



COLORADO
Department of Revenue
Taxation Division

Office of Tax Policy
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PLR 18-002

February 27, 2018

XXXXXXXXXXXXXXXXXX
Attn: XXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Re: Renewable Energy Investment Tax Credit

Dear XXXXXXXXXXXX,

You submitted on behalf of XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX ("Taxpayer") a request for a private letter ruling to the Colorado Department of Revenue ("Department") pursuant to Department Rule 24-35-103.5. This letter is the Department's private letter ruling. This ruling is binding on the Department to the extent set forth in Department Rule 24-35-103.5. It cannot be relied upon by any taxpayer other than the taxpayer to whom the ruling is made.

Issue

Over what period can Taxpayer claim the refundable enterprise zone renewable energy investment tax credit?

Conclusion

Taxpayer can annually claim a refund of the renewable energy investment tax credit of up to \$750,000 pursuant to §39-30-104(2.6), C.R.S. until the refund is fully utilized (approximately XXX years), assuming Taxpayer is entitled to claim a refund of \$XXXXXX in the enterprise zone renewable energy investment tax credit.

Background

Taxpayer intends to invest approximately \$XXXXXX in the development of renewable energy resources¹ in Colorado in an enterprise zone. Taxpayer anticipates the assets will be placed into service by XXXX. Taxpayer is a related

¹ As defined in §39-30-104(2.8), C.R.S.

entity to XXXXXXXXXX. (XXXX) and is included in a Colorado combined report filed by XXXX. Taxpayer anticipates that any taxable income XXXXXXXXXX reports on its Colorado combined reports filed through XXXX will be offset by Colorado net operating loss carry-forwards and/or other tax credits. The renewable energy investment is in addition to XXXXXXXXXX's normal annual investments in qualified property in Colorado enterprise zones. All renewable energy investment assets of this project will be owned and operated by Taxpayer.

Taxpayer will elect to claim the renewable energy investment tax credit (Renewable Energy ITC) set forth in §39-30-104(2.6), C.R.S. as a refund rather than as a credit. In order to claim the credit as a refund, Taxpayer agrees to reduce the credit by 20% and limit the refund payment to \$750,000 per year. It will take XX years of these refunds to fully utilize the refundable portion of the Renewable Energy ITC.² XXXXXXXXXX will report on its federal income tax returns the EZ refunds either as income or as reduction in its deduction for state income taxes.

Discussion

A taxpayer may receive, in lieu of Renewable Energy ITC taken as a credit against income tax, a cash refund equal to 80% of the tax credit. The refundable amount is limited to \$750,000 per year. The balance of the refundable ITC in excess of this cap may be carried forward and claimed, up to the maximum yearly amount of \$750,000, in each of the following years until the credit is fully utilized.

In the present case, Taxpayer states that 80% of the value of the Renewable Energy ITC is \$XXXXXXX. This is an estimate and the final amount of Renewable Energy ITC Taxpayer may claim may be different. Taxpayer represents that the project qualifies for the Renewable Energy ITC. Assuming this representation is correct, the Department rules that Taxpayer can claim Renewable Energy ITC refunds of \$750,000 per year for as many years as required to fully utilize the refundable amount of ITC. In this case, and assuming Taxpayer claims the entire \$750,000 refund each year, Taxpayer can carry forward its unused Renewable Energy ITC claimed as a refund for XX years.

Miscellaneous

This ruling is premised on the assumption that Taxpayer has completely and accurately disclosed all material facts and that all representations are true and complete. The Department reserves the right, among others, to independently evaluate Taxpayer's representations and assumptions. The ruling is null and void if any such assumption or representation is incorrect and has a material bearing on the

² An investment of \$XXXXXXX results in a \$XXXXXXX ITC. Eighty percent of the \$XXXXXXX credit is \$XXXXXXX in refundable Renewable Energy ITC.

conclusions reached in this ruling. The ruling is subject to modification or revocation in accordance to Department Regulation 24-35-103.5.

This ruling is binding on the Department to the extent set forth in Department Regulation 24-35-103.5. It cannot be relied upon by any taxpayer other than the taxpayer to whom the ruling is made.

Enclosed is a redacted version of this ruling. Pursuant to statute and regulation, this redacted version of the ruling will be made public within 60 days of the date of this letter. Please let me know in writing within that 60 day period whether you have any suggestions or concerns about this redacted version of the ruling.

Sincerely,

Office of Tax Policy
Colorado Department of Revenue

This ruling cannot be relied upon by any other taxpayer other than the taxpayer to whom the ruling is made.