

ATO – Treatment of Revenue from Roof Top Solar PV systems

Private Ruling

Ruling

1. Are credits or payments you receive for power generated by solar panels on your residence, assessable for income tax?

Answer: No.

2. Are you entitled to either an outright deduction or a decline in value deduction for the cost of the solar panels?

Answer: No.

3. Are you entitled to any deductions in relation to funds borrowed in order to purchase the solar panels?

Answer: No.

This ruling applies for the following period(s):

Year ended 30 June 2008 Year ended 30 June 2009 Year ended 30 June 2010 Year ended 30 June 2011 Year ended 30 June 2012

The scheme commences on: 1 July 2007

Relevant facts and circumstances

You have a solar electric system on the roof of your principal residence. You are not registered for GST. You intend to expand your current system. Under the legislation, the electricity retailer will be required to credit you 50.05 cents/kwh for the electricity exported to the grid. Your purpose for installing your current system was to offset the cost of electricity now and in the future, and to contribute to greenhouse emission reductions. Your reasons for wishing to expand your system are to offset 100% of the electricity consumed in your home and to generate income from a green source.

Relevant legislative provisions

Income Tax Assessment Act 1997 Section 8-1. *Income Tax Assessment Act 1997* Section 6-5. *Income Tax Assessment Act 1997* Section 6-10. *Income Tax Assessment Act 1997* Section 40-25. **Reasons for decision**

While these reasons are not part of the private ruling, we provide them to help you to understand how we reached our decision.

Income

Sections 6-5 and 6-10 of the *Income Tax Assessment Act 1997* (ITAA 1997) provide that the assessable income of a resident taxpayer includes ordinary income and statutory income derived directly or indirectly from all sources during the income year. Generally, if an amount received is not considered ordinary income or statutory income, it is not included in assessable income.

Ordinary income has generally been held to include three categories, namely, income from rendering personal service, income from property and income from carrying on a business.

Amounts that are not ordinary income, but are specifically included in assessable income by a provision of the taxation legislation, are called statutory income and are also included in assessable income. There are no specific legislative provisions relating to payments or credits received for the supply of electricity. Therefore the payments or credits are not considered to be statutory income.

Consequently, it is only necessary to consider if the payments or credits should be included as 'ordinary income'. They will be ordinary income if you are carrying on a business of generating electricity.

Subsection 6(1) of the ITAA 1997 defines 'business' to include 'any profession, trade, employment, vocation or calling, but does not include occupation as an employee'. However, this definition simply states what activities may be included in a business. It does not provide any guidance for determining whether the nature, extent, and manner of undertaking those activities amount to the carrying on of a business. For this purpose it is necessary to turn to case law.

The cases provide a number of indicators that are relevant to determining whether activities constitute the carrying on of a business. These indicators are set out below.

Significant commercial purpose or character
Edited version of private ruling
Authorisation Number: 92788

The 'significant commercial purpose or character' indicator is linked to the size and scale of activity, the repetition and regularity of activity and the profit indicators. A way of establishing that there is a significant commercial purpose or character is to compare the activities with those of a taxpayer who is carrying on a similar activity that is a business.

The intention of the taxpayer

The intention of the taxpayer in engaging in the activity is a relevant indicator. This indicator is particularly related to:

- whether the activity is preparatory or preliminary to the ultimate activity - whether there is an intention to make a profit, and - whether the activity is better described as a hobby or the pursuit of a recreational or sporting activity.

Prospect of profit

We believe it is important that the taxpayer is able to show how the activity can make a profit. Stronger evidence of an intention to make a profit occurs when the taxpayer has conducted research into his/her proposed activity, consulted experts or received advice on the running of the activity and the profitability of it before setting up the business.

Repetition and regularity

It is often a feature of a business that similar sorts of activities are repeated on a regular basis. The repetition of activities by the same person over a period of time on a regular basis helps to determine whether there is the carrying on of a business.

Is the activity of the same kind and carried on in a manner that is characteristic of the industry?

An activity is more likely to be a business when it is carried on in a manner similar to that in which other participants in the same industry carry on their activities. In considering this indicator the following factors might be compared with the characteristics of others engaged in the same type of business:

- the volume of sales - the sort of expenses incurred by the taxpayer
- the amount invested in capital items - previous experience of the taxpayer

Organisation in a businesslike manner and the use of system

Business should be conducted systematically. A business is characteristically carried on in a systematic and organised manner rather than on an ad hoc basis. An activity should generally conform with ordinary commercial principles to amount to the carrying on of a business.

Size or scale of the activity

The larger the scale of the activity the more likely it will be that the taxpayer is carrying on a business. However, this is not always the case.

Hobby or recreation

The pursuit of a hobby is not the carrying on of a business for taxation purposes. Money derived from the pursuit of a hobby is not regarded as income and therefore is not assessable. Expenses incurred in relation to the hobby activity are not allowable deductions. However, we recognise that a hobby can sometimes turn into a business.

Application to your circumstances:

One of your reasons for wishing to expand your solar panel system is to receive income. This is a factor which points towards the carrying on of a business. However, the following factors point towards the opposite conclusion:

- the solar panel system will be attached to your home rather than located at a dedicated business facility
- although large for a home system, it is designed for domestic rather than commercial use
- your other reasons for expanding the system are to offset 100% of the electricity consumed in your home and to support the production of renewable energy.
- although you wish to receive income from the system, given its substantial capital cost, there is no prospect of profit in the short or medium term. The likelihood of profit in the long term is also questionable as it is dependant both on the length of time the panels will remain effective before requiring replacement and you not changing residences. As you intend to borrow the funds needed to

- expand the system, the prospect of profit is even further reduced due to the additional interest expenses that will be incurred.
- our activity will not be carried on in a manner similar to other participants in the electricity generation industry. Commercial electricity providers operate on a size and scale vastly larger than the activity that you propose.

Having regard to all of the above, it is considered that you would not be carrying on a business of generating electricity. Therefore, any payments or credits you receive from your solar panels will not be assessable income.

Deductions

The general deduction provision is section 8-1 of the ITAA 1997 which allows a deduction for all losses and outgoings to the extent to which they are incurred in gaining or producing assessable income, except where the outgoings are of a capital, private or domestic nature, or relate to the earning of exempt income.

The cost of an asset used to produce assessable income is not deductible outright under section 8-1 of the ITAA 1997 as the expenditure is capital in nature. However, a decline in value deduction claimed over the effective life of the asset is available under section 40-25 of the ITAA 1997.

No deductions are available for any of your expenditure in relation to your solar electric system (including expenditure relating to funds borrowed to purchase the system such as interest) as the payments or credits you receive in relation to the system are not assessable income.

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