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Process Equipment & Service Company, Inc. v. New Mexico Taxation Revenue Department

Court of Appeals of New Mexico - July 25, 2023 - P.3d - 2023 WL 4874874

Taxation and Revenue Department (TRD) appealed decision from the Administrative Hearing Office (AHO), which, as part of taxpayer's administrative tax protest after Department denied taxpayer's applications for tax credit, concluded that taxpayer met requirements for a tax credit under the Technology Jobs and Research and Development Tax Credit Act.

The Court of Appeals held that:

- As a matter of first impression, "cost accounting method" for tax credit purposes is a method for capturing a company's total cost of production by assessing the variable costs at each step in production;
- Finding that taxpayer used a "cost accounting method" to allocate wages was grounded in a rational basis based on the record; and
- Substantial evidence supported finding that taxpayer's "cost accounting method" was informally used in its other business activities.

A "cost accounting method" within meaning of the Technology Jobs and Research and Development Tax Credit Act's definition of "qualified expense" is a method for capturing a company's total cost of production by assessing the variable costs at each step in production.

Finding by hearing officer of the Administrative Hearing Office (AHO) that taxpayer used "cost accounting method" to allocate wages, as required under the Technology Jobs and Research and Development Tax Credit Act's definition of "qualified expense," was grounded in a rational basis based on the record; officer found that taxpayer's accounting firm sent staff to inspect records, interview witnesses, and develop method to quantify and assess time and wage costs associated with taxpayer's research and development activities, found that firm determined which projects qualified for tax credit by reviewing drafting logs created contemporaneously during time work was performed, and found that taxpayer used same method to apply for state and federal tax credits and that method only accounted for finished projects.

Substantial evidence supported finding by hearing officer of the Administrative Hearing Office (AHO) that taxpayer's "cost accounting method" used to allocate wages, as required under the Technology Jobs and Research and Development Tax Credit Act's definition of "qualified expense," was also informally used in taxpayer's other business activities; officer found that taxpayer informally used same methodology to determine continuing viability of research and development project by comparing drafting time shown on drafting logs against potential results/outcome/viability of project, and when asked at hearing if taxpayer used cost accounting methodology designed by its accounting firm, vice president of engineering and chairman of taxpayer's board stated that taxpayer did use this method.

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