



Appeal of Richard G. and A. Margaret Jones

The sole issue presented for determination by this appeal is whether respondent properly disallowed appellants' claimed solar energy tax credit for the year in issue.

In 1978, appellants installed exterior shutters on their personal residence to block sunlight from certain unshaded window areas. On their joint California personal income tax return for the year in issue, appellants computed a solar energy tax credit in the amount of \$492.46. The claimed credit was utilized to the full extent of **appellants' tax liability**, \$410.37. Upon examination of their return, respondent determined that appellants' purchase and installation of the shutters (technically referred to as movable insulation/shades under the then applicable regulations; see former Cal. Admin. Code, tit. 20, reg. 2604, **subd.** (h), repealed Sept. 19, 1979) did not entitle them to a solar energy tax credit.

Revenue and Taxation Code section 17052.5 provides for a tax credit equal to 55 percent of **the** cost of certain solar energy devices on premises located in California which are owned and controlled by the taxpayer claiming the credit, -up to a maximum credit of \$3,000. The same section also provides that the Energy Resources Conservation and Development Commission (hereinafter referred to as the "Energy Commission") is responsible for establishing guidelines and criteria for solar energy systems which are eligible for the solar energy tax credit. Pursuant to subdivision (a)(S) of section 17052.5, energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems are also eligible for the tax credit.

Appellants contend that respondent improperly disallowed their claimed solar energy tax credit for the following reasons: (i) the shutters were installed **"in conjunction with a passive solar system, i.e., [ceiling] insulation"** ; and (ii) the shutters were purchased after an employee of the Energy Commission represented to appellants that the shutters' shading co-efficient qualified them as **"an acceptable shading device."** After careful review of the record on appeal, and for the specific reasons set forth below, we must conclude that respondent properly disallowed appellants@ claimed tax credit.

Appeal of Richard G. and A. Margaret Jones

During the year in **issue**, the full cost of movable insulation/shades qualified for the solar energy tax credit if they met certain technical requirements and were installed as part of a direct or indirect thermal space conditioning system. (Former Cal. Admin. Code, tit. 20, reg. 2604, subd. **(h)**, repealed Sept. 19, 1979.) While appellants maintain that the ceiling insulation they installed constituted "a passive solar system," **subdivision (a)(5)** of section 17052.5 clearly provides that ceiling insulation is an "energy conservation measure" and does **not**, in and of itself, constitute a solar energy system. Accordingly, we must conclude that appellants' first argument is without merit.

Section **17052.5**, subdivision (a)(5), provides, in pertinent part:

Energy conservation measures applied in conjunction with solar energy 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 Commission)** as part of the solar energy system **eligibility** criteria.

During the year in **issue**, Energy Commission regulations provided that movable insulation/shades would qualify for the solar energy tax credit, when installed as part of a direct or indirect thermal space conditioning system, if, among other technical requirements, **it met the** pertinent shading co-efficient criteria. (Former Cal. Admin. Code, tit. 20, reg. 2604, subd. **(h)**, repealed Sept. 19, 1979.)

Appellants contend that they purchased their insulation shade in reliance upon the representation of an employee of the Energy Commission that the shade qualified as "an acceptable shading device" because it met the relevant shading co-efficient criteria. The statement made by the unidentified Energy Commission employee appears to have been entirely consistent with the law in effect during the year in issue; assuming that appellants' shade met the then-applicable technical requirements, it did indeed qualify as an "energy conservation measure." However, as previously noted, "energy conservation measures" are eligible for the solar energy tax credit only when applied in conjunction with solar

Appeal of Richard G. and A. Margaret Jones

energy systems. (Rev. & Tax. Code, § 17052.5, subd. (a)(5).) Since appellants' shade did not, in and of itself, constitute a solar energy system (Rev. & Tax. Code, § 17052.5, subd. (i) (6)(A); see also former Cal. Admin. Code, tit. 20, **reg.** 2604, subd. **(h)**, repealed Sept. 19, 1979) and because it was not installed in conjunction with such a system, we must conclude that respondent's action in this matter be sustained.

Appeal of Richard G. and A. Margaret Jones

ORDER

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Richard G. and A. Margaret Jones against a proposed assessment of additional personal income tax in the amount of \$410.37 for the year 1978, be and the same is hereby sustained.

Done at Sacramento, California, this **19th day**
of August , **1981**, by the State Board of Equalization,
with Board Members Mr. **Dronenburg**, Mr. Nevins and Mr. Bennett
present.

Ernest J. Dronenburg, Jr., Chairman

Richard Nevins ..., Member

William M. Bennett, Member

_____, Member

_____, Member