



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

OFFICE OF THE CHIEF COUNSEL

November 07, 2011

Number: **2011-0088**  
Release Date: 12/30/2011

CC:PSI:B06  
CONEX-142743-11

UIL: 25D.00-00, 136.00-00

The Honorable Sandra Adams  
Member, U.S. House of Representatives  
2461 West State Road 426, Suite 1041  
Oviedo, FL 32765

Attention:

Dear Congresswoman Adams:

I am responding to your letter of October 11, 2011, on behalf of your constituent, \_\_\_\_\_, who installed a solar photovoltaic system and solar panels for his home in 2011. \_\_\_\_\_ is a customer of an investor-owned utility company. He asks whether he may exclude from income under section 136 of the Internal Revenue Code (the Code) subsidies the utility company provided to him for installing the solar photovoltaic system and solar panels for his home. \_\_\_\_\_ also asks how this payment from the company affects the amount of his tax credit.

Taxpayers can take a personal tax credit under section 25D of the Code for purchasing and installing certain qualified residential energy efficient property. This property includes qualified solar electric property. The tax credit is 30 percent of the cost of qualified solar electric property and the labor costs properly allocable to the onsite preparation, assembly, and original installation of the qualifying property and for piping or wiring to connect the qualifying property to the home.

Generally, the law treats a taxpayer as making an expenditure for qualified solar electric property when the taxpayer installs the qualifying property. For a newly constructed home, the law treats the taxpayer as making the expenditure when the taxpayer originally begins to use the home. Thus, assuming \_\_\_\_\_ installed the qualified solar electric property on his existing residence, \_\_\_\_\_ will take the tax credit in the year he installs the property.

Customers of a public utility do not include in gross income the value of any subsidy the public utility provided (directly or indirectly) to them to purchase or install any energy conservation measure (section 136(a) of the Code). For this purpose, a "public utility" means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers (section 136(c)(2)(B) of

the Code). Thus, a “public utility” includes an investor-owned utility that sells electricity or natural gas to residential, commercial, or industrial customers for their use.

An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve management of energy demand for a dwelling (section 136(c)(1) of the Code). The solar photovoltaic system and the solar panels that \_\_\_\_\_ installed on his home appear to be energy conservation measures under section 136 of the Code.

Thus, a customer of an investor-owned utility does not include in gross income a subsidy that the customer receives from that utility to purchase or install an energy conservation measure. We do not have the facts about the program under which \_\_\_\_\_ is receiving his subsidies, so we cannot comment on whether the subsidies qualify for the exclusion from income under section 136 of the Code. If they do, he must reduce his basis in the solar photovoltaic system and solar panels he purchased for his home by the amount of the subsidy excluded from income (section 136(b) of the Code). He should use this reduced basis to calculate any credit allowed for the purchase of the solar photovoltaic system and solar panels.

\_\_\_\_\_ indicated that he may add additional solar electric property to his home in late 2011 and may receive an additional rebate check in 2012. The same analysis applies. If the subsidies qualify for exclusion under section 136 of the Code, when \_\_\_\_\_ files his tax return for 2011, he should exclude them from income, reduce his basis in the property by the amount of the subsidy, and calculate his section 25D credit using the reduced basis.

If this letter does not fully answer his questions, \_\_\_\_\_ may decide that he would like to pursue a ruling request. To do so, he must pay the required fees and submit the request in accordance with Revenue Procedure 2011-1. I am enclosing Section 7 of Rev. Proc. 2011-1, which describes the general instructions for requesting private letter rulings. Because it is lengthy, I did not enclose a copy of the entire document. \_\_\_\_\_ can find Rev. Proc. 2011-1 on the IRS website, [www.irs.gov](http://www.irs.gov), by searching the term “Rev. Proc. 2011-1.” The complete document has important information about fees and an example of the letter format in Exhibit B.

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I hope this information is helpful. If this matter, please contact assistance.

or you have further questions on or me at ( ) for further

Sincerely,

Charles B. Ramsey  
Chief, Branch 6  
Office of Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosure