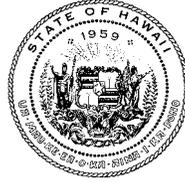


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LETTER RULING NO. 2010-20

[REDACTED TEXT]
[REDACTED TEXT]
[REDACTED TEXT]
[REDACTED TEXT]

August 18, 2010

**RE: RENEWABLE ENERGY TECHNOLOGIES INCOME TAX CREDIT
ANALYSIS OF A SYSTEM AND PROPERTY SERVED**

Dear [REDACTED TEXT]:

This responds to your letter dated July 9, 2010 (the "Ruling Request"), wherein you requested confirmation regarding application of the Renewable Energy Technologies Income Tax Credit under Hawaii Revised Statute ("HRS") §235-12.5 ("RETITC"), as further discussed below.

QUESTIONS PRESENTED

There are three questions presented in your Ruling Request, which are as follows:

- (1) Whether each solar-energy system ("System") installed and placed in service by [REDACTED TEXT] or its affiliates characterized as disregarded entities for tax purposes (collectively, the "Company") on a parcel of land [REDACTED TEXT] is servicing single-family residential property for purposes of the RETITC;
- (2) Assuming the Company is servicing single-family residential property for purposes of the RETITC, whether the Company may allocate the cost of each of several Systems across the entire number of single-family residential properties being served by each such System; and
- (3) Whether the Company can aggregate the applicable credit amounts resulting from the foregoing allocation for the number of single-family residential properties being served by each such System and apply those aggregated credits against the cost of each System as discussed in more detail below.

SHORT ANSWERS

Based on the facts set forth in this letter:

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- (1) The Company's Systems are each servicing multiple single-family residential properties for purposes of the RETITC under HRS § 235-12.5, and are therefore subject to the single-family residential cap;
- (2) Because the Company is servicing multiple single-family residential properties, the Company is eligible to allocate the costs of each of multiple Systems across the entire number of single-family residential properties being served by each such System; and
- (3) The Company is eligible to aggregate the applicable credit amounts resulting from the foregoing allocation for the number of single-family residential properties being served by each such System and apply the aggregated caps against the cost of each System as is discussed in more detail below.

FACTS REPRESENTED BY THE COMPANY

The Company will install multiple Systems within the boundaries of a single parcel of fee simple land (the "Site"), [REDACTED TEXT]. There are no [REDACTED TEXT] commercial locations on the Site.

The owners of the Site are the owners of [REDACTED TEXT] situated thereon, and are not parties to the credit claim that is the basis of this ruling request. The Company is a commercial enterprise engaged in the business of generating and selling electricity for a profit. Under the facts of this ruling, the Company will be owning, operating, and maintaining the System and selling the electricity generated by the System to the [REDACTED TEXT] with responsibility over the Site.

The Site is equipped with a single electrical system with a single connection and meter to the utility grid, which distributes electrical energy to each of the [REDACTED TEXT] properties on the Site. The electrical system [REDACTED TEXT] is on an undifferentiated basis and is not separately metered.

Each of the Company's Systems consists of a photovoltaic panel/array, an inverter, and associated attachment and connection equipment sufficient to make a connection to the Site's electrical system. Each System is independently connected to a unique circuit breaker in the property's main distribution panel.¹ All the energy from the Systems is entirely directed into a single central electrical system that serves all of the [REDACTED TEXT] Site. Also, all of the energy from the Systems is aggregated with other energy generated by the local electricity provider [REDACTED TEXT] on the property in an untraceable, unidentifiable manner as to source (*i.e.*, renewable vs. non-renewable generated electricity).

Ownership of the [REDACTED TEXT] Site and the collective costs of operating and maintaining the structures on the Site is allocated pro-rata among the owners [REDACTED TEXT]. The Site upon which the Systems are installed continues to obtain the majority of its

¹ The Company represents that the Systems involved in this ruling request do not involve micro-inverters, but instead involve central or "string" inverters. The Company further represents that there is only one central inverter per System, and that the installation has been appropriately divided into multiple systems for legitimate nontax reasons by virtue of the fact that there are different planes and different shading characteristics for each separate array, the importance of minimizing the probability of loss of power from the overall system at once, and to minimize impacts to the local utility grid.

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electricity from the utility grid as a general customer, but the amount of electricity obtained from the utility grid will be reduced by the amount of electricity obtained from the Systems and sold by the Company.

LAW AND ANALYSIS

A RETITC may be claimed for each eligible renewable energy technology system that is installed and placed into service in the State by a taxpayer during the taxable year. HRS § 235-12.5(a).

A. The Company's Systems are Required to Use the Single-Family Residential Cap.

The amount of RETITC allowable for each system is subject to a cap, and the applicable cap amount depends on the type of property being serviced by each System. HRS § 235-12.5(b). Systems installed for commercial property, for example, enjoy the highest cap for solar-powered systems, which is \$500,000 per system, while systems installed for single-family residential properties are subject to a cap of \$5,000 per system. See HRS § 235-12.5(b)(2)(C) and (A), respectively.

[REDACTED TEXT] constitute separate single-family residences for purposes of the RETITC. See generally TIR 2007-02. If a taxpayer installs and places into service a renewable energy technology system that services single-family residential property, then the system is subject to the single-family residential cap of \$5,000 per system. HRS § 235-12.5(b)(2)(A). While the Site contains multiple properties, all of the properties are of the same type, *i.e.* single-family residential use. Because the Systems serve only single-family residential properties, the Company is required to use the single family residential cap of \$5,000.

B. The Company Is Subject to the Credit Cap of Each of the Number Of Single-Family Residential Properties Being Served By Each Such System.

A renewable energy technology system can be installed and placed in service for more than one property or where a single property is used as a residence and for commercial purposes. The treatment of mixed-use property is different than that for a system servicing multiple properties. In both situations, though, the taxpayer must consistently apply a reasonable allocation method, such as square footage or a measure of use. See TIR 2007-02, at 9. Where a system services multiple properties all of which are of the same type, the appropriate cap is applied for each separate property. See TIR 2007-02, at 10-11.

The Site contains multiple properties, all of which are of the same type, *i.e.* single-family residential use. Each of the Systems to be installed by the Company is connected to the common electrical system that serves all of the [REDACTED TEXT] properties on the Site. The electrical energy produced by the Systems is aggregated with other energy generated by the local electricity provider and distributed amongst all loads [REDACTED TEXT] in an untraceable, unidentifiable manner as to source. Accordingly, each of the Systems would be deemed to be serving all of the [REDACTED TEXT] properties on the Site, and the Company would be required to allocate the cost of each System across all [REDACTED TEXT] properties in a reasonable manner.

[REDACTED TEXT]

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C. The Company is Subject to the Credit Cap for Each Separate and Independent System.

The RETITC may be claimed for each eligible renewable energy technology system that is installed and placed into service. HRS § 235-12.5(b). A single renewable energy technology system exists when all the components necessary for the conversion of insolation into useful electrical energy are present. TIR 2007-02, at 4.

A single system consists of a photovoltaic panel/array, an inverter, and associated attachment and connection equipment sufficient to make a connection to the project site's electrical system. See TIR 2007-02 at 4, Ex. 4. As stated above, each of the Company's Systems is a photovoltaic system within the meaning of TIR 2007-02, which includes the necessary panels or array of panels, inverters, and installation and attachment equipment to connect to the electrical system. Each System installed and placed in service by the Company will have a separate solar panel array, inverter, and associated connection equipment so that each System will connect to the utility grid separately and independently of any other System(s) installed on the same property. The Company represents that the installation on the Site has been appropriately divided into multiple systems for legitimate non-tax reasons. If the Company installs multiple arrays, inverters, and associated attachment and connection equipment, each of which constitute a "system" within the meaning of TIRs 2007-02, 2010-02, and 2010-03; and each inverter-array combination can connect separately and independently of the other inverter-array combinations; and the installation has been appropriately divided into multiple systems for legitimate non-tax reasons, then the Company has installed multiple systems, each of which is eligible for the RETITC. TIR 2007-02, at 4, Ex. 5.

Because each of the Company's Systems is separate and independent of the other, as determined by the number of points of separate and independent connections to the Site's common electrical system, the Company is eligible to treat each System separately for purposes of the RETITC.

The electrical energy produced by each of the Systems is distributed through a common electrical system on an undifferentiated basis. Accordingly, each [REDACTED TEXT] property would also be deemed to be served by all of the multiple Systems. As a result, the cost of each separate System allocable to each separate property would be subject to a separate applicable single family residential cap [REDACTED TEXT].

CONCLUSION

Since the energy from the Company's Systems is servicing entirely single-family residential property, the Company's Systems are subject to the applicable cap of \$5,000 per System.

Because the Company's Systems will be servicing multiple single-family residential properties, the Company must allocate the cost of each System across the number of properties served in a reasonable manner. Allocation in the same manner as [REDACTED TEXT] is reasonable. The credit resulting from the cost for each property thus allocated is then subject to the applicable single family residential cap of \$5,000, and the Company is eligible to claim the lesser of the credit or the cap for each unit served by the System.

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Because the Company will install and place in service Systems that can be separately and independently connected to the common electrical system serving all properties, the Company may claim the RETITC for each System it installs and places into service during the taxable year, regardless of whether multiple Systems are installed on a single property; provided there is a legitimate nontax reason for the number of systems.

Because each System will serve multiple properties, the Company is entitled to claim the applicable credit for each property multiplied by the number of Systems serving that property.

This ruling is applicable only to the Company and shall not be applied retroactively. It may not be used or cited as precedent by any other taxpayer.

The conclusions reached in this letter are based on our understanding of the facts that you have represented. If it is later determined that our understanding of these facts is not correct, the facts are incomplete, or the facts later change in any material respect, the conclusion in this letter will be modified accordingly.

The Company has reviewed and agreed that the redacted version of this ruling attached as Exhibit A will be available for public inspection and copying.

If you have any further questions regarding this matter, please call me at 808-587-1596. Additional information on Hawaii's taxes is available at the Department's website at www.state.hi.us/tax.

Very truly yours,

JOSEPH B. TICHY
Administrative Rules Specialist