

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

In the Matter of the Appeal of: ) OTA Case No. 21108826  
P. BRUCE AND )  
J. BRUCE )  
\_\_\_\_\_ )

**OPINION**

Representing the Parties:

For Appellants: P. Bruce  
J. Bruce

For Respondent: Nancy E. Parker, Tax Counsel IV

For Office of Tax Appeals: Kyu Bin Kang, Graduate Student Assistant

D. CHO, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, P. Bruce and J. Bruce (appellants) appeal an action by the Franchise Tax Board (respondent) proposing additional tax of \$2,380 and applicable interest for the 2016 tax year.

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

**ISSUE**

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

**FACTUAL FINDINGS**

1. Appellants timely filed their California tax return for the 2016 tax year. As relevant here, appellants claimed a solar energy credit carryover of \$2,380.
2. Respondent reviewed appellants’ return and disallowed the claimed solar energy credit carryover. Respondent informed appellants of this disallowance by a Notice of Proposed Assessment (NPA) dated August 20, 2020. The NPA stated that appellants were not entitled to claim the solar energy credit carryover because appellants had not provided

documentation to substantiate the carryover credit. The NPA informed appellants of the proposed additional tax of \$2,380, plus applicable interest.

3. Appellants protested the NPA.
4. In response, respondent explained that the solar energy credit expired and was no longer available. Respondent further explained that a taxpayer may claim a credit carryover for the cost of installing a solar energy system only if the carryover was available from tax years 1985 through 1988. Because appellants indicated that they installed their solar energy system in 2015, respondent concluded that appellants were not entitled to the claimed carryover credit.
5. Respondent issued a Notice of Action, which affirmed the NPA.
6. This timely appeal followed.

### DISCUSSION

The solar energy credit is an expired credit that is no longer available. However, 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 exceeded the net tax, the excess could be carried over to reduce the net tax in the following year and succeeding years until the credit was exhausted. (Former R&TC, § 17052.5.) Tax credits are a matter of legislative grace, and taxpayers bear the burden of proving they are entitled to the claimed tax credits. (*Appeals 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.)

Here, appellants reported a solar energy credit carryover on their 2016 tax return. In support of the claimed solar energy credit carryover, appellants argue that the “[d]eduction for tax year was valid [and] in agreement with solar deduction in place for the 2016 tax year.” However, appellants’ argument does not establish that they installed a solar energy system during the tax years 1985 through 1988. As a result, appellants have not demonstrated that they were entitled to claim the solar energy credit for the 1985 through 1988 tax years for the cost of installing a solar energy system during those years. Without establishing entitlement to the solar energy credit for the 1985 through 1988 tax years, appellants are unable to and have not demonstrated that they are entitled to claim any excess solar energy credit carryover to the 2016

tax year.<sup>1</sup> Therefore, appellants have not met their burden of proof to show error in respondent’s denial of the claimed solar energy credit carryover.

HOLDING

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

DISPOSITION

Respondent’s action is sustained.

DocuSigned by:  
*Daniel Cho*  
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Daniel K. Cho  
Administrative Law Judge

We concur:

DocuSigned by:  
*Sara A. Hosey*  
6D3FE4A0CA514E7...  
Sara A. Hosey  
Administrative Law Judge

DocuSigned by:  
*Richard Tay*  
F8E81582726F448...  
Richard Tay  
Administrative Law Judge

Date Issued: 11/9/2022

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<sup>1</sup> For the 2016 tax year, the IRS allowed individuals to claim a residential energy credit in the amount of 30 percent of the costs of a qualified solar system pursuant to Internal Revenue Code section 48(a)(1), as in effect for that year; however, California did not conform to this federal provision.