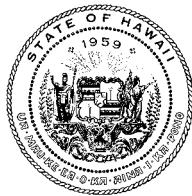


LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

STANLEY SHIRAKI
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

LETTER RULING NO. 2010-05

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

March 25, 2010

RE: RENEWABLE ENERGY TECHNOLOGIES INCOME TAX CREDIT ANALYSIS OF A SYSTEM

Dear [REDACTED TEXT]:

This responds to your letter dated [REDACTED TEXT] (the "Ruling Request"), wherein you requested confirmation regarding application of the Renewable Energy Technologies Income Tax Credit ("RETITC"), as further discussed below.

QUESTIONS PRESENTED

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

- (1) Whether each photovoltaic system ("System") installed and placed in service by [REDACTED TEXT] or its affiliates characterized as disregarded entities for tax purposes (collectively, the "Company"), is servicing commercial property for purposes of the RETITC under § 235-12.5, Hawaii Revised Statutes ("HRS"); and
- (2) Whether the Company can claim the RETITC for each System that is installed and placed in service, which is further separately and independently connected to the utility grid, regardless of whether multiple Systems are installed on a single property.

SHORT ANSWER

Based on the facts set forth in this letter:

- (1) The Company's Systems are each servicing commercial property for purposes of the RETITCs under HRS § 235-12.5; and

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- (2) The Company is eligible to claim the RETITC for each System that is installed and placed in service, which is further separately and independently connected to the utility grid, regardless of whether multiple Systems are installed on a single property.

FACTS REPRESENTED BY THE COMPANY

The Company will mount Systems on the rooftops of [REDACTED TEXT] property. In a typical photovoltaic system servicing [REDACTED TEXT] property, each System's inverter is connected to the customer side of the property utility meter for the benefit of net metering.¹ In this case, however; the Company is not involved in net energy metering and rather connects each System's inverter to the utility grid side of the utility meter and all the energy from the System is entirely directed into the energy grid of the local electricity provider. Energy directed into the energy grid is aggregated with other energy generated by the local electricity provider for use and distribution amongst all customers in an untraceable, unidentifiable manner as to source (*i.e.*, renewable vs. non-renewable generated electricity). The [REDACTED TEXT] properties upon which the Systems are installed continue to obtain all its electricity from the utility grid as a general customer and would only obtain electricity indirectly from the Systems on the same basis as any other ordinary customer of the utility grid. The owners of the [REDACTED TEXT] property are not party to the credit claim that is the basis of this ruling request.

The Company will mount multiple Systems on [REDACTED TEXT]. Each System will have a separate solar panel or array of solar panels, inverter² and associated attachment and

¹ Hawaii law defines net energy metering as the concept of "measuring the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a monthly billing period..." HRS 269-101.

² The Company represents that the Systems involved in this ruling request do not involve micro-inverters; however involve central inverters. The Company further represents that there is only one central inverter per System.

A micro-inverter is a device that converts the direct current (DC) produced from a single solar panel module to alternating current (AC). A central inverter, on the other hand, aggregates all DC current from an entire photovoltaic array and converts that DC power from the entire array into AC power. The main distinction between the micro-inverter and the central inverter is that there is typically a single micro-inverter for each solar panel in a system utilizing micro-inverters, thus eliminating the need for a central inverter.

The proper test for determining the number of systems under TIR 2007-02 is the number of independent connections to the project site's electrical system—not the number of inverters. The number of independent electrical connections may be equal to the number of inverters, or it may not. Ordinarily, on a system involving central inverters, the number of inverters involved will be equal to the number of systems because each central inverter will have its own independent connection to the electrical system. However, on a system utilizing micro-inverters, ordinarily the number of systems will not equal the number of inverters because a micro-inverter system wired in parallel ordinarily only has one independent connection to the project's electrical system [REDACTED TEXT].

If a taxpayer uses the number of inverters for determining a system, comparable systems of equal size involving micro-inverters or a central inverter would result in radically different credit claims. (*e.g.*, 20 systems for 20 panels involving 20 micro-inverters or one system for one central inverter involved with the same number of panels). Because of the radically differing results, for which there is no basis for differentiation as a matter of tax law, the number of inverters does not dictate the number of systems.

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connection equipment to make an independent connection to the utility grid side of the meter, which will direct all the energy into the utility grid.

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 Commercial Systems Entitled to the Commercial 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 served 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. HRS § 235-12.5(b)(2)(C).

If a taxpayer installs and places into service a renewable energy technology system that does not service any particular property, but is entirely directed into the energy grid of the local electricity provider, then the system is servicing commercial property only. *See* TIR 2007-02, at 11, Ex.20. The [REDACTED TEXT] properties, upon which the Systems in this case are installed, are not being serviced by the Systems. Instead, each System is connected to the utility grid side of the utility meters and all the energy from each System is entirely directed into the utility grid for aggregation with other electricity generated from other sources. Because each of the Company's Systems does not service the [REDACTED TEXT] located upon the property to which these Systems are installed, and rather the Systems' electricity is directed to the local electricity provider, the Company's Systems are commercial systems entitled to the \$500,000 per system cap under HRS § 235-12.5(b)(2)(C), as allowed under TIR 2007-02.

B. The Company Is Subject to the Credit Cap For Each Separate and Independent Connection to the Utility Grid.

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, 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. If the Company installs multiple arrays, inverters and associated attachment and connection equipment, each of which

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constitute a "system" within the meaning of TIR 2007-02, and each inverter-array combination can connect separately and independently of the other inverter-array combinations, 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 utility grid, the Company is eligible to treat each System separately for purposes of the RETITC.

CONCLUSIONS

Since energy from the Company's Systems is entirely directed into the energy grid of the local electricity provider and is not being used to directly power the [REDACTED TEXT] property upon which the Systems are installed, each System is servicing commercial property for purposes of the RETITC.

Because the Company will install and place in service Systems that can be separately and independently connected to the utility grid, 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.

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 808-587-1569. 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