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BEFORE THE APPEALS DIVISION
DEPARTMENT OF REVENUE
STATE OF WASHINGTON

In the Matter of the Petition for Refund of) D E T E R M I N A T I O N
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 No. 16-0091
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 Registration No. . . .
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RULE 263; RCW 82.08.963: SOLAR ENERGY SYSTEM – SALES AND USE TAX – M&E EXEMPTION — SUPPORT FACILITY. Standing seam metal roofing does not qualify as a support facility that is integral and necessary for a solar energy system's generation of electricity; therefore, the roofing does not qualify as machinery and equipment (M&E) exempt from retail sales tax, as provided in RCW 82.08.963 and WAC 458-20-263.

Headnotes are provided as a convenience for the reader and are not in any way a part of the decision or in any way to be used in construing or interpreting this Determination.

Eckholm, A.L.J. – A homeowner appeals the denial of a request for refund of retail sales tax paid on the purchase of metal roofing for his home, asserting that the roofing qualifies as machinery and equipment (M&E) as a support facility that is integral and necessary for the solar energy system's generation of electricity. The taxpayer has not established that the roofing is integral and necessary for the solar energy system's generation of electricity; therefore, the roofing does not qualify as M&E exempt from retail sales tax under RCW 82.08.963 and WAC 458-20-263. The taxpayer's petition is denied.¹

ISSUE

Is standing seam metal roofing a support facility that is integral and necessary for a solar energy system's generation of electricity therefore qualifying as [M&E] exempt from retail sales tax, as provided in RCW 82.08.963 and WAC 458-20-263?

FINDINGS OF FACT

[Taxpayer] filed, with the Department of Revenue (Department), an “Application for Sales Tax Refund on Purchases and Installation of Qualified Renewable Energy Equipment” for retail sales tax of \$. . . that he paid on the purchase and installation of metal roofing for his home. The taxpayer included with his application an invoice for the installation of a 24 gauge . . . Metal Roofing System, removal and replacement of all plywood, and disposal fees in the total amount

¹ Identifying details regarding the taxpayer and the assessment have been redacted pursuant to RCW 82.32.410.

of \$. . . that included retail sales tax of \$ The taxpayer also provided a diagram of a “solar system schematic” of the solar panels mounted on the roof with clamps. The Department’s Taxpayer Account Administration Division (TAA Division) denied the taxpayer’s application stating that roofing is not qualified M&E under RCW 82.08.962 and RCW 82.08.963.

The taxpayer appealed the refund denial. The taxpayer asserted in his appeal petition that the roofing is qualified M&E because it is a support facility that is integral and necessary to the generation of electricity using solar energy, as provided in RCW 82.08.962(2)(d) and RCW 82.08.963(2). The taxpayer explains in his petition that his standing seam metal roofing² is integral and necessary to the operation of the solar energy system because the standing seams anchor the solar panels to the building and support the solar panels in the sunlight, thus enabling the operation of the electricity-producing solar panels. In addition, the taxpayer indicates that the 24 gauge steel roofing was recommended by the roofing installer as capable of supporting the weight and pulling forces involved with solar panels. The taxpayer also asserts that qualifying the metal roofing as an exempt M&E support facility supports the metal roofing manufacturing and installation industries, thereby furthering the legislative intent of the renewable energy M&E exemption statutes to incentivize electricity generation from renewable energy sources and provide economic benefits to the Washington state economy. *See Laws of 2013, 2d Spec. Sess., ch. 13, §§ 1501, 1601 (Legislative intent sections).*

The TAA Division responded that the taxpayer has not established the roofing is qualified M&E, and that RCW 82.08.963 specifically provides that M&E does not include “buildings” or “building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building,” per RCW 82.08.963(2)(b)(v), (vi). The TAA Division indicated that, while the brackets and hardware used to affix the renewable energy system to the roof qualify for the exemption, the roof itself does not qualify. The taxpayer replied that the TAA Division’s statement that all roofing does not qualify as a support facility is too broad. The taxpayer indicates that other roofing materials, such as asphalt, ceramic, or wood shingles, may not qualify for the M&E exemption if they do not provide the structural integrity required to support the solar panels, but that the metal roofing qualifies because it provides the structural integrity necessary for the operation of the solar panels.

² See, e.g., RoofingCalc.com, for a description of “standing seam” metal roofing:

Standing seam is a descriptive industry term for a vertical sheet metal roofing system. Standing seam is one of the most popular metal roofing systems because of its beauty, durability, longevity, simplicity, versatility, and bold looks. Homeowners considering installing standing seam on their property, often do so because they like the modern style of raised seams giving their home that bold, contemporary look and feel, along with unmatched durability, longevity, and energy efficiency. Standing seam is a high-end upgrade from a classic rib style that became synonymous with corrugated metal roofing. Unlike its predecessor, corrugated steel roofing, which is still being widely used today for many commercial, industrial, and even some residential projects, standing seam has an improved design featuring concealed fasteners. Raised seams, with no roof penetrations help minimize the chance of a roof leak down the road.

<http://www.roofingcalc.com/standing-seam-metal-roof-details/> (last accessed March 4, 2016).

ANALYSIS

RCW 82.08.963(1) provides that sales of M&E that is used directly in a solar energy system capable of generating ten kilowatts of electricity or less is exempt from retail sales tax. The taxpayer seeks refund of retail sales tax paid on the purchase and installation of metal roofing, claiming that it is used as a support facility for a solar energy system thereby qualifying for this tax exemption. The taxpayer has the burden of showing qualification for a tax deduction or exemption. *Budget Rent-A-Car of Wash.-Oregon, Inc. v. Dep't of Revenue*, 81 Wn.2d 171, 174-175, 500 P.2d 764 (1972); *Group Health Co-Op v. Tax Comm'n*, 72 Wn.2d 422, 429, 433 P.2d 201 (1967). Tax exemptions are narrowly construed. *Budget Rent-A-Car*, 81 Wn.2d at 175.

“Machinery and equipment” is defined in RCW 82.08.963 to include “industrial fixtures, devices, and support facilities that are integral and necessary to the generation of electricity or production and use of thermal heat using solar energy.” RCW 82.08.963(2)(a). The taxpayer asserts that the standing seams on the metal roofing anchor the solar panels to the building, and that the 24 gauge steel roofing supports the weight and pulling forces of the solar panels; therefore, the roofing is a support facility integral and necessary to the operation of the electricity producing solar panels.

The Department’s rule applicable to the solar energy M&E exemptions, WAC 458-20-263 (Rule 263), defines a “support facility,” as follows:

A “support facility” is a part of a building, structure, or improvement used to contain or steady a fixture or device. A support facility must be specially designed and necessary for the proper functioning of the fixture or device and must perform a function beyond being a building, structure, or improvement. It must have a function relative to a fixture or a device. To determine if some portion of a building is a support facility, the parts of the building are examined. For example, a highly specialized structure, like a vibration reduction slab under generators in a landfill gas generating facility, is a support facility. Without the slab, the generators would not function properly. The ceiling and walls of the building housing the generator are not support facilities if they only serve to define the space and do not have a function relative to a fixture or a device.

Rule 263(402) (emphasis added).

Rule 263(402) provides that a qualified support facility must be specifically designed and necessary for the proper functioning of the fixture or device (here, the solar panels), and perform a function beyond that of being a building or improvement. The taxpayer has not shown that the roofing is specifically designed and necessary for the proper functioning of the solar panel devices, and that it performs a function beyond that of being a sturdy roof for his home. As an example of a qualifying support facility, Rule 263(402) describes a vibration reduction slab situated under generators in landfill gas generating facilities because, without the slab, the generators would not function properly. The taxpayer’s situation is not similar to the example. The taxpayer has not shown that the solar panels would not function properly unless they were mounted to standing seam metal roofing. The taxpayer’s roofing more appropriately falls within the specific exclusions from “machinery and equipment” in RCW 82.08.963(2)(b):

“Machinery and equipment” does not include:

- (i) Hand-powered tools; (ii) property with a useful life of less than one year; (iii) repair parts required to restore machinery and equipment to normal working order; (iv) replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment; (v) buildings; or (vi) building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building;

RCW 82.08.963(2)(b) (emphasis added).

The taxpayer’s roof is a building fixture that is permanently affixed to and a physical part of a building; therefore, per RCW 82.08.963(2)(b), the roofing is specifically excluded from the definition of “machinery and equipment” unless the taxpayer shows that the roofing is “integral and necessary to the generation of electricity.” As noted above, the taxpayer has not established this requirement. The fact that the solar panels are affixed to the roof and the panels operate on the roof, does not establish that such placement renders the roofing integral and necessary to their operation in producing electricity. The taxpayer has presented no evidence that this roofing is required for the operation of the solar panels. An assertion that the roofing supports the weight of the panels and the raised seams provide a surface for affixation is insufficient. RCW 82.08.963(2)(b) recognizes that there are building fixtures that may be associated with solar energy systems and specifically excludes those fixtures unless they are integral and necessary to the generation of electricity. The siting of the solar panels on the roof does not transform the roof into a building fixture that is integral and necessary to the generation of electricity. If that were the case, any site upon which solar panels were mounted would be considered integral and necessary to generate electricity, and such a construction would be inconsistent with the specific exclusions set forth in RCW 82.08.963(2)(b), and contrary to the requirement that tax exemptions be narrowly construed. *See Budget Rent-A-Car*, 81 Wn.2d at 175.

The taxpayer has not met his burden in establishing that he qualifies for the solar energy system M&E exemption under RCW 82.08.963, and that he is entitled to a refund of retail sales tax paid on the purchase and installation of his roof. The taxpayer’s petition is denied.

DECISION AND DISPOSITION

The taxpayer’s petition is denied.

Dated this 8th day of March, 2016.