



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 12265, Columbia, South Carolina 29211

SC PRIVATE LETTER RULING #15-1

SUBJECT: Solar Energy Facility – Eligibility for Exemptions
(Sales and Use Tax)

REFERENCES: S.C. Code Ann. Section 12-36-2120 (2014)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (2014)
S.C. Code Ann. Section 1-23-10(4) (2005)
SC Revenue Procedure #09-3

SCOPE: A Private Letter Ruling is an advisory opinion issued to a specific taxpayer by the Department to apply principles of law to a specific set of facts or a particular tax situation. It is the Department's opinion limited to the specific facts set forth, and is binding on agency personnel only with respect to the person to whom it was issued and only until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion, providing the representations made in the request reflect an accurate statement of the material facts and the transaction was carried out as proposed.

Question

Is the planned large utility size solar energy generating facility of ABC, LLC, as described in the facts, eligible for the sales and use tax exemptions available to manufacturers?

Conclusion

Yes, the planned large utility size solar energy generating facility of ABC, LLC, as described in the facts, is eligible for the sales and use tax exemptions available to manufacturers, provided the specific requirements of each exemption are met.

Facts

ABC plans to build a solar energy generating facility in XYZ County. The cost of construction is expected to be \$100 million. Solar panels will be located on 750 acres within a 1,500 acre site. The electrical generating capacity of the system will be 74.9 megawatts. The electric power generated by the facility will be sold exclusively to the South Carolina Public Service Authority, electric cooperatives, and investor-owned utilities.

The planned facility will use an array of solar panels to capture sunlight. It will contain inverters that convert the variable direct current output of the solar panels into a utility frequency alternating current to be fed into the electrical grid for distribution and sale.

Discussion

South Carolina law provides various exemptions from sales and use tax that are available to manufacturers, including: fuel sold to manufacturers to generate power used in manufacturing tangible personal property for sale (Code Section 12-36-2120(9));¹ machines used in manufacturing tangible personal property for sale (Code Section 12-36-2120(17));² electricity used to manufacture tangible personal property for sale (Code Section 12-36-2120(19));³ material handling systems and equipment used in operating a manufacturing facility where there is a capital investment of at least \$35 million over a 5 year period (Code Section 12-36-2120(51))⁴; and construction materials used in constructing a new or expanded manufacturing facility where there is a capital investment of at least \$100 million over an 18 month period (Code Section 12-36-2120(67))⁵.

When determining whether or not a facility is a manufacturing facility, the Department looks at several factors, including but not limited to: (a) the purpose of the facility; (b) how the operation is perceived by the general public – manufacturer, processor, retailer, wholesaler, or distributor; and (c) whether sales are mostly at wholesale or at retail.

The purpose of the facility to be built by ABC is the large scale generation of electricity. As noted in the facts, the facility will cost \$100 million to build, solar panels will be located on 750 acres, and the facility's electrical generating capacity will be 74.9 megawatts. A facility of this magnitude that produces tangible personal property (in this case, electricity⁶) for sale is generally perceived by the general public to be a manufacturer. Moreover, all sales made by this facility will be at wholesale to electric utility companies and electric cooperatives, not at retail to the ultimate customer.

¹ See S.C. Regulation 117-302.3.

² See S.C. Regulation 117-302.5.

³ See S.C. Regulation 117-302.4.

⁴ See SC Revenue Ruling #13-3 for more information on this exemption.

⁵ See SC Revenue Ruling #15-2 for more information on this exemption.

⁶ Code Section 12-36-60 includes sales of electricity within the definition of "tangible personal property".

Based on the above and the Department's longstanding position to treat a large utility size facility that produces and sells electricity as a manufacturer,⁷ ABC, by operating the solar energy generating facility described in the facts, is eligible for those South Carolina sales and use tax exemptions under Code Section 12-36-2120 that are available to manufacturers, provided the specific requirements of each exemption are met.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Rick Reames III
Rick Reames III, Director

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Columbia, South Carolina

⁷ See SC Private Letter Ruling #92-9.