

Appeal of Daniel and P. Heether

The question presented is whether appellants are entitled to a solar energy tax credit.

On their joint personal income **tax** return for 1978, appellants claimed a solar energy tax credit based on the cost of installing window film in their home. Respondent determined that the window film did not qualify for the tax credit since it was **not** installed in conjunction with a solar energy system as defined by the Energy Resources Conservation and Development Commission (hereinafter "**the Commission**".) A proposed assessment was issued reflecting the disallowance of the credit, appellants protested, the assessment was affirmed, and this timely appeal followed.

The statute allowing the solar energy tax credit provides, in relevant part:

Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit.... Energy conservation measures, which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria. (Emphasis added.) (Rev. & Tax. Code, § 17052.5, subd. **(a)(5).**)

Appellants bear the burden of showing that respondent's determination is erroneous. (Appeal of David A. and Barbara L. Beadling, Cal. St. Bd. of Equal., Feb. 3, 1977.) Although window film may qualify **as an** energy conservation measure under the Commission's guidelines (see Cal. Admin. Code, tit. 20, **§§ 2601-2608**), appellants must show that it was installed in conjunction with **a** solar energy system. Since they have not **done so, we must sustain respondent's action.**

