



STATE BOARD OF EQUALIZATION

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State Controller

CYNTHIA BRIDGES
Executive Director

February 5, 2013

Re: *Integrated Solar Farm*
Assignment No.: 12-296

Dear Mr. _____ :

This is in response to your letter regarding the application of the Revenue and Taxation Code¹ section 73 solar energy exclusion to the Integrated Solar Farm described in your letter and the attached brochure. As explained below, it is our opinion that the solar panels and parts whose primary function is to constitute the active solar energy system should be excluded from assessment, while the sides of the greenhouse, and parts whose primary function do not constitute part of the active solar energy system, do not qualify for the solar exclusion.

Facts

According to your letter and the brochure provided, _____ LLC has developed an Integrated Solar Farm, which is essentially a solar energy system that is integrated with a greenhouse. The Integrated Solar Farm contains semi-transparent solar panels that are designed to collect solar energy for the purpose of generating electricity. The panels also appear to be mounted upon, and comprise the roof of, a greenhouse.² The panels' semi-transparent nature can control the degree and quality of sunlight that passes through them to the farm land below.

Law & Analysis

All new construction is subject to assessment. (Cal. Const., art. XIII A, § 2; Rev. & Tax. Code, §§ 70 and 71.) However, for purposes of property taxes, the definition of "new construction" does not include the construction of an "active solar energy system." (Cal. Const., art. XIII A, § 2, subd. (c)(1); Rev. & Tax. Code, § 73, subd. (a).) "Active solar energy system" means:

a system that, upon completion of the construction of a system as part of a new property or the addition of a system to an existing property, uses solar devices, which are thermally isolated from living space or any other area where the energy

¹ All further statutory references are to the California Revenue and Taxation Code, unless otherwise specified.

² The Integrated Solar Farms are advertised to be 25 feet high and 35 feet wide, and therefore large enough to be accessible to most tractors and agricultural equipment.

is used, to provide for the collection, storage, or distribution of solar energy. (Rev. & Tax. Code, § 73, subd. (b)(1).)

If the active solar energy system is used in the production of electricity, then the system's storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items are also excluded from taxation. (Rev. & Tax. Code, § 73, subd. (d)(1)(B).) The term "parts" includes spare parts that are owned by the owner of, or the maintenance contractor for, an active solar energy system, if the spare parts were specifically purchased, designed, or fabricated by or for that owner or maintenance contractor for installation in an active solar energy system. (*Ibid.*)

The term "active solar energy systems" for property tax purposes also includes pipes and ducts that are used exclusively to carry energy derived from solar energy. (Rev. & Tax. Code, § 73, subd. (d)(2).) Only the equipment used up to, but not including, the stage of conveyance or use of the electricity is considered part of the "active solar energy system." (Rev. & Tax. Code, § 73, subd. (d)(1)(B).)

Thus, for example, chain link fences and miscellaneous buildings constructed as part of a solar energy facility are not excluded from assessment as new construction under Revenue and Taxation Code section 73, since that construction is part of a solar energy facility but not part of the active solar energy system located at that facility. (See Property Tax Annotation³ (Annotation) 610.0085 (April 11, 1986).) Furthermore, a carport which has active solar panels mounted upon it, but whose primary function is to provide shade and shelter for customers and their cars as opposed to being a functioning part of the active solar energy system does not fall within the active solar energy system exclusion. (Annotation 610.0087 (January 17, 2006).) If the carport itself is part of the active solar energy system, or if it was built primarily to provide a mounting surface for solar energy devices while incidentally providing shade for automobiles, it would be excluded from assessment. (*Ibid*; *Guidelines for Active Solar Energy Systems New Construction Handbook* (November 2012), at p. 9-10, 17-18.)

According to the information you have provided, the Integrated Solar Farm consists of semi-transparent solar panels which also constitute the roof of a greenhouse. It appears that the primary design and function of the solar panels is to provide for the collection of solar energy in order to generate electricity. It also appears that the primary functions of the sides of the greenhouse are to control the environment of the greenhouse and/or to provide a mounting point for the solar panels, rather than as storage devices, power conditioning equipment, or transfer equipment for solar energy. Unless the sides of the greenhouse were specifically designed primarily for the purpose of providing for the collection, storage, or distribution of solar energy, they should not be considered part of the active solar energy system.

Thus, it is our opinion that the solar panels and other parts of the active solar energy system whose primary function is to provide for the collection, storage, or distribution of solar energy should be excluded from assessment, while the sides of the greenhouse, and parts whose primary function are not to provide for such collection, storage, or distribution, do not qualify for the solar exclusion.

³ Property tax annotations are summaries of the conclusions reached in selected legal rulings of State Board of Equalization counsel published in the State Board of Equalization's Property Tax Law Guide. (See Cal. Code Regs., tit. 18, § 5700 for more information regarding annotations.)

The views expressed in this letter are only advisory in nature. They represent the analysis of the legal staff of the Board based on present law and the facts set forth herein. Therefore, they are not binding on any person or public entity.

Sincerely,

/s/ Sonya S. Yim

Sonya S. Yim
Tax Counsel III (Specialist)

SSY/yg

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cc: Honorable James B. Rooney
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