



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL
168.00-00

January 25, 2011

Number: **2011-0004**
Release Date: 3/25/2011

CONEX-149118-10
UIL: 168.00-00

The Honorable Ben R. Lujan
Member, U.S. House of Representatives
811 Saint Michaels
Santa Fe, New Mexico 87505-7640

Attention:

Dear Mr. Lujan:

I am responding to your inquiry dated November 17, 2010, on behalf of your constituent, . He asked what expenses, such as depreciation amounts, he could use to offset the taxable income he received from the sale of Renewable Energy Credits (RECs) to his local electric utility. In some of his enclosed documents RECs are also referred to as Renewable Energy Certificates.

wrote that he completed the installation of a "grid-tied" solar photovoltaic (PV) system at his home on . A solar PV system generates power (that is, electricity) directly from sunlight. RECs are attributable to his ownership of this solar PV system.

wrote that he entered into two contracts with the local electric utility on . He described the first contract as a "net-metering" contract. wrote that this contract allows him to "store" his excess power production in the utility's system for his use later at a time when his solar PV system does not produce the power that he requires at night or on a cloudy day.

described the second contract as an agreement for the utility's purchase of the RECs. Under the contract, he assigns his RECs to the utility to help it meet its commitment to produce a portion of its power generation using renewable sources and, in return, the utility credits his monthly electric service bill, at a specific cents rate for each kilowatt-hour that his solar PV system produces.

did not indicate that he is engaged in a business or income-producing activity at his home or sells any of the solar PV system's power production to the utility.

Generally, a taxpayer can claim a depreciation deduction for the exhaustion and wear and tear of property used in a trade or business, or of property held for the production of income, such as a rental property. However, a taxpayer cannot depreciate property that he or she uses solely for personal activities. Based on [redacted] description of the use of his solar PV system, the generation of electricity by this solar PV system is for his personal use in his home. For this reason, he cannot depreciate the solar PV system.

I hope our response is helpful. If we can assist you further, please contact me or [redacted], Identification Number [redacted], at [redacted].

Sincerely,

Kathleen Reed

Kathleen Reed
Chief, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)