

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.
(Also Part I, §§ 118, 362.)

Rev. Proc. 2010-20

SECTION 1. PURPOSE

This revenue procedure provides a safe harbor under section 118(a) of the Internal Revenue Code for the treatment of a Smart Grid Investment Grant (SGIG) under 42 U.S.C. 17386 made by the United States Department of Energy (DOE) to a corporation for qualifying investments under the Smart Grid Investment Matching Grant Program as authorized by section 1306 of the Energy Independence and Security Act of 2007 (Pub. L. 110-140), as amended by section 405, Division A of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

SECTION 2. BACKGROUND

Section 118(a) of the Code provides that in the case of a corporation, gross income does not include a contribution to the capital of the taxpayer.

Section 1.118-1 of the Income Tax Regulations provides that section 118 applies

to contributions to capital made by a person other than a shareholder, for example, property contributed to a corporation by a governmental unit for the purpose of enabling the corporation to expand its operating facilities.

Section 362(c)(2) of the Code requires a basis reduction in a corporation's property when the corporation receives money from a nonshareholder as a contribution to its capital.

42 U.S.C. 17386 provides that DOE shall establish a Smart Grid Investment Matching Grant Program to make grants for qualifying investments. Under 42 U.S.C. 17386, an SGIG may not be used for ongoing or routine operating and maintenance expenditures.

SECTION 3. SCOPE

This revenue procedure applies to corporate taxpayers that receive an SGIG under 42 U.S.C. 17386 from DOE. This revenue procedure does not apply to noncorporate taxpayers, or to grants under 42 U.S.C. 17384 (Smart Grid technology research, development, and demonstration).

SECTION 4. PROCEDURE

The Internal Revenue Service will not challenge a corporation's treatment of an SGIG made by DOE to the corporation as a nonshareholder contribution to the capital of the corporation under section 118(a) of the Code if the corporation properly reduces the basis of its property under section 362(c)(2) and the regulations thereunder.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective March 10, 2010.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is David McDonnell of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this revenue procedure contact Mr. McDonnell at (202) 622-3040 (not a toll free call).