership
- DOR LFO 2022-1



Some Basics

- Since Solar Facilities are personal property they follow personal property taxation rules:
 - Must be in place as of January 1st;
 - PILOTs should begin on July 1st;
 - No supplemental assessments on Solar Facility – possibly on Solar Land.

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PILOT Provisions

- PILOTs should:
 - Explicitly state that they do not include real estate;
 - Require annual affidavits in addition to Forms of List;
 - Prohibit assignment without prior municipal approval;



PILOT Provisions

- PILOTs should:
 - Explicitly state that the collection provisions of M.G.L Chapters 59 & 60 apply:
 - Right of Offset, 14% Interest, Attorney's Fees & Legal Costs
- Grant UCC Security Interests to the municipality;

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PILOT Provisions

- PILOTs should:
 - Be subject to provisions of M.G.L. Chapter 40, Section 57;
 - Waive ability to apply for abatements or ATB Appeals;
 - Contain “clawback” provisions;
 - Provide a Lender’s Right to Cure.

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Solar on Municipal Property

- Chapter 59, Section 2B applies.
- Land or Rooftop under Solar Facility will become taxable.
- Rooftop Solar Facility on Schools:
 - Rooftop must be surplusd by School Committee with DESE Approval.

- M.G.L. Ch. 40, § 3

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Solar on Chapterland

- Land must be removed from Chapter unless deemed “Dual Use”.
- Dual Use Solar requires an approved Agricultural Plan, and a Pre-Determination Letter from DOER.
- Solar Facilities not allowed on APR protected agricultural land.

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Solar on Rooftops

- Rooftop Solar Facilities on multiple buildings should be treated separately to determine if they are exempt.
- Formerly exempt Rooftop Solar Facilities may have become taxable after the Climate Act.
- Valuation of Solar Facility is a little different on a rooftop.

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Thank You!

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