

Appeal of Ronald and Martha Sattler

The question presented by this appeal is whether appellants. **were** entitled to the solar energy tax credit which they claimed on their **1980** personal income tax return.

On appellants' joint personal income tax return for 1980, they claimed a solar energy tax credit of \$1,405. This amount was carried over from 1979, when a solar energy tax credit of \$4,308 was **claimed**, but only \$2,903 of that amount was used. The **1979** credit was arrived at by combining 55 percent **.of** the cost of a pool heating system (\$1,308) and the maximum allowable credit for a domestic water heating system (\$3,000).

Respondent disallowed that portion of the claimed credit in excess of \$3,000 because only one function was performed (water heating) even though two **physically** separate solar devices were installed. Respondent determined that appellants were entitled to only one credit, not to exceed \$3,000, based on 55 percent of the combined costs of the two separate devices installed.

For 1979, Revenue and Taxation Code section 17052.5 provided a tax credit in the amount of 55 **percent** of the taxpayer's cost of any solar energy system installed on the taxpayer's premises in California. The maximum allowable credit for each solar energy system was **\$3,000**. **Any credit amount in excess of the taxpayer's net tax for** the year of installation could be carried over to succeeding years. (Rev. & Tax. Code, § 17052.5, subd. (f).) Subdivision (i)(6)(A) defined "solar energy system" as

the use of solar devices for the individual function of:

- (i) Domestic, recreational, therapeutic, or service water heating;
- (ii) Space conditioning;
- (iii) Production of electricity;
- (iv) Process heat;
- (v) Solar mechanical energy; and
- (vi) Wind energy for the production of electricity or mechanical work.

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The Energy Resources Conservation and Development Commission (the Commission) was authorized to establish guidelines and criteria regarding eligibility of solar energy systems for the tax credit. (Rev. & Tax. Code, § 17052.5, subd. (g).) The Commission issued a notice entitled "Summary of Statutory Changes in California's Solar Energy Tax Credit Law" after changes were made in section 17052.5 by Statutes of 1978, Chapter **1159**. (Resp. Ex. F.) This summary stated, in part:

Under the revised law, it is the number of functions performed, rather than the number of physically separated solar energy devices installed, that determines the number of solar energy tax credits available.

Examples were also provided, one of which **stated**:

In contrast, assume that the taxpayer **installed two** physically separated solar collectors and other solar equipment, one installation to heat a swimming pool and the other to heat household water. Since only one function would be served by two solar collectors--i.e., water heating--the taxpayer would be eligible to claim a maximum credit of \$3,000.

Almost exactly the same language was used in the instructions accompanying FTB **3805L**, the form used by taxpayers claiming a **solar** energy tax credit.

Both the plain language of the statute and the interpretation by the administrative agency charged with establishing criteria and guidelines under the solar energy tax credit law support respondent's disallowance of that part of the credit claimed by appellants that exceeded \$3,000. Although two separate solar energy devices **were installed by** appellants, they served the single function of water heating and thus must be considered one solar energy system, for which only one credit is allowed. Appellants contend that the classification of recreational and domestic water heating as one function is unfair. However, this is a complaint which must be addressed to the Legislature, which enacted the law, rather than to this board, which is charged with enforcing the law as enacted.

For the reasons stated above, respondent's action must be sustained.

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O R D E R

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 Ronald and Martha Sattler against a proposed assessment of additional personal income tax in the amount of \$1,308 for the year 1980, be and the same is hereby sustained,

Done at **Sacramento**, California, this 8th day Of **May**, 1984, by the State Board of Equalization, with Board Members **Mr. Nevins**, **Mr. Dronenburg**, **Mr. Collis**, **Mr. Bennett** and **Mr. Harvey** present.

Richard Nevins , Chairman
Ernest J. Dronenburg, Jr. , Member
Conway H. Collis , Member
William M. Bennett , Member
Walter Harvey* , Member

*For Kenneth Cory, per Government Code section 7.9