

Appeal of George M. and Joyce M. Murchison

The sole issue presented here is whether respondent properly disallowed part of appellants' **claimed solar** energy tax credit for the year at issue.

In 1978, appellants installed certain improvements on a **residence** used for rental purposes. These improvements included the installation of such items as code **R-11** insulation, dry wall, paneling and decking. On their 1978 California personal income tax **return**, appellants claimed a solar energy credit in the amount of \$3,000 for a "passive thermal system" (55% of the cost of the improvements limited by the \$3,000 ceiling). Upon examination of appellants' return, respondent allowed a credit in the amount of \$491.22 for those components which it determined constituted a qualified system, but disallowed the remainder of the claimed credit, determining that appellants' purchase and installation of code R-11 insulation, dry wall, paneling and decking did not entitle them to a solar energy credit. Appellants protested. Respondent's denial of that protest led to this appeal.

Revenue and Taxation Code section 17052.5, in effect for 1978, provided for a tax credit equal to 55 percent of the cost of certain solar energy devices installed on premises located in California owned and controlled by the taxpayer claiming the credit, up to a maximum credit of \$3,000. The same section also provided that the Energy Resources Conservation and Development Commission (hereinafter referred to as the "Energy Commission") would be responsible for establishing guidelines and criteria for solar energy systems which were eligible for the solar energy tax credit. (Rev. & Tax. Code, § 17052.5, subd. (g).) Pursuant to subdivision (a)(5) of section 17052.5, energy conservation measures applied in conjunction with "solar energy systems" (as that term was defined in Revenue and Taxation Code section 17052.5, subdivisions (i)(6)(A) and (i)(6)(B)) to reduce the total cost or backup energy **requirements** of such systems were also eligible for the tax credit.

Appellants apparently contend that the components in question solved a particular energy problem, and a credit should be allowed since the installation of such components conforms to the energy-conservation intent of the solar energy tax credit statute. In order to substantiate this contention, appellants provided respondent with data with respect to the components. Respondent forwarded this information to the Energy Commission to ascertain whether these items constituted a "solar energy system"

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within the commission's guidelines. The Energy Commission reviewed the data and determined that the above-noted components did not constitute such a qualified "solar energy system" and that a denial of the credit was appropriate.

After review of the record on appeal, we must conclude that respondent properly disallowed the solar energy tax credit at issue. The subject items simply did not satisfy the statutory eligibility requirements for the solar energy credit. The insulation and dry wall were sufficient to meet only the minimum building code requirements. As such, no credit is allowable since Energy Commission regulations in effect for the year at issue clearly provide that, to be eligible **for the credit**, measures must exceed "building standards required by law at the time of original construction, **of the building.**" (Former Cal. Admin. Code, tit. 20, **reg. 2605**, subd. **(d)** (1978) (amended **1979**).) Moreover, the record indicates that the paneling is a cosmetic addition which has little insulating value. Lastly, the decking does not meet the technical requirements of the regulations. (Former Cal. Admin. Code, tit. 20, **reg. 2604**, subd. **(h)(2)(C)** (1978) (amended **1979**).)

Accordingly, we must sustain respondent's action in this matter.

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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 George M. and Joyce M. **Murchison against** a proposed assessment of additional personal income tax in the amount of **\$2,508.78** for the year 1978, be and the same is hereby sustained.

Done at Sacramento, California, this 15th day of September, 1983, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Collis, Mr. Dronenburg, Mr. Nevins and Mr. Harvey present.

<u>William M. Bennett</u>	, Chairman
<u>Conway II. Collis</u>	, Member
<u>Ernest J. Dronenburg, Jr.</u>	, Member
<u>Richard Nevins</u>	, Member
<u>Walter Harvey*</u>	, Member

*For Kenneth Cory, 'per Government Code section 7.9