



Kern County Assessor-Recorder

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1/27/2020

Board of Equalization
Property Tax Department
Attn: Barry Frazier
PO Box 942879
Sacramento, CA 94279-0064

RE: Comments on LTA 19035, **Active Solar Energy Systems New Construction Exclusion Phase One – Reporting Requirements**

Mr. Frazier,

As requested, our office has reviewed the proposed Solar Energy Power Plant Property Statement and would like to offer the following comments and alternative text for your consideration.

1. The definition of conveyance equipment on page 15 includes the text “Equipment after that point would not be eligible for the exclusion; Examples typically include circuit breakers, lightning rods, underground grounding grids, metering equipment, and transmission lines/improvements.”. Proposed alternative text: **“All equipment after that point would not be eligible for the exclusion; examples typically include circuit breakers, metering equipment, and transmission lines/improvements. A portion of the cost of underground grounding grids, foundations, support structures, lightning protection, and other substation assets that support both excluded and non-excluded areas of the substation should also be reported as non-excluded stage of conveyance equipment.”**

Explanation: The BoE’s *Guidelines for Active Solar Energy Systems New Construction Exclusion* states that in a typical utility scale system “the final stage of power generation is typically a “step up transformer” and “equipment up to and including the final step-up transformer within the on-site substation would be considered part of the active solar energy system” while “equipment after that point would not be eligible for the exclusion” (page 9).

This guidance provides an easily identifiable and nearly indisputable “line” between the excluded and non-excluded sections of the facility. Clear cut definitions such as this promote fair and uniform valuations regardless of the facility or county.

While the *Guidelines* offer this explanation of R&T code section 73’s “stage of conveyance”, many taxpayers are not aware of this resource, or believe that guidance issued by the IRS defines the R&T code section 73 exclusion. Specifically, Chief Counsel Advice (CCA) 201122018, issued on 6/3/2011, which provides guidance on equipment that qualifies for Treasury cash grants and investment tax credits. It is based on guidelines issued for the federal 1603 Treasury grant as well as IRS code section 48, which both differ substantially from and in some cases contradict the text of R&T code section 73 as well as the BoE’s *Guidelines*.

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This CCA memo was not intended to address a California R&T code section that grants a partial exclusion to the base year value of solar equipment, and due to the confusion we have encountered related to this issue, we request the addition of the clarifying modifier "**AI**".

The list of examples has been modified to clarify that only a portion of the underground grounding grid and other shared assets should be reported as conveyance equipment.

2. Schedule B1 breaks fixed ASES equipment costs into seven categories. As this equipment is likely to be assessed using the same valuation factors, asking reporting entities to break these items out into multiple categories unnecessarily complicates the reporting process.
3. In Section A6. Questionnaire question 13, what are the repercussions if the "No" box is checked? According to the *Guidelines for Active Solar Energy System New Construction Exclusion*, in order "to allow the active solar energy system new construction exclusion to be conveyed to the first buyer of a new building" several conditions must be met. One of those conditions is that "the first buyer files the appropriate claim form with the assessor" (page 4). A footnote clarifies that this form is the BOE-64-SES. This language is mirrored in Code Section 73: "The initial purchaser of the building shall file a claim with the assessor and provide to the assessor any documents necessary to identify the value attributable to the active solar energy system included in the purchase price of the new building." Is there a deadline for when this form must be filed with the Assessor in order to receive the exclusion? Between the BOE-64-SES form and the guidelines, we have seen no definitive indication of a deadline or potential penalties for failure to file, only the above direction that a form must be filed in order to receive the exclusion.

Sincerely,
Kenneth McCulloch, Auditor Appraiser
Robin J. Hall, Supervising Auditor-Appraiser
Kern County Assessor-Recorder