

IRS Provides Guidance for Residential PV

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Because renewable portfolio standard incentives vary widely from state to state, residential solar integrators and installers conducting operations in more than one state may have a challenge with quantifying the incentives available to their residential customers. One might assume that the easy part would be quantifying the federal income tax credit portion of the incentive package. However, the amount of income tax credits available to a homeowner depends on the income tax treatment of the state incentives received. Fortunately, a recent private letter ruling provides more guidance from the IRS.

Last year, with the assistance of the solar integrator American Solar Electric, we sought an IRS private letter ruling for an Arizona taxpayer who was seeking clarity from the IRS on applicable federal income tax credits. The ruling, PLR 201035003, sheds light on the thought process of the IRS in calculating the federal income tax credit pursuant to Section 25D of the Internal Revenue Code. Section 25D provides that an individual who purchases a residential solar system is eligible for a federal income tax credit equal to 30 percent of the cost of that system. In addition, many states with a renewable portfolio standard have a program by which an incentive is paid by the local utility to residents who purchase and install a residential solar system.

The facts and circumstances of a particular state's subsidy or incentive program are crucial to determining the tax implications of such payments and the applicable federal income tax credit. For instance, payments received from a utility are generally subject to income tax. However, Section 136 of the Internal Revenue Code provides that a "subsidy" from a public utility to a customer for the purchase or installation of an energy-conservation measure is not considered gross income to the taxpayer. Ideally, a homeowner would like to receive both the payment from the utility on a tax-free basis and the federal

income tax credit on the full purchase price of the system. To prevent such "double dipping," Section 136 provides that the base on which the Section 25D tax credit is determined must be reduced by the amount of any payment from a public utility that is excluded from gross income pursuant to Section 136.

In PLR 201035003, the taxpayer sold title and ownership of all "environmental credits, benefits, emissions reductions, offsets and allowances" (including the renewable energy credits) generated over the applicable period of time to the local utility for a one-time payment. This one-time payment was paid pursuant to an interconnection and purchase agreement utilized by the utility in compliance with Arizona's renewable portfolio standard. The IRS determined that under the facts and circumstances at issue, the payment received in exchange for the renewable energy credits and environmental attributes was not a "subsidy" under Section 136 but rather a sale transaction. Accordingly, the IRS concluded that the taxpayer was able to obtain the Section 25D income tax credit on the full purchase price of the residential solar system (without reduction for the amount of the payment received from the utility). The IRS further concluded that the taxpayer needed to report the gain from the sale in gross income.

Ultimately, a private letter ruling is only binding upon the IRS with respect to the taxpayer that requested the ruling. Nonetheless, PLR 201035003 gives much-needed insight into the views of the IRS, and we believe that integrators, utilities and customers operating under incentive programs similar to the one at issue in this ruling might consider the implications of this guidance. We hope that the IRS will issue general guidance applicable to all federal taxpayers in the near future. For now, taxpayers should consult with their tax advisors regarding the implications of PLR 201035003.

Utility-Scale Power Storage Goes Mainstream in Hawaii



Large-scale power storage has long been cited as a goal to even out the intermittency of solar and wind power. In Hawaii, massive battery banks are now becoming standard operating procedure for wind and solar resources serving small isolated grids.

In January, Kaua'i Island Utility Cooperative (KIUC) agreed to purchase a 1.5-MW utility-scale battery storage system from Xtreme Power of Kyle, Texas, to be installed at the Koloa substation. This battery bank will smooth out

the power feed from a 3-MW photovoltaic project as clouds pass over, helping to stabilize the utility's relatively small grid. Also in January, Xtreme announced the sale of a 10-MW storage system to serve a 21-MW wind farm to be built on Maui. Both systems will come online later this year.

The sales mark the fourth and fifth large battery systems sold by Xtreme in Hawaii. Battery banks are already in place to serve wind farms on Maui, Lana'i and Oahu. The new systems will bring installed battery capacity to 30 MW.