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Revenue and Taxation Code § 73– Compiled May 2011

Our review of the annotated history reveals the following legislative history (every “c.” below represents a separate legislative bill):

Prior History:

Former R&T 73, added **1980**, c. 1245; amended **1981**, c. 239; **1985**, c. 878

Former R&T 73, added **1991**, c. 28

Added: **1998**, c. 855

Amended:

- **2005**, c. 193 to amend subdivision (d) by substituting “applies” for “shall apply”, and “fiscal year to the 2008-09 fiscal year” for “to 2004-05 fiscal years”; to amend subdivision (e) with an entire rewrite.
- **2008**, c. 538 to add subdivisions (c), (e), and (g), redesignate former subdivisions (c) – (e) to be subdivisions (d), (f), and (h), respectively; to amend subdivision (d)(1)(B) by substituting “solar collecting equipment” for “collectors” and “conveyance” for “the transmission” after “the state of; and to amend subdivision (f) by substituting “2015-2016 fiscal year” for “2008-09 fiscal year” and to delete the former last sentence.

Seven bills affected § 73.

Below we have set forth the language as it read from 1980 through to the 1998 re-enactment. Your review of these annotations above and below will help you determine which bill or bills will be the most relevant to your research focus within the language of § 73.

1980, former § 73:

73. For purposes of subdivision (a) of Section 2 of Article XIII A of the Constitution, the term “newly constructed” shall not include the construction or addition of any solar energy system, as defined in subparagraph (A) of paragraph (6) of subdivision (h) of Section 17052.5. In the case of solar swimming pool heaters, “new construction” shall not include the increment of cost in excess of the cost of a comparable conventional fossil fuel heating system.

1981, former § 73:

73. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the Constitution, the term "newly constructed" shall not include the construction or addition of any active solar energy system. In the case of solar swimming pool heaters, "new construction" shall not include the increment of cost in excess of the cost of a comparable conventional fossil fuel heating system.

(b) For purposes of this section, "active solar energy system" shall mean a system which uses solar devices thermally isolated from living space or other area where the energy is used to provide for collection, storage or distribution of solar energy. Such solar systems may be used for any of the following:

- (1) Domestic, recreational, therapeutic, or service water heating.
- (2) Space conditioning.
- (3) Production of electricity.
- (4) Process heat.
- (5) Solar mechanical energy.

(c) This section shall apply only to lien dates for fiscal years commencing 1981 through 1985, inclusive. This section shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date

1985, former § 73:

73. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the Constitution, the term "newly constructed" does not include the construction or addition of any active solar energy system. In the case of solar swimming pool heaters, "new construction" does not include the increment of cost in excess of the cost of a comparable conventional fossil fuel heating system.

(b) For purposes of this section, "active solar energy system" means a system which uses solar devices thermally isolated from living space or other area where the energy is used to provide for collection, storage or distribution of solar energy. These solar systems may be used for any of the following:

- (1) Domestic, recreational, therapeutic, or service water heating.
- (2) Space conditioning.
- (3) Production of electricity.
- (4) Process heat.
- (5) Solar mechanical energy.

(c) This section shall apply to lien dates for the 1981-82 to 1990-91 fiscal years, inclusive. This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

1991, former § 73:

73. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, the term "newly constructed" does not include the construction or addition of any active solar energy system.

(b) For purposes of this section, "active solar energy system" means a system which uses solar devices thermally isolated from living space or other area where the energy is used to provide for collection, storage or distribution of solar energy. These solar systems may be used for any of the following:

- (1) Domestic, recreational, therapeutic, or service water heating.
- (2) Space conditioning.
- (3) Production of electricity.
- (4) Process heat.
- (5) Solar mechanical energy.

For purposes of this section, "active solar energy system" does not include solar swimming pool heaters or hot tub heaters.

(c) (1) For purposes of paragraph (3) of subdivision (b), an "active solar energy system" that uses solar energy in the production of electricity includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. In general, the use of solar energy in the production of electricity involves the transformation of sunlight into electricity through the use of devices such as solar cells or other collectors. However, an active solar energy system used in the production of electricity includes only equipment used up to, but not including, the stage of the transmission or use of the electricity.

(2) An "active solar energy system" that uses solar energy in the production of electricity also includes pipes and ducts that are used exclusively to carry energy derived from solar energy. Pipes and ducts that are used to carry both energy derived from solar energy and from energy derived from other sources are "active solar energy system" property only to the extent of 75 percent of their full cash value.

(3) An "active solar energy system" that uses solar energy in the production of electricity does not include equipment (auxiliary equipment), such as furnaces and hot water heaters, that use a source of power other than solar energy to provide usable energy. An "active solar energy system" that uses solar energy in the production of electricity does include equipment, such as ducts and hot water tanks, that is utilized by both auxiliary equipment and solar energy equipment (dual use equipment). That equipment is an "active solar energy system" property only to the extent of 75 percent of its full cash value.

(d) This section shall apply to lien dates for the 1991-92 to 1993-94 fiscal years, inclusive. For purposes of supplemental assessment, this section shall apply only to qualifying construction completed on or after January 1, 1991. This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1995, deletes or extends that date.

1998, current § 73 as re-added. See the above annotations for the amendments in 2005 and 2008.

73. (a) Pursuant to the authority granted to the Legislature pursuant to paragraph (1) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, the term "newly constructed," as used in subdivision (a) of Section 2 of Article XIII A of the

California Constitution, does not include the construction or addition of any active solar energy system, as defined in subdivision (b).

(b) (1) "Active solar energy system" means a system that uses solar devices, which are thermally isolated from living space or any other area where the energy is used, to provide for the collection, storage, or distribution of solar energy.

(2) "Active solar energy system" does not include solar swimming pool heaters or hot tub heaters.

(3) Active solar energy systems may be used for any of the following:

(A) Domestic, recreational, therapeutic, or service water heating.

(B) Space conditioning.

(C) Production of electricity.

(D) Process heat.

(E) Solar mechanical energy.

(c) (1) (A) The Legislature finds and declares that the definition of spare parts in this paragraph is declarative of the intent of the Legislature. In prior statutory enactments of this section that excluded active solar energy systems from the term "newly constructed," as used in the California Constitution, thereby creating a tax appraisal exclusion.

(B) An active solar energy system that uses solar energy in the production of electricity includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. In general, the use of solar energy in the production of electricity involves the transformation of sunlight into electricity through the use of devices such as solar cells or other collectors. However, an active solar energy system used in the production of electricity includes only equipment used up to, but not including, the stage of the transmission or use of the electricity. For the purpose of this paragraph, the term "parts" includes spare parts that are owned by the owner of, or the maintenance contractor for, an active solar energy system that uses solar energy in the production of electricity and which spare parts were specifically purchased, designed, or fabricated by or for that owner or maintenance contractor for installation in an active solar energy system that uses solar energy in the production of electricity, thereby including those parts in the tax appraisal exclusion created by this section.

(2) An active solar energy system that uses solar energy in the production of electricity also includes pipes and ducts that are used exclusively to carry energy derived from solar energy. Pipes and ducts that are used to carry both energy derived from solar energy and from energy derived from other sources are active solar energy system property only to the extent of 75 percent of their full cash value.

(3) An active solar energy system that uses solar energy in the production of electricity does not include auxiliary equipment, such as furnaces and hot water heaters, that use a source of power other than solar energy to provide usable energy. An active solar energy system that uses solar energy in the production of electricity does include equipment, such as ducts and hot water tanks, that is utilized by both auxiliary equipment and solar energy equipment, that is, dual use equipment. That equipment is active solar energy system property only to the extent of 75 percent of its full cash value.

(d) This section shall apply to property tax lien dates for the 1999-2000 to 2004-05 fiscal years, inclusive. For purposes of supplemental assessment, this section shall apply only to qualifying construction or additions completed on or after January 1, 1999.

(e) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends that date.

Tracing Statutory Language:

- Research fees can be minimized by ordering only the bills that affected specific subdivisions or phrases of interest to you.
- Changes to statutes can sometimes be determined by the annotations provided by Deering's, Westlaw, and Lexis.
- **If annotations are not available**, one strategy is to look at each chaptered law noted above to observe the changes. **Another strategy** is to retain us to *trace* your language and report our findings back to you.

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