

JURISDICTION: OKLAHOMA TAX COMMISSION DECISION
CITE: 87-01-13-06 / NON-PRECEDENTIAL
ID: P-86-036
DATE: JANUARY 13, 1987
DISPOSITION: SUSTAINED
TAX TYPE: INCOME
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above styled cause comes on for consideration pursuant to assignment regularly made to ALJ, Administrative Law Judge, by the Oklahoma Tax Commission and hearing had, at which hearing, ATTORNEY, Attorney, appeared representing Protestants. The Income Tax Division of the Oklahoma Tax Commission appeared by INTERN, and OTC ATTORNEY, Attorney, of the General Counsel's Office of the Oklahoma Tax Commission.

Opening statements were made and exhibits, not itemized herein, were introduced into evidence. PROTESTANT testified in his own behalf, as did his builder, BUILDER. ASSISTANT DIRECTOR, Assistant Director of the Income Tax Division of the Oklahoma Tax Commission, and NAME, of the Energy Conservation Services of the Corporation Commission, testified on behalf of the Income Tax Division of the Oklahoma Tax Commission.

STATEMENT OF FACTS

On April 15, 1985, the Taxpayers filed their state income tax return for tax year 1984 claiming a Solar Energy Credit in the amount of Three Thousand Thirty-Six Dollars and Six Cents (\$3,036.06). The Income Tax Division of the Oklahoma Tax Commission, on June 21, 1985, requested that the Taxpayers make available to the Income Tax Division an itemized accounting of the cost of the solar energy system, a detailed drawing of the system, and a completed form number 508, designated the Solar Energy Credit Form.

Upon review of the additional data and information made available by the Taxpayers, the Income Tax Division of the Oklahoma Tax Commission disallowed the credit by letter dated January 22, 1986, based on the Income Tax Division's determination that the system was not primarily designed to provide heating and cooling to the residence of the Taxpayers. Thereafter, on January 27, 1986, the Income Tax Division of the Oklahoma Tax Commission received notification from the Taxpayers protesting the disallowance of the credit and requesting an oral hearing.

CONTENTIONS OF PROTESTANT

Protestants contend that the solar energy system they installed in connection with a room addition to their residence falls within the provisions of Title 68 O.S. 1983 Supp., § 2357.1, since all the components are primarily designed to enhance the effectiveness of the room addition, and the aforesaid components were installed as required under the provisions of § 2357.2.

CONTENTIONS OF THE DIVISION

The Income Tax Division of the Oklahoma Tax Commission contends that the solar energy credit taken by Protestant for tax year 1984 was properly denied by the Income Tax Division of the Oklahoma Tax Commission since the system failed to have the necessary distribution element, and was in fact a greenhouse, and was not primarily designed for heating.

ISSUE

Whether the installation upon a structure of a solar energy system containing all the statutorily prescribed elements and components meets the requirements of the statute if it is primarily designed to provide a net energy gain to the structure.

APPLICABLE LAW

The pertinent sections of the law applicable to the issue at bar are Sections 2357.1 and 2357.2(J) of Title 68 of the Oklahoma Statutes.

Section 2357.1 defines what may be deemed a solar energy system, wherein it provides:

As used in this section and Section 2357.2 of this title, “solar energy system” means a system primarily designed to provide heating or cooling, electrical or mechanical power, or any combination thereof by means of collecting, transferring or storing solar generated energy for such purposes. Such term shall include passive structural and nonstructural features which are designed to provide a calculated net energy gain to a structure from renewable energy sources, commonly referred to as “passive solar energy systems”, but shall not include those parts of a structural system which would be required regardless of the energy source being utilized. Solar energy may be derived from either direct processes or indirect processes using wind energy systems.

Section 2357.2(J) allows for an Oklahoma Income Tax Credit for a passive solar energy system, provided certain elements are contained in the system:

J. To be eligible for a credit under this section, a passive solar energy system must contain the following elements:

1. Solar energy collection surface;
2. Solar energy thermal storage; and
3. Solar energy control and distribution elements.

The Income Tax Division of the Oklahoma Tax Commission doesn't argue that Protestant's passive solar energy system doesn't contain the requisite components, rather it contends that the system was not primarily designed to supply the entire residence with heating

and cooling, but was designed to supply heating and cooling only to the structure added to the residence. The Income Tax Division of the Oklahoma Tax Commission further contends that, had the Oklahoma Legislature not intended that the system be for supplying heating and cooling to the entire residence, it would not have included § 2357(J)(3) which requires installation of control and distribution elements.

The Protestant contends that the system was primarily designed to provide heating and cooling and that the entryway adjoining the addition to the residence with the existing residential structure allows the air to circulate when the system is operating and the ceiling fans circulate the heating or cooled air therein. Testimony from the respective parties was equivocal as to whether there was in fact a net energy gain as required by statute as to the existing residence, but that the solar energy system was sufficient to provide heat to the new addition. Further, the evidence is unrefuted that there was within the addition solar energy collection surfaces, solar energy thermal storage and control and distribution elements as required by Section 2357.2(J).

Although the testimony is conflicting as to the issue of whether or not there was a “net energy gain”, the testimony and evidence taken as a whole reflect that the statutory requirements were complied with as dictated pursuant to Section 2357.1 and Section 2357.2 of Title 68 of the Oklahoma Statutes.

CONCLUSIONS OF LAW

In view of the above and foregoing factual situation and applicable law thereto, the Administrative Law Judge concludes as follows:

- (1) The Oklahoma Tax Commission has jurisdiction in this matter.
- (2) Only the 1984 Oklahoma Solar Energy Credit claimed by Protestants and subsequently denied by the Income Tax Division of the Oklahoma Tax Commission is being adjudicated herein.
- (3) That the Protestants did properly claim their Oklahoma Solar Energy Credit for tax year 1984, based upon their construction of a passive solar energy system to their private residence, said system containing the required elements of eligibility for the tax credit, being; a solar energy collection surface; a solar energy thermal storage; and a solar energy control and distribution element. The solar energy system’s only function is to collect, store and transfer heat to a portion of Protestants’ residence.
- (4) The Income Tax Division of the Oklahoma Tax Commission’s denial of Protestant’s solar energy credit for tax year 1984 amounting to Three Thousand Thirty-Six Dollars and Six Cents (\$3,036.06) should be withdrawn and the credit claimed by Protestants should be reinstated as so filed by the Taxpayers.
- (5) The protest of PROTESTANTS for the tax year 1984 should be sustained.

DISPOSITION

It is the ORDER of the OKLAHOMA TAX COMMISSION that the protest of PROTESTANTS be sustained.

OKLAHOMA TAX COMMISSION

CAVEAT: This decision was NOT deemed precedential by the Commission. This means that the legal conclusions are generally applicable or are limited in time and/or effect. Non-precedential decisions are not considered binding upon the Commission. Thus, similar issues may be determined on a case-by-case basis.