

Property Tax - Opinion - Methane Gas Conversion Exemption

Sent: Friday, July 25, 2008

To: Iowa Assessment Administrators

From: Iowa Department of Revenue

Subject: Methane Gas Conversion Property Exemption

We have been asked to interpret the methane gas conversion property exemption contained in Iowa Code § 427.1(29) (2007). Since this section is a tax exemption statute, it must be strictly construed with all doubts resolved in favor of taxation. *Heartland Lysine v. Dept. of Revenue and Finance*, 503 N.W.2d 587, 588 (Iowa 1993); *Dial Corporation v. Iowa Dep't. of Rev.*, 634 N.W.2d 643, 646 (Iowa 2001). Iowa Code § 427.1(29) (2007) states in relevant part:

Methane gas conversion. Methane gas conversion property shall be exempt from taxation.

For purposes of this subsection, "*methane gas conversion property*" means personal property, real property, and improvements to real property, and machinery, equipment, and computers assessed as real property pursuant to section 427A.1, subsection 1, paragraphs "e" and "j", used in an operation connected with, or in conjunction with, a publicly owned sanitary landfill to collect methane gas or other gases produced as a by-product of waste decomposition and to convert the gas to energy, or to collect waste that would otherwise be collected by, or deposited with, a publicly owned sanitary landfill in order to decompose the waste to produce methane gas or other gases and to convert the gas to energy. However, property used to decompose the waste and convert the waste to gas is not eligible for this exemption.

Sub-section 29 sets forth requirements which must be met for the property to be exempt from tax. These requirements are most easily determined when the language of the sub-section is divided by requirement. First, the exemption is for methane gas conversion property. Methane gas conversion property is "personal property, real property, and improvements to real property, and machinery, equipment, and computers assessed as real property pursuant to section 427A.1, subsection 1, paragraphs 'e' and 'j'". Second, the methane gas conversion property must be "used in an operation connected with, or in conjunction with, a publicly owned sanitary landfill". Third, the purpose of the operation must be "to collect methane gas or other gases produced as a by-product of waste decomposition and to convert the gas to energy, or to collect waste that would otherwise be collected by, or deposited with, a publicly owned sanitary landfill in order to decompose the waste to produce methane gas or other gases and to convert the gas to energy."

Some additional factual issues may arise that will need to be addressed by the assessor. If the purpose of the operation is to collect waste that would otherwise be collected by, or deposited with, a publicly owned sanitary landfill, does the waste being used qualify? Is the operation converting the gas to energy?