

# Fuel Cell Modules: Connecticut Appellate Court Addresses Property Tax Exemption Issue



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The Superior Court of Connecticut (“SCT”) addressed in a July 24th Opinion how and whether personal property tax exemptions should apply to fuel cell modules that produce both electricity and waste heat. See *FuelCell Energy, Inc. v. Town of Groton*, 2024 WL 3529177.

Questions considered included:

1. Whether fuel cell modules and related equipment were exempt from property taxation as a Class I renewable energy source under Connecticut General Statute § 12-81 (57).
2. Whether the same property was exempted from taxation for the October 1, 2016 grand list as “goods” in the process of manufacture pursuant to Connecticut General Statute § 12-81 (50).
3. Whether the taxpayers are required to formally declare their personal property pursuant to Connecticut General Statutes §§ 12-40, 12-41, and 12-71, even if exempt from taxation and the consequences of failing to do so.

FuelCell Energy, Inc. (“FuelCell”) is described as constructing, operating, and manufacturing molten carbonate fuel cells throughout Connecticut. Fuel cells are sources of renewable energy supplying electricity to businesses and consumers.

The fuel cells create waste heat when they generate chemical reactions to produce electricity. Such heat can be released in the atmosphere or converted into thermal energy through a heat recovery steam generator.

The Town of Groton, Connecticut (“Town”) sought to tax fuel cells or fuel cell modules and related equipment (i.e., the property). The property is stated to have primarily provided electricity to a campus. It also converted waste heat with a heat recovery steam generator to heat the campus buildings.

FuelCell asked the Public Utilities Regulatory Authority to classify the property as a Class I renewable energy source. This application was approved.

The Town denied a request for FuelCell’s exemption as a Class I renewable source. It stated that the property was more properly classified as a cogeneration system which allows but does not require municipalities to exempt cogeneration systems since both heat and electricity were produced.

The SCT in addressing the previously referenced three questions held:

1. The categorical exemption under § 12-81 (57) for Class I renewable energy sources applies to fuel cells with a heat recovery steam generator.
2. The property was properly exempted from taxation in 2016 as “goods” in [the] process of manufacture pursuant to § 12-81 (50).
3. FuelCell was not required to declare the property because it was exempt from taxation under § 12-81 (57) and, by extension, that the penalties leveled by the Town under § 12-91 (50) were not permitted.

A copy of the Opinion can be downloaded [here](#).