
TAX - RHODE ISLAND

DePasqual v. Cwiek

Supreme Court of Rhode Island - January 14, 2016 - A.3d - 2016 WL 166477

Taxpayers who allowed installation of wind turbine on their property filed suit challenging decision of Tax Board of Review that denied taxpayers' appeal from local property tax bill based on assessment of wind turbine. The Superior Court entered summary judgment for taxpayers, and assessor appealed.

The Supreme Court of Rhode Island affirmed the decision of the Superior Court, holding that:

- Taxpayers were manufacturers, within meaning of exemption from property tax for manufacturer who used premises primarily for purpose of transforming raw materials into finished product for trade;
- Wind turbine did not come within statutory exception to definition of "manufacturer"; and
- Statute granting municipality authority to enact ordinance exempting from property tax any renewable energy system located in municipality did not impose any qualification on taxpayers' entitlement to exemption from property tax as "manufacturer" of electricity.

Taxpayers who owned property where wind turbine was built were "manufacturers," within meaning of statute granting exemption from tax for manufacturer who used any premises primarily for purpose of transforming raw materials into finished product for trade, where turbine was used exclusively for purpose of transforming raw materials—namely, wind—into finished product—namely, electricity.

Wind turbine that converted wind to electricity, which product was not sold to public but instead was sold directly to National Grid pursuant to standard power purchase agreement, did not come within statutory exception to definition of "manufacturer" exempt from property tax for non-regulated power producer that commenced commercial operation by selling electricity at retail or taking title to generating facilities as of designated date.

Statute granting municipality authority to enact ordinance exempting from property tax any renewable energy system located in municipality did not impose any qualification on existing statutory right of wind turbine owner to exemption from property tax as "manufacturer" of electricity from raw materials, namely, wind, based on use of "any premises, room, or place in it primarily for the purpose of transforming raw materials into a finished product for trade."

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