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Re: Temporary Administrative Rules Relating to the Renewable Energy Technologies Income Tax Credit (RETITC)

The Department of Taxation issued temporary administrative rules relating to the RETITC which apply to systems installed and placed in service on or after January 1, 2013. The rules take effect on November 16, 2012 and expire on May 16, 2014. The purpose of this Tax Information Release (TIR) is to highlight the important changes to the calculation of the RETITC for “other solar energy systems,” including photovoltaic systems.¹

I. Total Output Capacity

A. § 18-235-12.5-01T(a)(11) – Definition

“Total output capacity” is the starting point for computing the RETITC for “other solar energy systems.” “Total output capacity” means the combined individual output capacities (maximum power) of all identifiable facilities, equipment, apparatus or the like that make up the renewable energy technology system installed and placed in service during a taxable year measured in kilowatts. Since the output capacities of all installations that occur during a taxable year must be combined, the installations will not be considered separate systems simply because the installations occurred at separate times. In order to claim the RETITC for more than one system installed and placed in service on single property, each system must meet the applicable “total output capacity” requirement set forth in §18-235-12.5-03T(a)(1) through (3) unless the exception under §18-235-12.5-03T(b)(2) (and further explained in section III below) applies.

For photovoltaic solar energy systems, “total output capacity” is the maximum power of the cell, module, or panel at Standard Test Conditions² 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. See section IV below for the total output capacity calculation.

B. § 18-235-12.5-03T(a) – Requirements for Other Solar Energy Systems

Section 18-235-12.5-03T(a) sets forth “total output capacity” requirements for “other solar energy systems” including photovoltaic systems. If the RETITC is being claimed

¹ See §235-12.5(b)(2), Hawaii Revised Statutes.

² “Standard Test Conditions” means 25 degrees Celsius cell/module temperature, 1,000 watts per square meter (W/m²) irradiance, air mass 1.5(AM 1.5) spectrum. §18-235-12.5-01T(a)(10).

for only one system installed and placed in service on a single property, then the “total output capacity” requirements do not apply.³ The “total output capacity” requirements are as follows:

1. Single-family residential property – at least 5 kilowatts per system
2. Multi-family residential property – at least 0.360 kilowatts per unit per system
3. Commercial property – at least 1,000 kilowatts per system

C. § 18-235-12.5-03T(b) – Exceptions to the "Total Output Capacity" Requirements for Other Solar Energy Systems

There are two exceptions to the “total output capacity” requirements for “other solar energy systems” provided under §18-235-12.5-03T(b). The RETITC may be claimed for systems which fail to meet the applicable “total output capacity” requirement where:

1. Only one system has been installed and placed in service during the taxable year on a single property⁴, or
2. More than one system has been installed and placed in service during the taxable year and only one of the systems fails to meet the applicable “total output capacity” requirement.⁵

The “total output capacity” exceptions provided under §18-235-12.5-03T(b)(1) and (2) apply to “other solar energy systems” installed for all property classifications including single-family residential, multi-family residential, commercial, and mixed-use properties.

II. § 18-235-12.5-05T – Multiple Properties and Mixed-use Properties

Section 18-235-12.5-05T sets forth rules relating to the classification real property as “mixed-use property” for the purposes of the RETITC and allocating “actual cost” where a “renewable energy technology system” services a “mixed-use property” or multiple properties. “Mixed-use property” means a property on which at least one residence is located and commercial activity takes place.⁶ Section 18-235-12.5-05T applies to all types of “renewable energy technology systems” under §235-12.5, Hawaii Revised Statutes (HRS).

III. Effective Date and Application of Temporary Administrative Rules

This TIR and the temporary administrative rules relating to the RETITC provided under §235-12.5, HRS, shall apply to renewable energy technology systems that are installed and placed in service on or after January 1, 2013. To the extent that the temporary administrative

³ §18-235-12.5-03T(b)(1).

⁴ §18-235-12.5-03T(b)(1).

⁵ §18-235-12.5-03T(b)(2).

⁶ §18-235-12.5-01T(a)(4).

rules conflict with guidance issued by the Department, this TIR and the temporary administrative rules shall prevail.

IV. Calculation – Allocation of Actual Cost for Other Solar Energy Systems

Listed below is the calculation to determine the total output capacity and the allocation of the actual cost per system where more than one system is installed and placed in service on a single property in the taxable year.

Line	Description	
Total Output Capacity		
A	Maximum power of each cell, module or panel ⁷	_____ kilowatts
B	Total number of cells, modules or panels installed and placed in service during the taxable year	_____ cells, modules, or panels
C	Total Output Capacity (Multiply Line A by Line B)	_____ kilowatts
D	Total Actual Cost of all installations during the taxable year	\$ _____
E	Actual Cost per kilowatt (Divide Line D by Line C)	\$ _____
Actual Cost Per System		
F1	Actual Cost to be allocated to System 1 (Multiply Line E by Line F1-kW)	F1 \$ _____
	F1-kW Total Output Capacity of System 1 = _____ kilowatts ⁸	Enter this amount on the appropriate line of Form N-342 or Form N-342A
F2	Actual Cost to be allocated to System 2 (Multiply Line E by Line F2-kW)	F2 \$ _____
	F2-kW Total Output Capacity of System 2 = _____ kilowatts ⁸	Enter this amount on the appropriate line of Form N-342 or Form N-342A

⁷ Where cells, modules, or panels with different maximum powers are installed, separate total output capacity calculations must be made for each.

⁸ This calculation must be made for each system for which a credit is claimed. Additional Actual Cost allocation lines should be added as needed. Each system must meet the applicable Total Output Capacity set forth in §§18-235-12.5-03T(a)(1) through (3) unless one of the exceptions in §18-235-12.5-03T(b) applies. The Total Output Capacity requirements are as follows: 5 kilowatts per system for single-family residential property, 0.360 kilowatts per unit per system for multi-family residential property, and 1,000 kilowatts per system for commercial property. Credits for systems which fail to meet the Total Output Capacity requirement may be claimed where: (1) only one credit is being claimed for a system installed and placed in service on one property, or (2) credits for more than one system are being claimed, but only one of those systems fails to meet the applicable Total Output Capacity requirement.

F3	Actual Cost to be allocated to System 3 (Multiply Line E by Line F3-kW)	F3 \$ _____
	F3-kW Total Output Capacity of System 3 = _____ kilowatts ⁸	Enter this amount on the appropriate line of Form N-342 or Form N-342A
F4	Actual Cost to be allocated to System 4 (Multiply Line E by Line F4-kw)	F4 \$ _____
	F4-kW Total Output Capacity of System 4 = _____ kilowatts ⁸	Enter this amount on the appropriate line of Form N-342 or Form N-342A
F5	Actual Cost to be allocated to System 5 (Multiply Line E by Line F5-kW)	F5 \$ _____
	F5-kW Total Output Capacity of System 5 = _____ kilowatts ⁸	Enter this amount on the appropriate line of Form N-342 or Form N-342A
Note: <i>Additional lines should be added here as needed where more than five systems have been installed and placed in service during the taxable year on a single property.</i>		
G	Sum of Lines F1 through F5 ⁹ Line G must equal Line D. The sum of the Total Output Capacities allocated to each system must equal to Line C.	\$ _____
H	Add Lines F1-kW to F5-kW (Sum of Total Output Capacities allocated to each system.) Line H must equal Line C.	_____ kilowatts

For more information on this issue, please contact the Technical Section at 808-587-1577 or by e-mail at Tax.Technical.Section@hawaii.gov.

/s/

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 Director of Taxation

⁹ **Lines F1 through F5 are for demonstrative purposes only. Credits may be claimed for each and every system which meets the requirement of section 235-12.5, HRS.