



# TAX FACTS 2022-2

## Renewable Energy Technologies Income Tax Credit - Photovoltaic Systems

This Tax Facts provides information about the renewable energy technologies income tax credit (RETITC), specifically the credit on the photovoltaic (PV) system.

### Inside This Tax Facts

	Page
Who Can Claim the Credit.....	1
What is a System .....	1
When Can I Claim the Credit .....	2
How Many Credits Can I Claim .....	2
Types of Property.....	3
Nonrefundable and Refundable Credits.....	5
Claiming Other Credits .....	6
Amended Returns .....	6

### Who Can Claim the Credit

#### 1 Who may claim the credit?

Only the economic owner of the PV system may claim the credit. The economic owner of the system does not need to be the owner of the property being served by the system. You may claim this credit if:

- (1) You are an individual or corporate taxpayer subject to Hawaii income tax under Chapter 235, Hawaii Revised Statutes (HRS); or
- (2) You are a taxpayer subject to Hawaii franchise tax under Chapter 241, HRS.

**Example 1:** A son may claim the credit if he pays for and owns a system installed on his parent's home.

**Example 2:** A renter may claim the credit if he pays for and owns a system installed on the property that the renter is renting from someone else.

**Example 3:** The AOA may claim the credit if they pay for and own the system. If the AOA has a contract with the condominium owners where the owners own the PV system, the

AOAO must complete Form N-342 and N-342A to allocate the owner's prorated share of the system.

For more information on who is the "economic owner," please see Tax Information Release No. 2022-02.

#### 2 Can I claim the credit if I lease the PV system?

It would depend on the type of lease.

A lessor may claim the credit for a system owned by the lessor and leased to a homeowner through a power purchase agreement.

If a transaction is a lease for federal income tax purposes, the lessor is the economic owner of the system. However, if the parties characterize a transaction as a lease, but is actually a sale for federal income tax purposes, the lessee is the economic owner of the system.

### What is a System

#### 3 What is a "renewable energy technology system?"

"Renewable energy technology system" is "a system that captures and converts a renewable source of energy, such as wind, heat (solar thermal), or light (photovoltaic) from the sun into:

- (1) A usable source of thermal or mechanical energy;
- (2) Electricity; or
- (3) Fuel."

A system will only exist when all the components necessary for the conversion of insolation into useful thermal or electrical energy are present.

#### 4 What is a "photovoltaic energy system"?

"Photovoltaic energy system" means an identifiable facility, equipment, apparatus, or the like that converts light (photovoltaic) energy to useful thermal or electrical energy for

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heating, cooling, or reducing the use of other types of energy that are dependent upon fossil fuel for their generation.

### When Can I Claim the Credit

## 5 What does “installed and placed in service” mean?

“Installed and placed in service” for residential property means that the system is ready and available to use and that all of the following requirements are met:

- (A) The actual cost has been incurred;
- (B) The installation is finished, including all related electrical work; and
- (C) The installation inspection request was received by the appropriate government agency. (Note: If the installation fails the first inspection, then the credit must be claimed in the tax year in which it passes such inspection.)

**Example 4:** If a system was installed and placed in service on November 1, 2021, then the taxpayer can claim the credit for tax year 2021.

**Example 5:** If a contract to install a system and a down payment was made on December 1, 2021 and the system was installed and placed in service on January 2, 2022, then the taxpayer can claim the credit for tax year 2022. The credit cannot be claimed for 2021.

**Example 6:** A system was installed on a single-family residential property on December 29, 2021 and the inspection request was received by the county on December 31, 2021. If the installation passes the first inspection in 2022, then the system will be deemed installed and placed in service in 2021 and the taxpayer can claim the credit for tax year 2021 even though the inspection was done in 2022. If the installation fails the first inspection in 2022, and another inspection is required and it passes that inspection in 2022, then the system will be deemed installed and placed in service in 2022 and the taxpayer can claim the credit for tax year 2022. For more information, see section 18-235-12.5-01(a), Hawaii Administrative Rules (HAR).

## 6 Can I claim the credit if I installed additions to an existing system?

It would depend on what additions are added to the system. To be considered an addition eligible for the RETITC, the installation and placing in service of equipment must capture and convert a renewable source of energy into usable energy, see questions 7, 8 and 9.

## 7 What if I make multiple installations during the tax year?

All additions made to one existing system during a single taxable year will be treated as one installation with the aggregate cost subject to the cap as if a single system were installed and placed in service during that taxable year. While any number of additions may be made during a single taxable year, at least one of the additions made during the tax year must be an identifiable facility, equipment, apparatus, or the like that converts light (PV) energy to useful thermal or electrical energy for heating, cooling, or reducing the use of other types of energy that are dependent upon fossil fuel for their generation; otherwise none of the additions will generate a credit because the definition of a system is not met.

For more information and examples, see Tax Information Release No. 2022-02.

### How Many Credits Can I Claim

## 8 How many credits can I claim for installing a PV system?

The total output capacity of the PV system determines how many credits you can claim. In order to claim a credit, your system must meet the total output capacity requirements unless your system qualifies for an exception (see question 9). See section 18-235-12.5, HAR, for more information.

The total output capacity requirements are:

Type of Property	Number of Kilowatts Per System
Single-family residential property	5 kilowatts per system
Multi-family residential property	0.360 kilowatts per unit per system
Commercial property	1,000 kilowatts per system

## 9 What is “total output capacity”?

For PV systems, “total output capacity” is the maximum power of the cell, module, or panel at Standard Test Conditions in kilowatts multiplied by the number of cells, modules or panels installed and placed in service during the taxable year. The maximum power of the cell, module or panel must be provided and published by the manufacturer.

## 10 What are the exceptions to the total output capacity requirements?

A credit may be claimed for a system that does not meet the total output capacity requirements if it qualifies for one of the following exceptions:

- (1) **Only One Credit Being Claimed:** If a system that does not meet the total output capacity requirement is installed and placed in service on one property during the tax year, then the taxpayer may claim one credit.
- (2) **Only One System Does Not Meet the Requirement:** If more than one system is installed and placed in service during the tax year and one of the systems fails to meet the total output capacity requirement, then the taxpayer may still claim one credit for each system including a credit for the one system that does not meet the total output capacity requirement.

**Example 7:** Taxpayer installs a PV system with a total output capacity of 4.0 kw on his house (single-family residential property). Even though the system does not meet the total output capacity requirement of 5.0 kilowatts, the taxpayer may claim one credit for this system.

**Example 8:** Taxpayer installs a PV system with a total output capacity of 8.5 kilowatts on his house (single-family residential property). The taxpayer may claim 2 credits. The first system is 5.0 kw, the second system is 3.5 kw, and the cost would be allocated accordingly. The cost of the system cannot be split evenly. For more information, see section 18-235-12.5-03, HAR, Example 7.

## 11 Can multiple owners of a single system claim the credit?

Yes, each owner may claim their portion of a single tax credit based on how much each owner paid towards the cost of the system subject to the tax credit cap.

**Example 9:** A mother and son install a PV system on their single-family residential property. The cost of the system was \$6,000. The mother paid \$5,000 and the son paid \$1,000. The total credit claimed by the mother and son cannot exceed \$2,100 ( $\$6,000 \times 35\% = \$2,100$ .) Of the \$2,100, the mother may claim [ $\$2,100 \times (\$5,000/\$6,000)$ ]= \$1,750. Of the \$2,100, the son may claim [ $\$2,100 \times (\$1,000/\$6,000)$ ] = \$350.

## Types of Property

## 12 What are the types of property served by the system?

The maximum credit allowed for the installation of a PV system depends on the type of property being served by the system. There are three categories of property: single-family residential property, multi-family residential property, and commercial property.

For purposes of this credit, all such titled property in the State is to be characterized as commercial or residential, or a mix of the two. Any property being served by the PV system that cannot be properly characterized as residential or mixed property will, by default, be characterized as commercial property. Property will be considered residential or mixed if any portion of the property is being used as a residence.

If at the time of installation and placing in service of the system the property is not occupied, the property will be considered residential or mixed if any portion of the property is intended for use as a residence.

If property is used to regularly furnish lodging to transients for consideration, in which the rooms, apartments, suites, or the like are occupied by a transient for less than one hundred eighty consecutive days for each letting, then the property will be considered commercial property to the extent of that use.

**Example 10:** Taxpayer leases property to tenants for residential use. Even though the taxpayer is engaged in the commercial activity of renting property, the character of the property is determined by its use as a residence. A system installed and placed in service by the taxpayer for this rental property will be subject to the single-family or multi-family residential property limitations.

**Example 11:** A hotel, or any other place in which lodgings are regularly furnished to transients for consideration, in which all of the rooms, apartments, suites, or the like are occupied by a transient for less than one hundred eighty consecutive days for each letting will be considered commercial property.

## 13 What determines whether a property is considered single-family residential or multi-family residential?

The number of separate residences located on a single property will determine whether the property is considered single-family residential property or multi-family residential property. A single property consisting of more than one residence, where each separate residence cannot be sold separately, will be considered multi-family residential property. The determination that property

is multi-family residential property is fact specific; but, in general multi-family residential property is real property that is described in a recorded title and that has more than one mailing address or separate entrances to separate living areas and each unit is not titled separately.

**Example 12:** A taxpayer installs and places in service a PV system that services a building containing 50 condominium units used commercially and 50 condominium units used as single-family residences. Each unit is titled separately, therefore, each unit would be considered a separate property. If the system serviced only one condo unit, the appropriate property limit would apply, which under the facts of this example would be either the single-family residential property limit or the commercial property limit. This is not an example of the Directed Use Exception, see #14.

## 14 Are there any exceptions to the multi-family residential property?

Yes, the ohana house exception and the directed use exception.

*The Ohana House Exception:* If a single property has two separate residences, each occupied by members of a family as defined in the Internal Revenue Code, § 267(b)(1), then each residence will be considered a separate single-family residential property if the system services both residences. Partners in a civil union will also be considered members of a family for the purposes of this exception.

*The Directed Use Exception:* If a system only services one residence on a multi-family residential property, then the system will be treated as servicing a single-family residential property.

**Example 13:** A taxpayer installs and places in service a PV system that services an apartment complex with 50 apartment units used commercially and 50 apartment units used as single-family residences. Each unit is not separately titled. The system installed and placed in service is on one apartment unit used as a residence. It would be subject to the single-family residential property limit notwithstanding the fact that the apartment unit is part of a multi-family residential property. This is an example of the Directed Use Exception. If the system in this example serviced two apartment units used as residences instead of one, then the multi-family residential property limit would apply using only the number of serviced units, not the total number of units in the entire apartment complex.

## 15 Can a PV system be installed and placed in service for more than one property?

A PV 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. It is important to keep in mind that the treatment of mixed-use property is different than that for a system servicing multiple properties. In both situations, though, the department requires that the taxpayer consistently apply a reasonable allocation method, such as square footage or a measure of use.

## 16 What happens if my property has more than one use?

In situations where one property has more than one use, the actual cost of the system is allocated between the residential use (which may be single-family use or multiple-family use) and the commercial use. For a PV system, 35% of the cost allocated to residential use is compared against either the single-family residential cap or the multiple-family residential cap; and 35% of the cost allocated to commercial use is compared against the commercial property cap.

**Example 14:** Taxpayer has designated one room of her residence for use as a home office, which is recognized as such by the IRS for federal tax purposes. For purposes of this credit, the property will be considered a mix of residential and commercial property. If an allocation by square footage is used and the home office constitutes 5% of the total square footage, then a \$20,000 PV system would result in the following credit:

*Single-family residential:* The allocated cost is 95% of \$20,000, or \$19,000. 35% of the allocated cost (\$19,000) is \$6,650. Then compare it to the cap for single-family residential property, which is \$5,000. The credit associated with the residential portion of the property is \$5,000.

*Commercial:* The allocated cost is 5% of \$20,000, or \$1,000. 35% of the allocated cost (\$1,000) is \$350. Then compare to the cap for commercial property, which is \$500,000. The credit associated with the commercial portion of the property is \$350.

The total credit for the \$20,000 system is the residential portion (\$5,000) plus the commercial portion (\$350) for a total credit of \$5,350.

**Example 15:** Taxpayer is a farmer and has a dwelling and barn on her lot. The lot containing both the dwelling and the barn would be considered a mixed-use property. If taxpayer installs and places in service a PV system that only services the barn, then an allocation by use would result in the system subject only to the commercial property limitations. (Note: This is not an example of the directed use exception in question 14; an allocation would still be made, but it would be a 0% residential/100% commercial allocation based upon use.) If the system only serviced the single-family dwelling, then an allocation by use would result in the system subject only to the single-family residential property

limitations. If the system serviced both the barn and the dwelling, then a portion of the system's actual cost would be subject to the commercial property limitations and the rest would be subject to the single-family residential property limitations.

See section 18-235-12.5-05, HAR, Example 6, for information on a taxpayer installing a PV system on an apartment complex that contains both residential and commercial units and each unit is not separately titled.

## 17 How do I calculate the PV credit if my system services more than one type of property?

A different calculation is required for a system that services more than one property. As with a mixed-use property, the actual cost of a single system servicing multiple properties is allocated among the properties. The difference lies with the application of the cap. With a mixed-use property, the cap is applied once to each use since it is a single property. With multiple properties, the appropriate cap is applied for each separate property.

See section 18-235-12.5-05, HAR, Example 3, for information on a taxpayer installing a PV system on a condominium that contains both residential and commercial units and each unit has a separate title.

### Nonrefundable and Refundable Credits

## 18 What is a nonrefundable credit?

A nonrefundable credit means your credit will be applied towards the amount of income tax you owe. If your nonrefundable credit is greater than the amount of income tax that you owe, then you may carryover the remaining credit and apply it towards next year's income tax. You may continue to carryover the credit until it is used up.

## 19 What is a refundable credit?

A refundable credit means you will receive a tax refund if your credit amount is greater than the amount of income tax you owe. You may elect to claim the credit as a refundable credit under certain circumstances.

## 20 When can I treat the credit as refundable?

For PV systems, a taxpayer can elect to claim the credit as refundable if the taxpayer reduces the credit amount by 30%. Certain individuals can claim a refundable credit with no reduction.

**Example 16:** If a corporate taxpayer has a \$5,000 credit and elects to treat the credit as refundable, then the credit must be reduced by \$1,500 ( $\$5,000 \times 30\%$ ). The taxpayer's credit after the reduction is \$3,500 ( $\$5,000 - \$1,500$ ).

**Example 17:** A married couple's Hawaii adjusted gross income is \$75,000. If the couple has a \$4,000 credit and elects to treat the credit as refundable, then the credit must be reduced by \$1,200 ( $\$4,000 \times 30\%$ ). Their credit after the reduction is \$2,800.

## 21 Can I claim the credit as refundable without reducing the credit?

An individual taxpayer can elect to claim the credit as refundable without reducing the credit if any of the following apply:

- (1) All income is retirement income such as pension distributions, social security, or distributions from a public retirement system that is exempt from Hawaii income tax; or
- (2) Taxpayer has Hawaii adjusted gross income (AGI) of \$20,000 or less ( $\$40,000$  or less if filing a tax return as married filing jointly).

**Example 18:** A married couple's only source of income for the year is pension income of \$70,000. Since their pension income is exempt from Hawaii income tax, the couple's Hawaii AGI is \$0. The taxpayers can elect to claim the RETITC as refundable without any reduction since all their income is exempt retirement income.

**Example 19:** An individual taxpayer's Hawaii AGI is \$19,997. The taxpayer can elect to claim the RETITC as refundable without any reduction since the taxpayer's Hawaii AGI is not more than \$20,000.

## 22 Once I make an election to treat the credit as refundable or nonrefundable, can I change the election?

A separate election may be made for each separate system that generates a tax credit. Once an election is made to treat the tax credit as refundable, the election cannot be revoked. An amended return cannot be filed to change the tax credit from refundable to nonrefundable. A taxpayer and spouse who do not file a joint tax return shall only be entitled to make this election to the extent that they would have been entitled to make the election had they filed a joint return. An amended return can be filed to change the tax credit from nonrefundable to refundable if it is filed before 12 months following the close of the taxable year.

### Claiming Other Credits

## 23 Can a business taxpayer claim the RETITC and the capital goods excise tax credit for the same system?

It depends. The cost of the system can be used to claim one of the credits or divided and used to claim both credits, but the entire cost of the system cannot be used to claim both credits.

**Example 20:** If a system costs \$2,000,000, the taxpayer can divide the cost and use \$1,428,571 to claim the maximum RETITC for a commercial system and use the remaining cost of \$571,429 to claim the Capital Goods Excise Tax Credit.

\$2,000,000	Total system cost
<u>(1,428,571)</u>	Less: Cost used to claim RETITC (\$1,428,571 x 35% = \$500,000)
<u>\$571,429</u>	Cost available to claim the capital goods excise tax credit

### Amended Returns

## 24 When is the deadline to claim or amend the RETITC?

The deadline for claiming this credit, including any amended claims, is the 12th month after the close of taxpayer's taxable year.

**Example 21:** Taxpayer timely files an original 2021 tax return and claims a \$10,000 RETITC on March 31, 2022. On November 27, 2022, the taxpayer discovers an error and amends the 2021 tax return to claim a \$15,000 RETITC instead of the original \$10,000 RETITC. The credit is allowed since the amended tax return was filed by December 31, 2022.

**Example 22:** Taxpayer timely files an original 2020 tax return and claims a \$6,000 RETITC. In 2022, the taxpayer amends the 2020 tax return to claim an \$8,000 RETITC instead of the original \$6,000 credit. The additional \$2,000 credit is disallowed since the deadline for amending the amount of the credit was December 31, 2021.

**Example 23:** Taxpayer timely files an original 2020 tax return and claims a \$20,000 nonrefundable RETITC. Since the taxpayer's tax liability is \$7,000, the taxpayer uses \$7,000 of the credit and carries \$13,000 over to 2021. In 2021, the taxpayer amends the 2020 tax return to report additional income. The taxpayer's amended tax liability for 2020 is \$14,000. The taxpayer amends Form N-342 and uses \$14,000 of the credit against his \$14,000 tax liability for 2020 and carries the remaining \$6,000 over to 2021. Even though the amended return is filed after December 31, 2021, the amendment is allowed because the amount of the credit claimed (\$20,000) has not changed. Amendments to change to amount used (\$14,000 instead of \$7,000) and carried over (\$6,000 instead of \$13,000) are not subject to the 12 month rule.

### Where to Get Forms and Information

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