



Certification Just Got Easier for the Sale or Purchase of Pollution Control Equipment Used in Local Water and Solid Waste Projects

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Good news for companies/vendors that sell "certified pollution control equipment or facilities" to city or county water, wastewater, stormwater or waste management facilities or systems in Virginia: the road to sales tax exemption for certified pollution control equipment just got a bit easier. Such sales tax exemption has previously hinged on obtaining certification from the State Water Control Board, the Virginia Department of Health or the Virginia Waste Management Board confirming that such equipment or facilities qualified for the exemption as provided by state statute. With the law, manufacturers and vendors of such equipment and facilities "intended for use by [a] political subdivision in conjunction with the operation of its water, wastewater, stormwater, or solid waste management facilities or systems" can now seek certification directly from that city or county rather than those state agencies to enable the sales tax exemption.

Under the new law, the "subdivision certifying authority" that can grant the certification is defined as the locality itself or the water, wastewater, stormwater or solid waste authority that is actually responsible for administering the local or regional "water, wastewater, stormwater or solid waste management systems." An example is the Arlington County Department of Environmental Services or the City of Richmond's Department of Public Utilities.

Of course, the equipment and facilities eligible for this new certification option must still meet the criteria for "certified pollution control equipment and facilities," defined by statute to include, among other things, tangible personal property (i.e., equipment, facilities, or devices) used "primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth . . . [and] having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination."

As is the case now, the manufacturer or vendor must still obtain the certification before the project

begins or anything is purchased by the locality, authority or contractor. Also, subcontractors may still be eligible for the exemption to the extent the tangible personal property has been certified prior to the purchase.

The sales tax exemption for "certified pollution control equipment or facilities" can cover a lot of equipment and facilities, so having another option to obtain the certification required to use the exemption is welcome news. The new option goes into effect on July 1, 2022, so purchases prior to that date must still be certified at the state level. More specific guidance and procedures from the Virginia Department of Taxation for how a "subdivision certifying authority" will review and grant certifications is likely forthcoming. Williams Mullen will follow these developments and report any additional news.

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