

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

RICHARD S. COHEN
ATTORNEY GENERAL



STEPHEN L. DIAMOND
JOHN S. GLEASON
JOHN M. R. PATERSON
ROBERT J. STOLT
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

June 24, 1980

Hon. James McBreairty
Route #1
Caribou, ME 04736

Dear Senator McBreairty:

I am writing in response to your recent request for an opinion as to whether an individual who purchases sheet metal and welding rods and rents welding equipment in order to construct his own wood furnace from those materials is eligible for the income tax credit provided by 36 MRSA § 5127.3. For purposes of this opinion, I am assuming that the system constructed meets the definitional requirements of a "wood furnace" in paragraph A(3) of that subsection.

The so-called "energy credit" originated in the first regular session of the 109th Legislature as L.D. 1051, "AN ACT to Provide a State Income Tax Credit for Installation of a Wood Stove." The bill was enacted as amended by Committee Amendment "A", which completely replaced the statutory language contained in the original bill. As you have pointed out, the statement of fact accompanying Committee Amendment "A" declares that "[t]his amendment extends the income tax credit proposed by the bill to all facilities installed which qualify as renewable energy systems. . ." However, 36 MRSA § 5127.3, the actual credit provision, reads, insofar as relevant:

A taxpayer who purchases and installs a renewable energy system in this State shall be allowed a credit . . . equal to 20% of the purchase price of the system . . . [emphasis added]

The statutory language clearly requires the purchase, as well as the installation, of a renewable energy system. The quoted portion of the statement of fact appears not to have been intended to define precisely the action required to qualify for the credit but, rather, to indicate that the original proposal had been amended to include all "renewable energy systems".

Since the credit requires the purchase and installation of a "renewable energy system", a determination of eligibility next requires inquiry into the meaning of that term. "Renewable energy system" is defined in 36 MRSA § 5127.3 as

a system, including any of the systems defined in this paragraph, which are designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to heat water or any combination thereof, by means of collecting and transferring solar, wood or wind-generated energy into such uses and which system also may have the capability of storing the energy for future use.

(1) "Solar energy system" means . . . equipment which uses solar energy to heat, cool or produce electricity

(2) A "wind energy system" includes any machine or device which converts available wind energy into electrical or mechanical output form

(3) A "wood furnace" means a wood burning appliance designed to operate as a central heating system

Although the definition may be unduly complex, it is clear that an individual has not purchased a "renewable energy system" unless he has, at least, purchased a "system". Thus, the threshold question becomes whether sheet metal, welding rods and a welding torch can reasonably be characterized as a "system" when they have been purchased for the purpose of transforming them into a system.

The question of whether materials are the equivalent of the product into which they will be fabricated has been the subject of previous tax litigation in Maine. In re Camden Shipbuilding Co., 227 F. Supp. 751 (D. Me. 1964), involved a claim that a sales tax exemption for certain sales to nonresidents of "yachts and other pleasure boats and commercial vessels and boats" extended to sales by the taxpayer to nonresidents of materials which it would subsequently incorporate in the construction of yachts, vessels and boats. The court determined that

[t]he language of the statute is plain and unambiguous. It should be given its normal meaning, which is that it exempts from taxation only sales . . . of completed vessels.
227 F. Supp. at 753.

Moreover, the court was not influenced by the facts that the exemption was intended to improve the competitive position of the Maine shipbuilding industry and that the extension of the exemption to cover sales of materials would further effectuate the legislature's purpose:

[I]f the Legislature had intended to exempt from taxation sales of materials incorporated in yachts and other vessels for nonresidents, it could easily have said so. 227 F. Supp. at 753.

Applying the reasoning of the Camden Shipbuilding court to the factual situation at hand, we find that the meaning of "renewable energy system" is not as clear as the meaning of "yachts", "boats", and "vessels". However, "system" is a commonly understood word meaning

a regularly interacting or interdependent group of items forming a unified whole. Webster's Seventh New Collegiate Dictionary.

Using this meaning, we conclude that the materials purchased for construction of the wood furnace, which, at the time of purchase, are not identifiable as furnace parts but apparently are capable of being manufactured into numerous different items, do not comprise any type of system. As in Camden Shipbuilding, the fact that extension of the credit to persons building their own renewable energy systems would contribute to the legislature's goal of reducing the use of heating oil in Maine cannot change this result. Consequently, we conclude that the purchase of basic materials for the construction of a wood furnace does not constitute the purchase of a wood furnace.

In its second regular session, the 109th Legislature considered but did not enact a bill (L.D. 1900, "AN ACT to Provide a State Income Tax Credit for Installation of Renewable Energy Systems", as amended by Committee Amendment "A") which, in part, would have specifically extended the credit to renewable energy systems which are built by the person claiming the credit.¹ The remarks of certain

¹The bill, as amended, would have repealed and replaced 36 MRSA § 5127.3 with a new subsection 4 which would have read, in relevant part:

A resident individual who purchases or builds and installs in his principal residence located in this State, or who purchases or builds a new home in this State for use as his principal residence which incorporates a solar energy system, wind energy system, wood furnace or self-contained, wood fired hot water heater shall be allowed a credit . . . equal to 25% of the purchase price or cost of materials of the system, furnace or hot water heater . . . [emphasis added]

The statement of fact of Committee Amendment "A" declared, in part:

This amendment includes renewable energy systems which are built by the person claiming the credit. . .

members of the Joint Standing Committee on Taxation during House debate indicate that the amendatory language relating to self-built renewable energy systems was intended to clarify the intent of that same legislature in enacting the original credit:

Mrs. POST: ". . . This bill essentially does a couple of things. . . [W]e passed a bill last year for state income tax credits for installation of renewable energy systems, and in the process of trying to carry out the intent of that legislation, the Office of Energy Resources and the Bureau of Taxation came back to us with several questions and clarifying amendments to the bill because there seemed to be a great deal of difficulty as they tried to come up with rules and regulations and standards with some of the legislation that we had passed last year. So, that bill does this to some extent; it clarifies exactly what we mean and what kinds of things will be eligible for the credits which are already on the books.

"In addition to that, it adds a wood hot water heater, which is not presently allowable under the law. . .

". . . [I]f Mr. Leonard has some particular problems with increasing to 25 [percent of total cost eligible for credit] or the wood hot water heater or the more expanded definition of wood furnace, he ought to deal with those particular issues, . . . but I would hope that in any event the whole bill not be indefinitely postponed, because the Bureau of Taxation and the Office of Energy Resources need it to enforce more strictly the present law." . . .


Mr. WOOD: ". . . We are simply clarifying the law to make it easier to enforce."

1980 Me. Leg. Rec. 655-56 (March 25, 1980)

The fact that the bill was not enacted under these circumstances reinforces the conclusion that the original intent of the 109th Legislature was not to extend the credit to the type of self-built system which is the subject of your inquiry.

Please let me know if I can be of further assistance in this matter.

Sincerely,


Clifford B. Olson
Assistant Attorney General

CBO:cc