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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:

PLR-149379-13

Date:
May 05, 2014

LEGEND:

Taxpayer:

Year 1:
Year 2:

Dear :

This is in response to your request for a ruling, submitted by your authorized representative, concerning the federal income tax consequences of the transaction described below:

FACTS

Taxpayer designs and produces for sale to customers systems that convert solar energy into electricity. These systems are designed to be placed . The electricity generated from these systems is used to power devices such as . Some of the solar energy systems Taxpayer produces generate power that can be sent to the grid while others are self-sufficient unconnected units.

Taxpayer also owns and operates some of the systems it produces. Taxpayer has placed in service during Year 1 and prior taxable years, and intends to place in service in Year 2 and future taxable years, a number of solar energy systems substantially described. These include solar energy systems with all of the variable features and characteristics described in the Ruling Request--*i.e.*,

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Every component required to produce solar energy is attached to or housed in a . These are custom designed and are built specifically for the purposes of the solar energy systems. They come in varying heights, specific to the solar access needs of each location. Each has a similar . The broad bases house the major system operational components including wiring, conversion equipment, control equipment, and energy storage batteries. These customized bases prevent the , some of which have solar collection panels attached to the top, from blowing over in inclement weather. The bases also include special locking doors, both for security purposes, and so that solar energy-producing equipment can be readily maintained.

sized to maximize solar energy collection. The and systems incorporate various methods of collecting solar energy. For example, on some systems, a thin-film solar collector is attached to the surface by means of riveted retaining strips and a strong heat-tolerant adhesive (an ethylene propylene copolymer adhesive-sealant with microbial inhibitor). On with this type of solar collector, the thin-film solar collector . collect energy with a flat, rotating, solar panel projecting above the top . Finally, collect energy through both the thin-film solar collector and a flat panel.

that Taxpayer produces are not suitable to be used for purposes other than supporting the solar electricity generation equipment. Instead, as described above, each is specifically suited to meet the solar energy collection, conversion, and production needs of the attached device and, in some cases, send energy to the grid. The cost to produce these is much greater than the cost to produce ordinary . None of the equipment uses a source of power other than solar.

Taxpayer does not produce, sell, or install separate components of the solar energy systems. For example, it does not produce or sell separately from the rest of the equipment that makes up the solar energy system. Rather, it produces and sells the solar energy production component and the custom component as a single solar energy system.

Taxpayer requests a ruling that the solar energy systems described above, including the , constitute energy property for purposes of the investment tax credit under § 48 of the Internal Revenue Code (Code).

LAW AND ANALYSIS

Section 48(a) of the Code provides for an energy credit equal to 30 percent of the cost basis of qualifying energy property placed in service before January 1, 2017.

Section 48(a)(3)(A)(i) of the Code provides that energy property includes equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat, excepting property used to generate energy for the purposes of heating a swimming pool.

Federal Income Tax Regulations § 1.48-9(a)(2) provides that in order to qualify as "energy property" under § 48 of the Code, property must be depreciable property with an estimated useful life when placed in service of at least three years and constructed after certain dates.

Section 1.48-9(d)(1) of the regulations provides as follows:

(d) Solar energy property--(1) In general. Energy property includes solar energy property. The term "solar energy property" includes equipment and materials (and parts related to the functioning of such equipment) that use solar energy directly to (i) generate electricity, (ii) heat or cool a building or structure, or (iii) provide hot water for use within a building or structure. Generally, those functions are accomplished through the use of equipment such as collectors (to absorb sunlight and create hot liquids or air), storage tanks (to store hot liquids), rockbeds (to store hot air), thermostats (to activate pumps or fans which circulate the hot liquids or air), and heat exchangers (to utilize hot liquids or air to create hot air or water). Property that uses, as an energy source, fuel or energy derived indirectly from solar energy, such as ocean thermal energy, fossil fuel, or wood, is not considered solar energy property.

Section 1.48-9(d)(3) of the regulations provides, in part, that solar energy property includes equipment that uses solar energy to generate electricity, and includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. Such property, however, does not include any equipment that transmits or uses the electricity generated.

Apart from itself, all of the components of the solar energy systems use solar energy directly to generate electricity. The energy conversion components, energy storage battery, collection panels, control equipment and wiring are all energy property within the meaning of Treas. Reg. §§ 1.48-9(d)(1) and (3). Furthermore, Treas. Reg. § 1.48-9(d)(1) provides, in part, that solar energy property includes equipment and materials and parts related to the functioning of equipment that uses solar energy to generate electricity. Accordingly, we conclude that the solar collection panels, storage batteries, wiring, conversion equipment and control equipment constitute energy property under § 48(a)(3) of the Code. In this case, are

essential to the functioning of this equipment. Accordingly, we further conclude that upon which the solar panels are mounted constitute energy property under § 48(a) as well.

However, although the provide structural support for the solar collectors, may also provide structural support for lights, surveillance equipment, motion detectors, two way transmission systems and other attachments not used for the generation of electricity from solar energy and will also protect the equipment from damaging weather and general degradation. Therefore, Taxpayer should allocate some portion of the basis of (to the extent that it performs another function) to non-energy property. Further, other systems including the lights, surveillance equipment, motion detectors, two way transmission systems or other attachments not used for the generation of electricity from solar energy will not constitute energy property within the meaning of IRC § 48.

Except as specifically determined above, no opinion is expressed or implied concerning the Federal income tax consequences of the transaction described above.

This ruling is directed only to the Taxpayer who requested it. Section 6110(k)(3) of the Code provides it may not be used or cited as precedent. We are sending a copy of this letter ruling to the Industry Director.

Sincerely,

Peter C. Friedman
Senior Technician Reviewer, Branch 6
Office of Associate Chief Counsel (Passthroughs & Special Industries)

cc: