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ARIZONA INDIVIDUAL INCOME TAX RULING ITR 13-4

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Issue:

How do leases and power purchase agreements (PPA) impact the residential solar energy device credit?

Applicable Law:

A.R.S. § 43-1083 provides a solar energy device credit for individuals that install a solar energy device on their principal Arizona residence during the taxable year. This section further provides that the credit is equal to 25% of the cost of the device, up to a maximum of \$1,000 per year, with a cumulative maximum of \$1,000 per residence.

Conclusion:

Following is a list of various questions and answers with respect to how a lease or a PPA impact the residential solar energy device credit.

Questions and Answers

1. Can a taxpayer that leases a solar energy device that is installed on his or her residence claim the credit?

No. If the taxpayer leases the solar energy device, the taxpayer would not qualify for the credit. The lessee does not own the solar property on the date the property was placed in service. Therefore, the lessee would not have incurred any costs of the device. In this case, the lessee would not be eligible to claim the credit since the person's cost would be zero.

2. If the lessee cannot claim the credit, can the lessor claim the credit as the owner of the solar energy device?

No. The credit is available to only the taxpayer who has the solar property installed on their Arizona residence. Even though the lessor would be the owner of the solar

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property, the lessor would not be eligible to claim the credit since the solar property was not installed on the lessor's residence. Therefore, in the case of a lease, no credit would be allowed to either the taxpayer or to the third party property owner (lessor).

3. If a taxpayer enters into a contract where the solar energy device is provided and installed at no charge and the taxpayer only pays for electricity used (PPA), does the taxpayer qualify for a credit?

No. A PPA is a contract to buy solar power based on a set rate that is usually equal to or less than market rate from the consumer's local utility company. Because the solar electric rate is locked in, the consumer can protect itself from the volatility of future utility rate increases. Generally, a PPA customer only pays for solar power, but not the solar equipment or installation. The third party PPA administrator is the party that owns the solar property and that is the party that has incurred all of the costs of the solar property. Therefore, the taxpayer upon whose property the solar equipment was installed would not be eligible to claim the credit since this taxpayer's cost of the device would be zero.

4. If a taxpayer enters into a PPA and pays for the installation of the solar energy device, does the taxpayer qualify for a credit?

No. There would be no cost incurred by the taxpayer for the device because the taxpayer does not own the solar property. The third party PPA administrator is the party that owns the solar property and that is the party that has incurred all of the costs of the solar property. Therefore, the taxpayer upon whose property the solar equipment was installed would not be eligible to claim the credit since this taxpayer's cost of the device would be zero.

5. If the taxpayer who buys the power through the PPA cannot claim the credit, can the third party solar property owner (PPA administrator) claim the credit as the owner of the solar energy device?

No. The credit is available to only the taxpayer who has the solar property installed on their Arizona residence. Even though the third party PPA administrator would be the owner of the solar property, the third party PPA administrator would not be eligible to claim the credit since the solar property was not installed on the PPA administrator's residence. Therefore, in the case of a PPA, no credit would be allowed to either the taxpayer or to the third party PPA administrator.

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6. How is leasing the solar device different from borrowing money from a third party to buy the solar device?

When a taxpayer purchases a solar energy device, the taxpayer has acquired title (or will acquire, title to or an equity in the property). All costs of repairs, maintenance, taxes, insurance, etc. are obligations of the purchaser.

When a taxpayer leases the solar energy device, the taxpayer would not own the solar property. The third party (lessor) is the party that owns the solar property. All costs of repairs, maintenance, taxes, insurance, etc. are obligations of the lessor. Additionally, in this case, the owner of the solar property (the lessor) claims all depreciation for the solar property.

John A. Greene, Director

Signed: September 16, 2013

Explanatory Notice

The purpose of a tax ruling is to provide interpretive guidance to the general public and to department personnel. A tax ruling is intended to encompass issues of law that are not adequately covered in statute, case law or administrative rules. A tax ruling is a position statement that provides interpretation, detail, or supplementary information concerning application of the law. Relevant statute, case law, or administrative rules, as well as a subsequent ruling, may modify or negate any or all of the provisions of any tax ruling. See GTP 96-1 for more detailed information regarding documents issued by the Department of Revenue.