North Carolina Department of Revenue

Pat McCrory
Governor

Lyons Gray
Secretary

February 28, 2013

[redacted]

Re: Request for Private Letter Ruling – [redacted] and Affiliates
EIN/DOR Number - # [redacted]

Dear [redacted]:

This letter is in response to your letter dated [redacted], wherein you requested that the North Carolina Department of Revenue ("Department") issue a private letter ruling clarifying that the credit ceiling of $2.5M referenced in N.C. Gen. Stat. § 105-129.16A(c)(1) is applied on a per "installation" basis and not a per transaction basis.

The statement of facts submitted in your letter and clarified in our telephone conversation on [redacted] is summarized as follows:

> The qualified system cost was [redacted]. The system is located in [redacted]. The solar farm is [redacted] megawatt ("MW") DC system; consisting of [redacted] installations of solar arrays that produce [redacted] kilowatt ("kW") of usable energy independently and do not require the resource of other arrays to produce such. Each array consists of [redacted] modules, [redacted] combiner boxes, an inverter, an AC disconnect and applicable overhead for a total allocated array cost of [redacted]. All of the electrical power generated by the solar farm will be sold to the utility company.

Issues:

i) Whether the costs to construct and install the [redacted]t independently operational [redacted] kW solar photovoltaic installations described above will qualify for the State's Renewable Energy Tax Credit under N.C. Gen. Stat. § 105-129.16A(a); and

ii) Whether each solar photovoltaic installation will constitute an "installation of renewable energy property" for purposes of N.C. Gen. Stat. § 105-129.16A(c)(1).

Department's Response:

Yes. We agree that the costs to construct and install the solar photovoltaic installations described in your statement of facts will qualify for the State's Renewable Energy Tax Credit under N.C. Gen. Stat. §105-129.16A(a) and (ii) each solar photovoltaic installation will constitute an "installation of renewable energy property" for purposes of N.C. Gen. Stat. § 105-129.16A(c)(1).

Importantly, N.C. Gen. Stat. § 105-129. 15(f) defines "renewable energy property", in part as:

> "Solar energy equipment that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy."

Since each installation described above will convert solar radiation into electricity and will consist of the components constituting either (i) solar energy equipment that converts solar radiation into electricity or (ii) devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy, the property described in your statement of facts meets the definition of "renewable energy property" pursuant to the aforementioned statute. Therefore, the costs to construct and install the solar photovoltaic installations will qualify for the State's Renewable Energy Tax Credit under N.C. Gen. Stat. § 105-129.16A(a).

Under N.C. Gen. Stat. § 105-129.16A(a), a taxpayer that constructs, purchases, or leases renewable energy property and places such renewable energy property in service in North Carolina during the taxable year is allowed a credit equal to thirty-five percent (35%) of the cost of the property. For renewable energy property other than property that serves a non-business purpose, the entire Credit may not be taken for the taxable year in which the property is placed in service but must be taken in five equal installments beginning with the taxable year in which the property is placed in service and may not exceed a ceiling of two million, five hundred thousand dollars ($2.5 M) per installation.

N.C. Gen. Stat. § 105-129.15(4b) defines "Installation of renewable energy property" as "Renewable energy property that standing alone or in combination with other machinery, equipment, or real property is able to produce usable energy on its own." It is our understanding based on our review of information provided that each individual installation of photovoltaic arrays will produce usable renewable power to feed into the utility company's grid. In the event any one or more of the installations of photovoltaic arrays is turned off, any of the other installed arrays "standing alone" can continue to generate usable energy independently of the other installations and feed it into the grid. For these reasons, each separate installation of photovoltaic arrays qualifies as an "Installation of renewable energy property." As a result, the Department will treat each installation of photovoltaic arrays as a separate installation for purposes of the $2.5M ceiling on the amount of the renewable energy credit under N.C. Gen. Stat. § 105-129.16A(c)(1).

Please note, however, that the site-wide project costs allocated to each installation and the cost of any equipment, such as ground mounting systems, wiring, and disconnect switches, must be necessary and integral to collecting, storing, exchanging and converting solar energy to electrical power in order to qualify for the credit. Upon audit, the taxpayer must furnish records for inspection that provide the costs and purpose of any equipment included in the costs of the renewable property for which the credit is claimed.

This ruling is based solely on the facts submitted to the Department of Revenue for consideration of the transactions described. Your statement of facts and our findings are subject to audit verification. If the facts and circumstances given are not accurate, or if there are other facts that were not disclosed that might cause the Department to reach a different conclusion, then the taxpayer requesting this ruling may not rely on it. A letter ruling is not equivalent to a Technical Advice Directive that generally affects a large number of taxpayers. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material aspect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that this document is not to be cited as precedent and that a change in statute, a regulation, or case law could void this ruling.

Should you have any questions, please contact me.

Very truly yours,

[redacted]