



Private Letter Ruling
Redacted Version
No. 09-018

Individual Income Tax and Corporation Income Tax
Qualification for the Solar Energy Systems Tax Credit
October 6, 2009

This is in reply to your request for a private letter ruling concerning whether the cost to purchase and install five separate photovoltaic solar energy systems and a solar thermal hot water system qualifies for the solar energy systems tax credit; and whether the amount of the solar energy systems tax credit will equal fifty percent of the total cost to purchase and install the systems.

Factual Scenario

You provided these facts:

On October 5, 2008, Taxpayers and A Corporation signed a contract whereby A Corporation agreed to provide and install three (3) separate 2.025 kW PV solar panel energy systems at a contract price of approximately \$52,000 in order to supply the energy needs of Taxpayers' residence.

On November 15, 2008, Taxpayers and A Corporation signed a contract whereby A Corporation agreed to provide and install two (2) separate 1.72 kW PV solar panel energy systems to supply the energy needs of Taxpayers' residence.

On November 15, 2008, Taxpayers and A Corporation signed a contract whereby A Corporation agreed to provide and install one (1) eighty gallon two collector solar thermal system to supply the hot water needs of Taxpayers' residence.

The contract price to provide and install two (2) separate 1.72 kW PV solar panel energy systems and one (1) eighty gallon two collector solar thermal system was approximately \$34,000 as described in the contract between Taxpayers and A Corporation signed on November 15, 2008.

The five (5) solar panel energy systems will share and be operated through one (1) SMA 5000 series inverter and one (1) SMA 3000 series inverter. The solar panel energy systems will not otherwise be interconnected or share any components other than an inverter.

The cost to purchase and install each solar panel energy system will be less than \$25,000.

The cost to purchase and install the solar thermal system will be less than \$25,000.

The total cost to purchase and install the solar panel energy systems and the solar thermal system will exceed \$25,000.

A Corporation is a contractor duly licensed by and in good standing with the Louisiana Contractors Licensing Board with a classification of Solar Energy Equipment.

The solar panel energy systems will be UL listed and installed in compliance with manufacturer specifications and all applicable building and electrical codes.

The solar panel energy systems and the solar thermal system will be installed by A Corporation and placed in service at Taxpayers' residence in 2009.

The solar panel energy systems will be grid connected net metering systems.

The solar thermal system will be certified by the Solar Rating and Certification Corporation and installed in compliance with manufacturer specifications and all applicable building and plumbing codes.

The solar panel energy systems and the solar thermal system will supply Taxpayers' residence with less than all of its energy needs.

Taxpayers intend to apply for any federal tax credits available to them on account of the purchase and installation of the solar panel energy systems and the solar thermal system.

Taxpayers are married individuals and will file joint tax returns for 2009.

Ruling Request

You have asked for a ruling as follows:

As residents of Louisiana, whose primary residence is located in Louisiana, Taxpayers 1) are eligible to earn income tax credits for solar energy systems under R.S. 47:6030; 2) will be entitled to a tax credit equal to fifty percent of the total cost to purchase and install the solar panel energy systems and solar thermal system; and 3) will receive a refund of any credit which exceeds their Louisiana income tax liability for the year the solar panel energy systems and solar thermal system are placed in service.

Taxpayers' eligibility, application for, and receipt of federal income tax credits for the purchase and installation of the solar panel energy systems and solar thermal system pursuant to 26 U.S.C. 25D 1) will not preclude them from receiving the solar energy systems tax credit; and 2) the solar energy systems tax credit will be equal to fifty percent of the entire purchase and installation cost of the solar panel energy systems and solar thermal system without reduction or offset due to their application for the federal tax credit.

Discussion

Louisiana Revised Statute 47:6030(A) provides that "There shall be a credit against the income tax for the cost of purchase and installation of a wind energy system or solar energy system, or both, by a resident individual at his residence located in this state or by the owner of a residential rental apartment project." In addition, LAC 61:I.1907(B) defines residence to be "a single family dwelling, one dwelling unit of a multi-family owner occupied complex (such as a condominium) or one residential dwelling unit of a rental apartment complex. All eligible residences must be located in Louisiana." Taxpayers state that they are residents of Louisiana and that their primary residence, for which the solar panel energy systems and solar thermal system are being purchased and installed, is located in Louisiana.

Louisiana Revised Statute 47:6030(B)(1) provides that "The credit shall be equal to fifty percent of the first twenty five thousand dollars of the cost of each wind energy system or solar energy system, including installation costs, that is purchased and installed on or after January 1, 2008."

In addition, LAC 61:I.1907(A) provides that “The amount of the credit is equal to 50 percent of the first \$25,000 of the cost of each wind or solar energy system.” Taxpayers state in their rendition of the facts that the cost to purchase and install each solar panel energy system and solar thermal system will be less than \$25,000. However, an analysis of the facts shows that the use of shared inverters creates a question as to the number of complete solar electric systems.

According to LAC 61:I.1907(B), a solar electric system is “a system consisting of photovoltaic panels with the primary purpose of converting sunlight to electrical energy and all equipment and apparatus necessary to connect, store and process the electrical energy for connection to and use by an electrical load.” In other words, a system has all of the discrete elements of a system. The use of a shared inverter in “two” systems causes one of the two to not have all the discrete elements of a system with the result that one of the systems would not be eligible for the credit. In considering this aspect examples are helpful.

Example 1: Taxpayer installs four (4) separate 2.378 kW PV solar energy systems with four (4) SMA 3000 inverters for a total cost of approximately \$92,000 or a per system cost of \$23,000. Each separate solar energy system would be eligible for a credit equal to fifty percent of the cost of the system or \$11,500 for a total credit of \$46,000.

Example 2: Taxpayer installs three (3) separate 2.025 kW PV solar energy systems with a shared SMA 5000 inverter and two (2) separate 1.72 kW PV solar energy systems with a shared SMA 3000 inverter for a total cost of approximately \$86,000 or a per system cost of \$17,200. If allowed to share components, each separate solar energy system would be eligible for a credit equal to fifty percent of the cost of the system or \$8,600 for a total credit of \$43,000.

The purpose of the limitation on the cost of each wind energy system or solar energy system found in La. R.S. 47:6030(B)(1) was to reduce overall programmatic costs. The examples illustrate how this purpose would not be achieved absent the creation of a “safe harbor” allowing shared inverters in the course of the simultaneous installation of two or more systems. Currently, there is one exception to the general rule allowing the credit only for complete systems. A “safe harbor” provision would act as another exception to the general rule. By allowing a “safe harbor”, the Department of Revenue would satisfy the purpose of the legislation by decreasing the cost of the program to the state, decreasing the cost to the taxpayer, and increase the efficiency of the installed systems. The “safe harbor” provision would allow the use of shared inverters when two or more systems are being installed at the same time. In the examples above, the savings to the state would equal the difference between \$46,000 and \$43,000 or \$3,000. However, any equipment added at a later date could not use existing system components and would have to have every element of a complete system in order to qualify for the credit. The Department intends to formally create a “safe harbor” allowing the use of shared inverters when two or more systems are installed at the same time in upcoming amendments to the Rule LAC 61:I.1907, but will give effect to the “safe harbor” treatment immediately. Under the “safe harbor” this ruling is based upon the existence of five solar panel energy systems.

According to LAC 61:I.1907(C)(1), “Each residence or apartment project in the state is eligible for tax credits for the number of separate complete wind, solar electric, and solar thermal energy systems necessary to ensure that the residence or apartment project is supplied with all of its energy needs.”

Louisiana Revised Statute 47:6030(C) provides that “Notwithstanding any other provision of law to the contrary, any excess of allowable credit over the aggregate tax liabilities against which such credit may be applied, as provided in this Section, shall constitute an overpayment, as defined in R.S. 47:1621(A), and the secretary shall make a refund of such overpayment from the current collections of the taxes imposed by Chapter 1 or Chapter 5 of Subtitle II of this Title, together with interest as provided in R.S. 47:1624.”

Louisiana Revised Statute 47:6030(B)(1) provides that “The credit may be used in addition to any federal tax credits earned for the same system.”

Ruling

Based on the facts provided, Taxpayers 1) are eligible to earn income tax credits for solar energy systems under R.S. 47:6030; 2) are entitled to a tax credit equal to fifty percent of the first \$25,000 of the cost to purchase and install each of the five separate solar panel energy systems and the solar thermal system; 3) will receive a refund, if the solar energy systems credits exceed their Louisiana income tax liability for the year the solar panel energy systems and solar thermal system are placed in service; and 4) are not precluded from receiving the solar energy systems tax credit even if they receive a federal income tax credit for the purchase and installation of solar panel energy systems and solar thermal system pursuant to 26 U.S.C. 25D.

If you have any questions or need additional information, please call Leonore Heavey, Revenue Tax Assistant Director, or William E. Little, Attorney, Policy Services Division, at 219-2780.

Sincerely,

Cynthia Bridges
Secretary

By:

William E. Little
Attorney
Policy Services

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