

Ground Source Heat Pump/Solar Energy System Equipment: New York Appellate Court Addresses Applicability of Tax Credit



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01/17/2020

The New York Supreme Court (Appellate Division) (“Court”) addressed in a January 9th decision the applicability of the New York Solar Energy System Equipment Tax Credit (“Tax Credit”) to a ground source heat pump system (“Heat Pump”). See *Suozzi v. Tax Appeals Tribunal of State*. 2020 WL 97032.

The Court reviewed a determination of the New York Tax Appeals Tribunal which determined that the tax credit was not applicable to the Heat Pump and issued a notice of deficiency of personal income tax.

Paul J. Suozzi (“Petitioner”) installed a Heat Pump to heat, cool and provide hot water for the home. The Heat Pump is described as functioning:

... by way of a heat exchanger that is installed in the ground outside the home.

It is further described as a piping system that takes heat from the ground, which is generated by solar thermal energy stored in the earth’s crust, and transfers it to a heat pump in order to bring heat from the ground into the home during cooler months.

The Court notes that the heat from the ground is derived from solar radiation. Therefore, the Heat Pump indirectly utilizes solar radiation.

Petitioner claimed a \$5,000 Tax Credit for the 2012 tax year.

The New York Audit Division determined that the tax credit was not applicable to the Heat Pump. The rationale for this decision was the Heat Pump is a:

... geothermal system. . . and does not generate heat directly from solar radiation.

The Division of Tax Appeals upheld this determination.

The Petitioner argued that this determination was in error.

The definition of “solar energy system equipment” is defined as:

“... an arrangement or combination of components utilizing solar radiation, which, when installed in a residence, produces energy designed to provide heating, cooling, hot water or electricity for use in such-residence.”

The Tribunal had limited the applicability of the tax credit to those systems that directly utilize solar radiation. The Petitioners argued that such interpretation was too narrow, noting that the legislative intent of the law enacting the tax credit required that it be read broadly.

The Court states in considering the appeal that the taxpayer bears the burden of proving an unambiguous entitlement that its interpretation of the statute is the only reasonable construction. Further, tax credits are strictly construed against the taxpayer. As a result, if ambiguity arises, such provisions should be interpreted narrowly.

The Court holds that the Petitioners did not meet their burden and disagreed with the assertion that the plain language of the statute unambiguously includes the Heat Pump simply because it utilizes solar energy. It notes that:

. . . heat harvested by a ground source heat pump system is not, strictly speaking, “solar radiation” since it is being radiated from the ground after being absorbed by the crust.

As a result, an interpretation excluding indirect utilization of solar energy is not deemed by the Court unreasonable. Also referenced is the fact that the Heat Pump removes heat from indoor air during the warm summer months and moves it to the ground. This is not a utilization of solar radiation and is cited by the Court an additional reason to exclude the system from the tax credit.

A copy of the Opinion can be downloaded [here](#).