

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 414

September 7, 1979

AGRICULTURAL IRRIGATION EQUIPMENT CREDIT

Syllabus:

Advice has been requested on the following questions concerning the credit allowed under Section 17052.7 of the Revenue and Taxation Code for the cost of water application or distribution equipment which results in the improvement of agricultural irrigation efficiency:

1. Whether the credit is applicable on a per taxpayer or per installation basis.
2. For purposes of the credit, do a husband and wife each constitute separate taxpayers each qualifying for a separate credit.

Decision:

1. The credit is applicable on a per taxpayer basis.
2. Yes.

Discussion:

1. Section 17052.7 of the Personal Income Tax Law provides in part:
 - (a) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (e)) an amount equal to 10 percent of the cost (including installation charges but excluding interest charges) incurred by the taxpayer of water application or distribution equipment, whether new or used, which results in the improvement of agricultural irrigation efficiency through the reduction of water usage from the installation of systems which include, but are not limited to, drip irrigation systems, tail water recovery systems, sprinkler systems, pipelines, and lining of ditches or canals, on agricultural land in California which was cultivated and irrigated during any growing season during the period commencing January 1, 1971, and ending December 31, 1976, and which is owned and controlled by the taxpayer at the time of installation. The credit shall be taken in the year of installation and shall not exceed five hundred dollars (\$500). (Emphasis added.)

As indicated by the plain language set forth above, the credit in question is based on the "cost . . . incurred by the taxpayer."

Where the statute is free from ambiguity or uncertainty, it needs no construction. It will be enforced as written. See 45 Cal.Jur.2d § 126 (Statutes).

Furthermore, when statutory language is clear, legislative intent must be ascertained therefrom, and there is no room for construction or interpretation. See Cal.Jur.2d § 127 (Statutes).

As the plain language set forth above indicates that the credit is applicable on a per taxpayer basis, as that is the apparent legislative intent based on that language and as there is no information to indicate a contrary legislative intent, it can only be concluded that the credit is applicable on a per taxpayer basis. As such, the maximum credit amount of 10 percent of the cost of the equipment (including installation charges but excluding interest charges) or \$500.00 is applicable on that basis.

Section 17004 defines the term "taxpayer" to include "any individual . . . subject to the tax imposed by this part." Section 17005 defines the term "individual" to mean "a natural person." When enacting a statute, it will be presumed that the legislature had the code definition of the term in view in enacting a subsequent statute and, in addition, terms defined by a statute in which they are found will be presumed to have been used in the sense of the definition, and will be construed accordingly. See 45 Cal.Jur.2d § 147 (Statutes). Therefore, as there is no specific language in Section 17052.7 that indicates that a husband and wife are not to be treated as separate taxpayers, and as they are each natural persons subject to the Personal Income Tax Law, it is clear each are separate taxpayers for purposes of the subject credit. Furthermore, as there is no specific language in Section 17052.7 that indicates that a husband and wife are limited to a single credit, it can only be concluded that each qualify for a separate credit.