Renewable Energy/Investment Tax Credit: Arizona Court of Appeals Addresses Valuation Issue

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The Court of Appeals in Arizona ("Court") in a May 14th Opinion addressed a tax issue involving renewable energy requirements. See Agua Caliente Solar, LLC v. Arizona Dept. of Revenue. No. CA-TX22-0007.

The question addressed whether a claimed investment tax credit deferred as a tax asset has "value" for purposes of determining the taxable original cost of renewable energy equipment under A.R.S. § 42-14155.

Agua Caliente Solar, LLC ("ACS") operates a solar-electric power generation facility that uses renewable energy equipment. The Facility received $465,454,649.00 in investment tax credits for its construction.

The Arizona Department of Revenue and the Tax Court determined that the tax credits should only be included and valued when the owner of said credits derive economic value from its usage. In other words, the credits are used to offset income tax liability.

The Court accepted ACS's argument that tax credits derive value upon their acquisition as opposed to utilization.

The Court concluded tax credits should be included in the value of the property. This is because the credits are tied directly to the property itself. Principles of property law require that these should not be determined based on who owns the property. Instead, they are based upon the property itself.

The tax credits were derived from and belong to the property. They did not simply belong to the developer. To decide otherwise would violate Arizona's ad valorem property tax system.

Therefore, ACS was held to be able to include the unutilized tax credits belonging to the property within the valuation of the solar energy facility.

A copy of the decision can be downloaded here.