



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

OFFICE OF THE CHIEF COUNSEL

May 7, 2012

Number: **2012-0038**
Release Date: 6/29/2012

CC:PSI:B06
CONEX-117175-12

UIL: 25D.00-00

The Honorable John Cornyn
United States Senator
Providence Towers
5001 Spring Valley Road, Suite 1125E
Dallas, Texas 75244

Attention:

Dear Senator Cornyn:

I am responding to your inquiry dated April 17, 2012, on behalf of your constituent, . He requested information about a private letter ruling request submitted by someone else under section 25D of the Internal Revenue Code (the Code).

Unfortunately, section 6103 of the Code prevents me from disclosing any return or return information including information about a private letter ruling request, to anyone other than the taxpayer without proper written disclosure authorization. Therefore, I cannot discuss any private letter ruling requests or even confirm whether our office has received a private letter ruling request from a particular taxpayer without his or her consent.

Additionally, if an individual taxpayer had requested a private letter ruling, the private letter ruling would apply to only that individual. We do not ordinarily issue letter rulings or determination letters on the tax consequences of a transaction for taxpayers who are not directly involved in the request. For example, a taxpayer cannot request a letter ruling on the tax consequences of a transaction to a customer or client if the ruling does not address the taxpayer's own tax status, liability, or reporting obligations because the customer or client is not directly involved in the letter ruling request (section 6.06 of Revenue Procedure 2012-1, 2012-1 I.R.B. 1).

Taxpayers generally cannot use or cite as precedent a written determination such as a private letter ruling (section 6110(k)(3) of the Code). So a company selling solar electric property cannot rely on a ruling we issue to a customer.

Although I cannot discuss a different taxpayer's tax treatment, I can provide information about the issue raised by _____ that I think will be helpful. In general, section 25D of the Code allows a taxpayer to take a personal tax credit for purchasing and installing certain qualified residential energy efficient property, including qualified solar electric property. Qualified solar electric property is property that "uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer." _____ has described a situation in which solar units are used to generate electricity that is fed into the local utility grid rather than used directly in the taxpayer's residence.

We are considering whether Congress intended that a taxpayer that purchases solar electric property that connects to the local utility grid rather than directly to the taxpayer's home should qualify for a section 25D tax credit. The outcome of our decision will impact many taxpayers, and we want to exercise care in making this decision. We are committed to a comprehensive review and a prompt resolution of this issue at the conclusion of that review.

I am sorry that I cannot provide a more definitive response for _____, but I hope this information is helpful. If you have any questions about this matter, please contact _____ at _____ or me at _____ for further assistance.

Sincerely,

Curt G. Wilson
Associate Chief Counsel
(Passthroughs & Special Industries)