

Note: The appeal period has expired, the Administrative Law Judge's proposed decision is adopted as the final decision by the Department.

Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

IN THE MATTER OF:

DIA No. 19IDR0085

Rev. No. 2018-200-2-0415

JOHNATHAN ROUSSEAU
1222 60th Street
Des Moines, Iowa 50311

PROPOSED DECISION

SOLAR ENERGY TAX CREDIT

STATEMENT OF THE CASE

John Rousseau filed a protest of the Department of Revenue's decision denying his application for a solar energy tax credit. This matter came on for hearing on July 23, 2019 at the Wallace State Office Building in Des Moines, Iowa. Mr. Rousseau appeared self-represented and participated. Assistant Attorney General Stephen Sullivan represented the Department of Revenue (the Department). Also present on behalf of the Department was technical tax specialist Reid Jewell.

Mr. Rousseau submitted exhibits marked 1-5 that were admitted into the record. The Department submitted exhibits marked A and B that were also admitted into the record.

FINDINGS OF FACT

Johnathan Rousseau resides at 1222 60th Street in Des Moines, Iowa. He installed an eight-panel solar array on his property in 2015. The array was connected to a Mid-American Energy bi-directional meter located on his property. Rousseau also installed a micro-inverter, an instrument that measures and records the amount of kilowatts (kWh) produced by the panel. Rousseau applied for, and received, a state solar energy tax credit for the installation of the eight-panel array for tax year 2015. (Rousseau Testimony; Jewell Testimony; Notice of Decision; Exhibit 3).

Thereafter, in 2018, Rousseau installed an additional twelve-panel solar array on his residential property. The twelve-panel array was connected to the same Mid-American bi-directional meter as his eight-panel array. As with the eight-panel array, Rousseau installed a micro-inverter that separately monitored the energy production. (Rousseau Testimony; Exhibits 3; 4).

Rousseau applied for a second solar energy tax credit for 2018 tax year following the installation of the twelve-panel array. The Department denied Rousseau's application, stating it had "previously awarded a credit for the same installation address...This system is connected to the same utility meter as the original installation and therefore does not qualify as being separate and

distinct.” Rousseau filed a timely protest of the Department’s decision. (Notice of Decision; Protest).

CONCLUSIONS OF LAW AND ANALYSIS

In this case, Johnathan Rousseau challenges the Department’s denial of his application for a solar energy system tax credit. Rousseau carries the burden of proof to show that the Department improperly disallowed the credit.¹

Federal tax regulations allow for a solar energy tax credit that equals 30% of an individual’s cost for property which uses solar energy to generate electricity for a taxpayer’s residential use.² In 2012, Iowa initiated an Iowa income tax credit for solar energy systems.³ Initially, the Iowa solar tax credit equaled 50% of the federal solar energy tax credit, and limited the credit to \$3,000 for residential installations and \$15,000 for business installations.⁴ Additionally, the legislature imposed a \$1.5 million annual cap on total allowable state solar tax credits.⁵

Our state legislature amended the Iowa solar tax credit in 2014.⁶ The amendments increased the solar tax credit to 60% of the amount of the federal solar tax credit.⁷ The credit limits were also increased to \$5,000 for residential installations and \$20,000 for business installations.⁸ The annual cap on the credits was also raised to \$4.5 million, reserving at least \$1 million to be first available to residential installations.⁹

In 2014, our legislature also included an amendment allowing a taxpayer to claim more than one solar energy tax credit, but mandated that a taxpayer “may claim only one credit per separate and distinct solar installation.”¹⁰ It is this provision that serves the basis of Rousseau’s protest.

The legislature tasked the Department with defining “separate and distinct solar installation.” Specifically, it directed the Department to “establish criteria, by rule, for determining what constitutes separate and distinct installation.”¹¹ Accordingly, the Department promulgated the following rule:

42.48(7) *How to apply for the credit.* Timely and complete applications shall be reviewed and approved on a first-come, first-served basis. Applications for the tax credit may be submitted through the Tax Credit Award, Claim, and Transfer Administration System (CACTAS), which applicants may access through the department’s website.

¹ Iowa Code § 421.60(6).

² 26 USC § 25D(a)(1), (d)(1), & (g)(1).

³ 2012 Iowa Acts, 84th G.A. ch. 1121, § 7.

⁴ Iowa Code § 422.11L(1) (2013).

⁵ Iowa Code § 422.11L(4)(2013).

⁶ 2014 Iowa Acts, 85th G.A. ch. 1121, §§ 1-5.

⁷ 2014 Iowa Acts, 85th G.A. ch. 1121, § 1.

⁸ *Id.*

⁹ *Id.*

¹⁰ Iowa Code § 422.11L(3)(c)(2015).

¹¹ *Id.*

a. *Separate and distinct installation requirement.* A taxpayer may apply for one tax credit for each separate and distinct solar installation. Each separate and distinct installation requires a separate application. In order for an installation to be considered a separate and distinct solar installation, both of the following factors must be met:

(1) Each installation must be eligible for the federal residential energy property credit or the federal energy credit as provided in subrule 42.48(1).

(2) Each installation must have separate metering.¹²

The only issue to be decided in this matter is whether Rousseau’s solar panels had “separate metering” per the Department’s regulation defining the legislature’s phrase “separate and distinct.”¹³

The Department interprets its rule requiring “separate metering” to mean separately metered by a utility company. In contrast, Rousseau advocates for the more common definition of “meter,” which does not automatically refer to one used by a utility company.¹⁴

As Rousseau correctly points out, the Department’s rule does not specifically define the phrase as a utility meter. Nor does the Department’s website or other publications notify the public that it has interpreted the regulation as such. Rousseau’s argument is quite persuasive, particularly because if the Department wished to limit subsequent solar energy tax credits to those with separate utility metering, it could have—and should have—drafted its rule accordingly.

Nevertheless, the Department is afforded a reasonable range of discretion in the interpretation and application of its own administrative rules.¹⁵ Ambiguous phrases are assigned their common, ordinary meaning in the context of the statute and its history.¹⁶ Courts also “construe statutes harmoniously with other statutes related to the same subject matter or to closely allied subjects.”¹⁷ The undersigned is tasked with interpreting the term in a manner consistent with the statute as an integrated whole.¹⁸

Although the undersigned administrative law judge sympathizes with Rousseau’s situation, the intent of the regulation at issue was to limit the amount of credits awarded in light of the fixed amount of resources available. In reading the rule, the undersigned must look for “an

¹² 701 Iowa Administrative Code (IAC) 42.48(7).

¹³ The undersigned administrative law judge recently addressed this issue in *Tesdell vs. Iowa Dept. of Rev.*, DIA No. 19IDR0019, and thus the proposed decision for the instant case is substantially similar.

¹⁴ See “Meter,” Merriam-Webster Online Dictionary (last viewed September 5, 2019) (defining meter as “an instrument for measuring and sometimes recording the time or amount of something.”).

¹⁵ *Hollinrake v. Iowa Law Enforcement Academy, Monroe County*, 452 N.W.2d 598, 601 (Iowa 1990) (citations omitted).

¹⁶ *Myria Holdings, Inc. & Subs vs. Iowa Dept. of Rev.*, 892 N.W.2d 343, 348 (Iowa 2017).

¹⁷ *Id.* (citations omitted).

¹⁸ See *Colwell v. Iowa Dept. of Human Services*, 923 N.W.2d 225, 233 (Iowa 2019) (defining term “individual” after reviewed how the term was used elsewhere in same chapter).

interpretation that is reasonable, best achieves the statute's purpose, and avoids absurd results.”¹⁹ Under Rousseau's interpretation, a taxpayer could affix any measurement device to each solar installation in an attempt to qualify for a tax credit. Such interpretation would impede the legislature's purpose of limiting the amount of taxpayers who could qualify for additional solar tax credits. Accordingly, in considering the context in which the phrase is used, it is reasonable to define “meter” as a method of measurement used by a utility company. This conclusion is also supported by Iowa law requiring that exclusions from taxation be “construed strictly against the taxpayer and liberally in favor of the taxing body.”²⁰

For these reasons, the Department's decision must be affirmed.

ORDER

The Department's action is hereby AFFIRMED. The Department shall take any action necessary to implement this decision.

Dated this September 5, 2019.



Kristine M. Dreckman
Administrative Law Judge

cc: Stephen Sullivan (via email)
Jonathan Rousseau (via email jerousseau@hotmail.com).

¹⁹ *State v. Bower*, 725 N.W.2d 434, 442 (Iowa 2006).

²⁰ See *Ranninger v. Iowa Dept. of Revenue and Finance*, 746 N.W.2d 267, 269 (Iowa 2008) (rejecting a taxpayers broad interpretation of a phrase in favor of the Department's narrow definition); citing *Iowa Auto Dealers Ass'n v. Iowa Dept. of Revenue*, 301 N.W.2d 760, 762 (Iowa 1981); accord *Heartland Lysine, Inc. v. State*, 503 N.W.2d 587, 588-9 (Iowa 1993).