

CHRISTIAN COUNTY PERSONAL PROPERTY REPORT - 2018

Account: 1 - 102817 - 9

NIXA SOLAR LLC

TAX CODE: 9

ATTN: C OTT

LATE FEE: NO

4803 S NATIONAL AVE SUITE 200

DATE OF RETURN: 2018-02-01

SPRINGFIELD, MO 65810-0000

OL PIN: 2018001010281700095690

DBA:

Property Details

VIN/COST

Total Value: 1,951,694

2017 SOLAR EQUIPMENT

5860943

1,951,694

Nixa Solar, LLC

**PROJECT SITE DESCRIPTION,
SPECIFICATIONS FOR THE GENERATING FACILITY
AND DESCRIPTION OF THE TECHNICAL REQUIREMENTS OF THE
INTERCONNECTION FACILITY**

Preliminary
Description of the
Project Equipment:

- 33,288 Solar Panels rated at 335 watts each $\$4812,711$
- 2 X 19 Racking Sections containing 38 Panels 876 each $\$1,047,095$
- 4 - 2200kW Utility Grade SMA Inverters (SC 2200 US) Nameplate derated to 1,980 $\$856,157$
- 97 - SolarBOS Combiner Boxes with load-break DC disconnect (inputs will vary) $\$62,802$
- 4 - 2200kVA SMA transformers *part of inverter costs*
- 10,000 lineal. Ft. of a 6 foot high security fence $\$92,138$
- 1 - Data Acquisition System and Also Energy Revenue-quality metering equipment. A web based monitoring system that monitors at combiner level. This is an efficient way to monitor the production output of the system. If there is an outage, one can quickly resolve the source of the problem. $\$24,325$

$\$24,325$

 $6,895,228$

$6,895,228$
 $\times .85\%$

 $5,860,913 \times 33\frac{1}{3} = 1,951,694$

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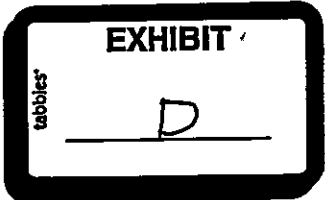
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STATE TAX COMMISSION OF MISSOURI

MCP-ROLLA, LLC)
Complainant,)
v.) Appeal No. 17-78000
BILL STOLTZ, ASSESSOR)
PHELPS COUNTY, MISSOURI,)
Respondent.)

DECISION AND ORDER

HOLDING

The assessment made by Bill Stoltz, Assessor, Phelps County, Missouri, (Respondent) is SET ASIDE. MCP-Rolla, LLC of Springfield, Missouri, (Complainant) presented substantial and persuasive evidence establishing that the subject property is exempt from ad valorem taxation under Section 137.100 RSMo.

- Complainant appeared by counsel Jeffrey Hunt.
Respondent appeared personally and by counsel Brendon Fox.
Case heard and decided by Chief Counsel Maureen Monaghan (Hearing Officer).

ISSUE

Complainant appealed Respondent's ad valorem taxation of the subject property on the grounds that the subject property qualified for exemption in 2017 because the subject property is a solar energy system not for resale or, in the alternative, that Respondent utilized the incorrect class life as set forth in Section 137.122 RSMo. for the subject personal property.

FINDINGS OF FACT

- 1. Jurisdiction. Jurisdiction over this appeal is proper. Complainant timely appealed to the State Tax Commission (STC).

2. **Evidentiary Hearing.** The issue of exemption was presented at an evidentiary hearing on March 5, 2018, at the Phelps County Courthouse, Rolla, Missouri. After the hearing, parties submitted briefs on the issue.

3. **Identification of Subject Property.** The subject property is located in Phelps County, Missouri. The property is identified by account number 61665 (Complaint for Review of Assessment). The property is described as:

- a. Solar Panels (Quantity: 10,152) valued at \$643,070;
- b. Sunny Central Inverters (Quantity: 4) valued at \$109,850;
- c. Boxes (Quantity:4) valued at \$29,060;
- d. Transformers (Quantity:2) valued at \$23,570;
- e. Racking system valued at \$193,200; and
- f. Piping valued at \$78,900. (Complaint for Review of Assessment)

4. **Assessment.** Respondent's appraised value of the personal property of Complainant was \$1,077,650, as of January 1, 2017.

5. **Board of Equalization.** The Board of Equalization of Phelps County (BOE) did not review the valuation as the valuation was determined on June 27, 2017, less than 30 days before the deadline for filing an appeal with the BOE.

6. **Complainant's Evidence.** Complainant presented the following Exhibits at the start of the hearing:

Exhibit	Description	Admitted
A	Sections 137.100, 137.122 RSMo; 26 USCA Sec 168 Accelerated Cost Recovery System;	Yes
B	Corporation Special Warranty Deed	Yes
C	Agreement between Owner (MCP-Rolla) and Design-Builder (MC Power Companies)	Yes

D	Master Renewable Power Purchase Agreement	Not Offered
E	Renewable Power Purchase Agreement between Missouri Joint Municipal Electric Utility Commission, MCP-Rolla, LLC, and Gardner Capital	Yes
F	Interconnection and Operating Agreement	Yes
G	Membership Interest Purchase Agreement	Not Offered
H	Second Addendum to Membership Interest Purchase Agreement	Not Offered
I	Amended and Restated Operating Agreement	Not Offered
J	Assignment and Assumption of Membership Interests	Not Offered
K	Rolla Solar Flow Chart	Yes
L	May 31, 2017 Letter to Assessor	Yes
M	Billing for Solar System	Yes
N	Emails from Gardner Capital and Assessor	Yes
O	Summary of Costs - \$3,696,990	Yes
P	Assessment	Yes
Q	Assessor Manual Section 2.4 on Exemptions	Yes
R	Notice of Protest to Collector	Yes
S	Complaint for Review of Assessment	Yes
T	Payment on Property Taxes	Yes
U	Depreciation and Amortization Report	Yes
V	February 16, 2018 Letter From Assessor of St. Francois County	No
W	July 18, 2017 Letter to the BOE	Not Offered
X	August 16, 2017 Letter to the BOE	Not Offered
Y	August 18, 2017 Letter from the County Clerk	Not Offered
Z	Certification of Organization	Yes
Testimony	Mark Gardner	
Testimony	Christina Ott	
Testimony	John Cook	

Mark Gardner (Gardner) testified on behalf of the Complainant. He is the Chairman of Gardner Enterprises and Managing Member of Gardner Capital Solar Development. The subject property is located at 2301 Brewer Drive, Rolla Missouri. The subject property is an energy producing system constructed by MC Power Companies, Inc. for Complainant. The system was producing energy as of April 28, 2016. The energy is sold to Missouri Joint Municipal Electric Utility Commission (MJMEUC) of which the City of Rolla is a member. There is a 25 year agreement for supplying power however the City of Rolla has the option to purchase the system in seven (7) years.

Christina Ott (Ott) testified on behalf of Complainant. She is the manager of solar operations. She provided the Assessor with the acquisition costs of the subject property.

John Cook (Cook), Executive Vice-President of Investment and Energy Investment Strategies with Gardner Capital Management, LLC, also testified on behalf of Complainant. He testified that the appropriate life for the subject property is five (5) years as it is equipment generating electricity using solar power.

7. *Respondent's Evidence.* Respondent offered the following Exhibits:

Exhibit	Description	Admitted
1	Table of Class Lives and Recovery Period – Modified Accelerated Depreciation	Yes
2	Table of Class Lives and Recovery Period – Modified Accelerated Depreciation	Yes
Testimony	Bill Stoltz (Respondent)	

Respondent testified to explain his determination of class life of the subject property. He testified that the property fell into either 5 year life or 15 year life. Property with a depreciable life of 5 years include solar panels, sunny central inverters and boxes. Property with a depreciable life of 15 years includes transformers, racking systems, and piping. It is his opinion that the 5 year life property is specifically solar energy generation equipment whereas 15 year life property is general electric generation equipment.

Respondent testified that he exempts solar panels found on residential housing. He testified that to his knowledge the panels on residential housing have not generated excess electricity that would be sold to the electric companies. He would review any property that did generate excess electricity and was selling the excess.

Respondent also noted that the subject solar energy system was constructed by MC Power who sold it to Complainant in compliance with their construction contract.

8. **Taxation of the Property.** Complainant's evidence was substantial and persuasive to establish that the subject property qualifies as exempt from *ad valorem* taxation under Section 137.100 RSMo.

CONCLUSIONS OF LAW AND DECISION

Jurisdiction

The Commission has jurisdiction to hear this appeal and correct any assessment which is shown to be unlawful, unfair, arbitrary or capricious. The Hearing Officer shall issue a decision and order affirming, modifying, or reversing the determination of the Board of Equalization, and correcting any assessment which is unlawful, unfair, improper, arbitrary, or capricious. *Article X, Section 14, Mo. Const. of 1945; Sections 138.430, 138.431, 138.431.4, RSMo.*

Presumption In Appeal

There is a presumption of validity, good faith and correctness of assessment by the BOE. *Hermel, Inc. v. STC*, 564 S.W.2d 888, 895 (Mo. banc 1978); *Chicago, Burlington & Quincy Railroad Co. v. STC*, 436 S.W.2d 650, 656 (Mo. 1968); *May Department Stores Co. v. STC*, 308 S.W.2d 748, 759 (Mo. 1958). This presumption is a rebuttable rather than a conclusive presumption. The presumption of correct assessment is rebutted when the taxpayer presents substantial and persuasive evidence to establish that the BOE's valuation is erroneous and what the fair market value should have been placed on the property. *Hermel, supra; Cupples-Hesse Corporation v. State Tax Commission*, 329 S.W.2d 696, 702 (Mo. 1959).

Exemptions

Taxation of property is the rule and exemption from taxation is the exception. *United Cerebral Palsy Ass'n of Greater Kansas City v. Ross*, 789 S.W.2d 798, 799 (Mo. banc 1990). Tax exemptions are not favored in the law, and statutes granting exemptions are to be strictly, yet reasonably, construed against the one claiming the exemption. *Missouri Church of Scientology v. State Tax Commission*, 560 S.W.2d 837, 844 (Mo. banc 1987), *State ex rel. Union Electric Co. v. Goldberg*, 578 SW2d 921,923 (Mo. Banc 1979). A property owner who claims the exemption

bears a substantial burden to prove that his property falls within the exempted class. *United Cerebral Palsy Ass'n of Greater Kansas City*, 789 S.W.2d at 799.

Complainant states that their property is exempt under statutory authority in Section 137.100 (10) which reads:

“137.100. Certain property exempt from taxes. — The following subjects are exempt from taxation for state, county or local purposes: ...

(10) Solar energy systems not held for resale.”

Discussion

There is no definition in Missouri Revised Statutes for “solar energy systems not held for resale.” Other states have defined “solar energy system” as:

State	Definition of Solar Energy System
California	Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating, space cooling, electric generation or water heating.
Massachusetts	A device or structure design feature, a substantial purpose of which is to provide for the collection, storage and distribution of solar energy for space heating, space cooling, electric generation or water heating.
Nebraska	A complete design or assembly consisting of a solar energy collector, an energy storage facility when used, and components for the distribution of transformed energy to the extent that they cannot be used jointly with a conventional energy system.
Nevada	Facility or energy system means a facility or energy system that uses photovoltaic cells and solar energy to generate electricity
New Hampshire	A system which utilizes solar energy to heat or cool the interior of a building or to heat water for use in a building and which includes one or more collectors and a storage container. “Solar energy system” also means a system which provides electricity for a building by the use of photovoltaic panels.
Oklahoma	A system primarily designed to provide heating or cooling, electrical or mechanical power, or any combination thereof by means of collecting, transferring or storing solar generated energy for such purposes. Such term shall include passive structural and nonstructural features which are designed to provide a calculated net energy gain to a structure from renewable energy sources, commonly referred to as “passive solar energy systems”, but shall not include those parts of a structural system which would be required regardless of the energy source being utilized. Solar energy may be derived from either direct processes or indirect processes using wind energy systems
Utah	A system of apparatus and equipment capable of collecting and converting

	incident solar radiation into heat, or mechanical or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to point of use, including, but not limited to, water heating, space heating or cooling, electric energy generation or mechanical energy generation.
Washington	Any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for use in (1) The heating or cooling of a structure or building; (2) The heating or pumping of water; (3) Industrial, commercial, or agricultural processes; or (4) The generation of electricity. A solar energy system may be used for purposes in addition to the collection of solar energy. These uses include, but are not limited to, serving as a structural member or part of a roof of a building or structure and serving as a window or wall.

Respondent does not contend that the property is not a solar energy system. Respondent contends that it is not a “solar energy system not held for resale”, i.e., it’s a solar energy system held for resale. None of the other states use the phrase “solar energy system not held for retail” and Missouri Revised Statutes do not define the term.

Respondent contends that the property is for resale. Respondent advocates this position due to (1) the construction contractor “selling” the property to Complainant pursuant to the terms of the construction contract and (2) the City of Rolla’s option to purchase the property in seven years.

Complainant contends the property is not held for resale as the property is energy producing property built for long-term use and not for the purpose of reselling to a consumer, i.e. inventory¹. Witnesses for the Complainant testified that the initial contract for the solar energy system was for construction of the solar energy system. The system was constructed on the behalf of Complainant. Witnesses further testified that Complainant does not intend to sell the property. Any provision in its agreement for selling power to MJMEUC, including the City of

¹ Inventory is exempt from taxation under Article X, Section 6, of the Missouri Constitution.

Rolla, to sell the system is an option only to be exercised by MJMEUC – Complainant cannot demand they purchase the property.

Not Enumerated in the Constitution

The legal authority for property tax exemptions is located in Article X, Section 6, of the Missouri Constitution of 1945.

Section 6. 1. All property, real and personal, of the state, counties and other political subdivisions, and nonprofit cemeteries, and all real property used as a homestead as defined by law of any citizen of this state who is a former prisoner of war, as defined by law, and who has a total service-connected disability, shall be exempt from taxation; all personal property held as industrial inventories, including raw materials, work in progress and finished work on hand, by manufacturers and refiners, and all personal property held as goods, wares, merchandise, stock in trade or inventory for resale by distributors, wholesalers, or retail merchants or establishments shall be exempt from taxation; and all property, real and personal, not held for private or corporate profit and used exclusively for religious worship, for schools and colleges, for purposes purely charitable, for agricultural and horticultural societies, or for veterans' organizations may be exempted from taxation by general law. In addition to the above, household goods, furniture, wearing apparel and articles of personal use and adornment owned and used by a person in his home or dwelling place may be exempt from taxation by general law but any such law may provide for approximate restitution to the respective political subdivisions of revenues lost by reason of the exemption. All laws exempting from taxation property other than the property enumerated in this article, shall be void. The provisions of this section exempting certain personal property of manufacturers, refiners, distributors, wholesalers, and retail merchants and establishments from taxation shall become effective, unless otherwise provided by law, in each county on January 1 of the year in which that county completes its first general reassessment as defined by law....

The Constitution authorizes exemptions and the legislature enacts them at Section 137.100, RSMo by expressly listing categories of exemptions. The Assessor contends that the statute is not constitutional as the provision – solar energy system not held for resale – is not enumerated in the constitution. All property is presumed to be subject to ad valorem taxes, in other words, “taxation is the rule and exemption therefrom the exception.” *Missouri Church of Scientology v. State Tax Commission*, 560 S.W.2d 837 (Mo banc 1978) The Courts have further explained that

the strict construction applies to corporations organized for profit and gain but not those performing a public service. *Washington University v. Baumann*, 108 SW2d 403 (1937)

The Hearing Officer is not authorized to make such a determination. An administrative tribunal has no authority to decide the issue of the statute's validity. *Missouri Bluffs Golf Joint Venture v. St. Charles County Bd. of Equalization*, 943 S.W.2d 752, (Mo.App. E.D.,1997) *City of Joplin v. Industrial Commission of Missouri*, 329 S.W.2d 687 (Mo. banc 1959) The State Tax Commission takes directive from the Missouri Revised Statutes in rendering its opinion.

Class Life of Business Personal Property

Subject property was classified by the Respondent as business personal property. Complainant argues that if the property is not exempt under Section 137.100 RSMo, then the subject property's class life for valuation purposes was incorrect. Section 137.122 RSMo. provides a statutory standardized methodology for valuing business personal property relying upon the federal Modified Accelerated Cost Recovery System (MACRS) life tables to determine the appropriate "class life" of depreciable tangible personal property used in a trade or business or for production of income "to establish uniformity in the assessment of depreciable tangible personal property. . ." The section applies to business personal property placed in service after January 2, 2006. The methodology presented by Section 137.122 RSMo. is a cost approach to value, with more than straight line (normal) depreciation.

Respondent utilized two class life periods for the subject personal property. A class life of 5 years for property he deemed specific to solar energy generation (solar panels, sunny central inverters, and combiner boxes) and a class life of 15 years for property he deemed to be more generalized energy generation property (transformers, racking system, wire and piping).

Cook, with a masters in accounting and twenty years of tax practice, testified that the applicable class life is five years as depreciation for components of solar energy systems. The determination by Cook is appropriate although the determination need not be made as the property is exempt from ad valorem taxation under Section 137.100 RSMo.

ORDER

The subject property is a solar energy system and is exempt from taxation under Section 137.100 RSMo.

Application for Review

A party may file with the Commission an application for review of this decision within 30 days of the mailing date set forth in the Certificate of Service for this Decision. The application shall contain specific facts or law as grounds upon which it is claimed the decision is erroneous. The application must be in writing addressed to the State Tax Commission of Missouri, P.O. Box 146, Jefferson City, MO 65102-0146, and a copy of said application must be sent to each person at the address listed below in the certificate of service.

Failure to state specific facts or law upon which the application for review is based will result in summary denial. Section 138.432, RSMo

Disputed Taxes

The Collector of Phelps County, as well as the collectors of all affected political subdivisions therein, shall continue to hold the disputed taxes pending the possible filing of an Application for Review, unless said taxes have been disbursed pursuant to a court order under the provisions of Section 139.031.8, RSMo.

Any Finding of Fact which is a Conclusion of Law or Decision shall be so deemed. Any Decision which is a Finding of Fact or Conclusion of Law shall be so deemed.

SO ORDERED this 19th day of June, 2018.

STATE TAX COMMISSION OF MISSOURI



Maureen Monaghan
Chief Counsel

Certificate of Service

I hereby certify that a copy of the foregoing has been sent electronically or mailed postage prepaid this 19th day of June, 2018, to: Complainant(s) counsel and/or Complainant, the County Assessor and/or Counsel for Respondent and County Collector.



Jacklyn Wood
Legal Coordinator

Contact Information for State Tax Commission:

Missouri State Tax Commission
301 W. High Street, Room 840
P.O. Box 146
Jefferson City, MO 65102-0146
573-751-2414
573-751-1341 Fax



Missouri Revised Statutes

Chapter 137
Assessment and Levy of Property Taxes

Section 137.100.1

August 28, 2014

Certain property exempt from taxes.

137.100. The following subjects are exempt from taxation for state, county or local purposes:

- (1) Lands and other property belonging to this state;
- (2) Lands and other property belonging to any city, county or other political subdivision in this state, including market houses, town halls and other public structures, with their furniture and equipments, and on public squares and lots kept open for health, use or ornament;
- (3) Nonprofit cemeteries;
- (4) The real estate and tangible personal property which is used exclusively for agricultural or horticultural societies organized in this state, including not-for-profit agribusiness associations;
- (5) All property, real and personal, actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable and not held for private or corporate profit, except that the exemption herein granted does not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes;
- (6) Household goods, furniture, wearing apparel and articles of personal use and adornment, as defined by the state tax commission, owned and used by a person in his home or dwelling place;
- (7) Motor vehicles leased for a period of at least one year to this state or to any city, county, or political subdivision or to any religious, educational, or charitable organization which has obtained an exemption from the payment of federal income taxes, provided the motor vehicles are used exclusively for religious, educational, or charitable purposes;
- (8) Real or personal property leased or otherwise transferred by an interstate compact agency created pursuant to sections 70.370 to 70.430* or sections 238.010 to 238.100 to another for which or whom such property is not exempt when immediately after the lease or transfer, the interstate compact agency enters into a leaseback or other agreement that directly or indirectly gives such interstate compact agency a right to use, control, and possess the property; provided, however, that in the event of a conveyance of such property, the interstate compact agency must retain an option to purchase the property at a future date or, within the limitations period for reverters, the property must revert back to the interstate compact agency. Property will no longer be exempt under this subdivision in the event of a conveyance as of the date, if any, when:
 - (a) The right of the interstate compact agency to use, control, and possess the property is terminated;
 - (b) The interstate compact agency no longer has an option to purchase or otherwise acquire the property; and
 - (c) There are no provisions for reverter of the property within the limitation period for reverters;
- (9) All property, real and personal, belonging to veterans' organizations. As used in this section, "veterans' organization" means any organization of veterans with a congressional charter, that is incorporated in this state, and that is exempt from taxation under section 601(c)(19) of the Internal Revenue Code of 1986, as amended;
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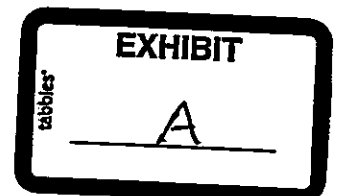
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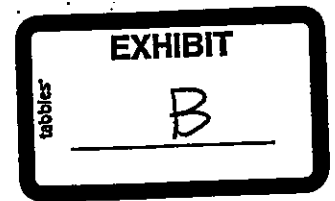


Exhibit A

The 11.15 MW dc solar farm near Nixa, MO includes the following equipment

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