

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: ) OTA Case No. 21078135  
 S. HILL AND )  
 K. HILL )  
 \_\_\_\_\_ )

**OPINION**

Representing the Parties:

For Appellants: S. Hill

For Respondent: Melisa Recendez, Legal Analyst

E. S. EWING, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, S. Hill and K. Hill (appellants) appeal an action by the Franchise Tax Board (respondent) proposing additional tax of \$859 and applicable interest for the 2017 tax year.

Appellants waived the right to an oral hearing; therefore, the matter is decided based on the written record.

**ISSUE**

Whether appellants have shown error in respondent's denial of the claimed solar energy credit carryover.

**FACTUAL FINDINGS**

1. Appellants filed a timely California income tax return for the 2017 tax year.
2. On their 2017 California tax return, appellants claimed a solar energy credit carryover of \$859 and reduced their tax by that amount. The claimed credit related to a solar energy system that was installed in appellants' home during the 2014 tax year.
3. Respondent audited appellants' return and issued a Notice of Proposed Assessment (NPA), proposing to deny the carryover of the solar energy credit and assess additional tax by the same amount – i.e., \$859, and applicable interest.

4. Appellants protested the NPA. Respondent denied the protest, affirming the NPA in its entirety.
5. Appellants filed this timely appeal.

#### DISCUSSION

Former R&TC section 17052.5 provided for a solar energy credit for the cost of installing solar energy systems during tax years 1985 through 1988. In the case where the solar energy credit allowed exceeded the net tax, the excess could be carried over to reduce the net tax in the following year and succeeding years, if necessary, until the credit was exhausted. (R&TC, § 17052.5.) Tax credits are a matter of legislative grace, and taxpayers bear the burden of proving they are entitled to claimed tax credits. (*Appeal of Swat-Fame, Inc., et al.*, 2020-OTA-046P.) Unsupported assertions are insufficient to meet the burden of proof. (*Appeal of Morosky*, 2019-OTA-312P.)

In this case, the solar energy system in question was installed in appellants' home during the 2014 tax year. Appellants now claim a solar energy credit carryover into the 2017 tax year, based on the 2014 installation. Appellants imply that they are entitled to a California solar energy credit because the IRS allowed (or did not deny) a *federal* residential energy credit. However, the *state* solar energy credit at issue here was only available for the costs of installing solar energy systems during tax years 1985 through 1998.<sup>1</sup> Further, appellants point to no California *state* statute authorizing a credit for solar energy systems installed in 2014, or even a state statute authorizing such a credit to be carried over from the 2014 tax year into the 2017 tax year. Thus, appellants have not met their burden of proof to show error in respondent's denial of the claimed solar energy credit carryover.

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<sup>1</sup> For the tax years at issue here, California did not conform to the federal residential energy credit administered by the IRS.

HOLDING

Appellants have not shown error in respondent’s denial of the claimed solar energy credit carryover.

DISPOSITION

Respondent’s action is sustained.

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Elliott Scott Ewing

Administrative Law Judge

We concur:

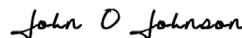
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John O. Johnson

Administrative Law Judge

Date Issued: 3/14/2022