

## Taxation/Valuation of Solar Panels: Arizona Court Addresses Assessment Issues



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04/16/2018

The Supreme Court of Arizona addressed in a March 16th opinion whether the Arizona Department of Revenue (“ADOR”) or County assessors are authorized to value solar panels owned by taxpayers and leased to residential and commercial property owners. See *SolarCity Corporation v. Arizona Department of Revenue*, 2018 WL 1354069.

The Court was also asked to decide whether (assuming a zero-value provision in § 42-11054(C)(2) applies) it violates the Arizona Constitution’s Exemptions Clause or Uniformity Clause.

By way of background, the opinion notes that:

Taxpayers lease solar panels to homeowners and commercial property owners. The panels are installed on or around a building (e.g., on a rooftop) to capture solar energy, convert it to electricity in a self-contained “inverter,” and use it to power the property. Although the panels operate “behind the . . . meter” – meaning they operate independently of a utility company’s power grid – they transfer any excess energy to the utility company through the grid for others’ use. The utility company gives the lessee property owner credit for the retail value of the excess energy. . .

Taxpayers leasing of solar panels was stated to be for years neither valued nor taxed. A change is stated to have occurred in tax year 2015 when ADOR issued a “notice of value.” The notice of value notified taxpayers that their solar panels had been assigned full cash values. Consequently, taxes would be assessed.

SolarCity Corporation and Sunrun, Inc. (collectively “Taxpayers”) filed a lawsuit seeking a declaratory judgment that:

1. the panels are considered to have no value pursuant to § 42-11054(C)(2) and therefore not subject to valuation or assessment for property tax purposes; and
2. the panels are not subject to valuation under §§ 42-14151 and –14155 (authorizing ADOR to value renewable energy equipment used by taxpayers in the operation of an electric generation facility).

ADOR responded:

1. It properly valued the panels under the referenced statutes.
2. Applying the § 42-11054(C)(2) zero-value provision to the panels would violate the Exemptions Clause and the Uniformity Clause of the Arizona Constitution.

The Supreme Court addresses these issues by undertaking an analysis of the intent, purpose, and language of § 42-14151(A). It notes that ADOR's authority to value Taxpayers' solar panels depends on whether they operate electric generation facilities under § 42-14151(A). The Court concludes that the Taxpayers did not operate electric generation facilities, basing this conclusion on:

. . . Taxpayers are in the business of leasing solar panels. They themselves do not operate a facility to convert solar energy into electricity. . . Nor do they deliver electricity to their customers "through a transmission and distribution system." . . . Instead, they lease panels to customers to enable those customers to generate electricity for self-use. Although utilities take excess electricity to transmit it to their customers, Taxpayers have no part in these transmissions and receive no benefit from them.

As a result of this conclusion, the Court states that ADOR lacks authority under § 42-14151(A) to value the solar panels. Further, it states that because § 42-14151(A) does not apply, the valuation method set forth in § 42-14155(A) for renewable energy equipment is likewise inapplicable.

The Supreme Court also addressed whether the Taxpayers' leased solar panels must be locally assessed pursuant to § 42-13051(A).

ADOR argued that Taxpayers' leased solar panels fall within the tax code's business personal property classification, therefore county assessors were authorized to assess values pursuant to § 42-13054. Taxpayers asked the Court to forego deciding the counties' authority to value the leased solar panels and attendant issues because:

- The counties have not sought to tax the panels
- The counties are not parties
- Taxpayers sought relief only against ADOR

The Court decides to refrain from deciding the constitutional and remaining issues. It remands these issues to the tax court. As a result, in addition to concluding that ADOR lacks authority to value Taxpayers' leased solar panels, it remands for the tax court to determine whether § 42-13054 authorizes county assessors to value the solar panels. Further, if such authorization is found, the additional issue would be whether § 42-11054(C)(2) requires a zero valuation. A determination regarding constitutional issues would then be required.

[A copy of the opinion can be downloaded here.](#)