

On August 9, 2022, the Missouri Supreme Court issued its decision in *Brent Johnson, et al., v. Springfield Solar 1, LLC, et al.*, (SC99441) holding that the exemption for “solar energy systems not held for resale” under Section 137.100(10) is unconstitutional.

A new statute, Section 393.1072 RSMo., effective August 28, 2022, establishes the Task Force on Fair, Nondiscriminatory Local Taxation Concerning Solar Energy Systems. The Task Force shall study the fair, uniform, and standardized assessment and taxation of solar energy systems and their connected equipment and issue a report to the Missouri General Assembly before December 31, 2022. The report shall include potential legislation to provide a methodology for assessment and taxation of solar energy systems and their connected equipment owned by retail or wholesale providers of electricity. The Task Force will be comprised of individuals from the General Assembly, currently elected County Assessors, the State Tax Commission, a statewide agricultural organization, and the private sector. Although the Task Force’s report could result in legislation aimed at specifically regulating the assessment and taxation of solar energy systems, such legislation likely would not be enacted or effective until after the January 1, 2023, reassessment date.

To help bridge the gap until any such legislation is enacted, the sample Questions and Answers provided below are intended to assist Assessors, Collectors, and Clerks with questions that might arise regarding the assessment of solar energy systems. While no current statute specifically provides a methodology for assessment and taxation of solar energy systems, county officials may look to general statutes governing the assessment and taxation of real property and personal property and relevant case law to help guide them.

PLEASE NOTE: The following questions and answers apply general statutes governing *ad valorem* assessment and taxation of real property and personal property to situations involving solar energy systems. These questions and answers are for illustrative purposes only and do not encompass all possible scenarios involving *ad valorem* assessment and taxation of solar energy systems. In the context of *ad valorem* assessment and taxation of property, one must remember that assessors are locally-elected officials who are required to fairly and equally assess property but who also are allowed to exercise their professional discretion in light of the facts known to them in each situation.

Question 1:

Taxpayer owns a residential property consisting of land plus a home. Taxpayer had solar panels installed on the roof of the home to utilize solar energy to generate power for use in and around the home. How should the solar panels be treated for purposes of *ad valorem* assessment and taxation?

Answer 1:

In the assessor’s discretion based upon the facts known to the assessor, the solar panels could be considered to be a fixture of the home if attached to the home. The value of the fixture would be contributory to the overall value of the residential property and not valued separately.

Question 2:

Taxpayer owns a property with mixed classification of residential and agricultural. Taxpayer had solar panels installed on a mounting structure in a pasture on the agricultural portion of the property. The solar panels utilize solar energy to generate power for use in and around the home and the agricultural outbuildings consisting of barns and sheds. How should the solar panels and mounting structure be treated for purposes of *ad valorem* assessment and taxation?

Answer 2:

In the assessor's discretion based upon the facts known to the assessor, the solar panels and mounting structure could be considered a fixture of the land if attached to the land, similar to the agricultural outbuildings consisting of barns and sheds, and not valued separately. However, agricultural land is valued according to its productivity and not its true value in money (market value), which might cause the assessor to consider the solar panels and mounting structure to be personal property. Valuing solar property as personal property could be problematic due to a lack of reliable information, such as a lack of cost information provided by the taxpayer or by the lack of a solar equipment price guide. Additionally, valuing solar property as personal property could be problematic because nothing in Missouri law currently requires such property to be declared on personal property declaration forms, so assessors would have to rely on observation and investigation alone, which could subsequently lead to discriminatory treatment, i.e., some solar property is assessed as personal property while other similar solar property is assessed as a fixture of real property or not assessed at all. Ultimately, the assessor might find it more efficient and fair to the taxpayer to assess the solar panels and mounting structure as a fixture of the residential property because the power generated by the solar property in this scenario also is used in and around the home. The final determination in this scenario would be in the assessor's discretion based upon the specific facts and information available to the assessor at the time of the assessment.

Question 3:

Company owns commercial land improved by an office building. Company had solar panels installed on the roof of the office building to generate power for use in the office building. Company also had solar panels installed on a mounting structure on the parking lot to generate power for use on the grounds surrounding the office building and on the parking lot. How should the solar panels and mounting structure be treated for purposes of *ad valorem* assessment and taxation?

Answer 3:

In the assessor's discretion based upon the facts known to the assessor, as in the answers to Question 1 and Question 2, the solar panels could be considered fixtures if affixed to the building and/or land and would be contributory to the overall value of the commercial property and not valued separately.

Question 4:

Private Company A leases commercial land from Private Company B. The lease agreement provides that Private Company A is allowed to install solar panels mounted on aluminum poles bolted to concrete pads, which are situated on Private Company B's commercial land. The lease agreement further provides that Private Company A shall remove the solar panels and aluminum

poles at the end of the lease at Private Company A's expense or shall give Private Company B first option to purchase the solar panels and aluminum poles. The lease agreement does not state whether Private Company A must remove the concrete pads. Private Company A sells the power generated by the solar panels to Public Utility. How should the solar panels and aluminum poles be treated for purposes of *ad valorem* assessment and taxation?

Answer 4:

In the assessor's discretion based upon the facts known to the assessor, the solar panels and aluminum poles could be considered business personal property owned by Private Company A because the facts indicated the solar panels and aluminum poles are not intended to be permanently affixed to the land and, therefore, are not fixtures. Section 137.122 of the Revised Statutes of Missouri allow business personal property to be depreciated from original/actual cost using the Modified Accelerated Cost Recovery System (MACRS) table.

Question 5:

Municipal Utility Company owns land on which it installed solar panels and aluminum poles. Municipal Utility Company sells the power generated by the solar panels to customers in the company's service district. How should the solar panels and aluminum poles be treated for purposes of *ad valorem* assessment and taxation?

Answer 5:

Because Municipal Utility Company is a government entity, Municipal Utility Company is exempt from taxation, and, therefore, the property it owns also is exempt.

Question 6:

A Publicly Regulated Utility Company owns a solar energy system. How should the solar energy system be treated for purposes of *ad valorem* assessment and taxation?

Answer 6:

The value of the solar energy system will be included in the unit value of the utility.