1	BEFORE THE STATE BOARD OF TAX APPEALS STATE OF ARIZONA 100 North 15 <sup>th</sup> Avenue - Suite 140 Phoenix, Arizona 85007				
3	602.364.1102				
4	) DOUGLAS and JAMIE ROESSING, )	Docket No. 1889-03-AFTC			
5	Appellants, )				
6	VS. )	NOTICE OF DECISION:			
7	ARIZONA DEPARTMENT OF REVENUE,	FINDINGS OF FACT AND CONCLUSIONS OF LAW			
8	Appellee. )				
9	)				
10	The State Beard of Tax Appeals, having considered all evidence and amuments presented, and				
11	The State Board of Tax Appeals, having considered all evidence and arguments presented, and having taken the matter under advisement, finds and concludes as follows:				
12	FINDINGS OF FACT				
13	As part of an alternative fuel program intended to improve Arizona's air quality, the St				
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16	100% of the cost of converting a conventional, gasoline-fueled vehicle to an AFV and an additional credit				
17	of, typically, 30% to 40% of the purchase price of the AFV. Under SB 1504, a taxpayer could receive his				
18	alternative fuel tax credits in cash as a "refund," whet	her or not the taxpayer owed any taxes.			
19	Douglas and Jamie Roessing ("Appellants," with the singular referring to Douglas Roessing)				
20	timely filed their 2000 Arizona tax return. On June 4, 2001, Appellants filed an amended return seeking a				
21	refundable credit of \$26,408 under the alternative fuel program. The Arizona Department of Revenue				
22	(the "Department") denied the refund request. A				
23 Department's hearing officer who upheld the denial. Appellants then protested the hear					
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25	<sup>1</sup> This is the prior version of A.R.S. § 43-1086.				

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decision to the Director of the Department who affirmed the hearing officer's decision. Appellants now timely appeal to this Board.

## DISCUSSION

The issue before the Board is whether Appellants are entitled to the credit claimed. Tax statutes are strictly construed against a party who claims a credit. *Davis v. Arizona Dep't of Rev.*, 197 Ariz. 527, 4 P.3d 1070. (App. 2000).

On December 4, 2000, the Legislature enacted SB 1004<sup>2</sup> to retroactively adjust and limit some of the benefits originally available under SB 1504. For those who converted vehicles they owned prior to the passage of SB 1504 in April 2000, SB 1004 eliminated tax credits based on a percentage of a vehicle's purchase price. Further, in order to qualify for a tax credit under the amended provision, a taxpayer must have entered into a contract or purchase order for an AFV before October 20, 2000. Finally, SB 1004 required the taxpayer be in possession of the AFV before December 1, 2000. The governor signed the legislation into law on December 14, 2000.

On October 9, 2000, according to the Department, Appellants ordered a new converted Ford Excursion from Sanderson Ford and paid a \$5,500 deposit on the vehicle. Appellants never took delivery of the vehicle. On November 28, 2000, they cancelled their order; and, on that same day, contracted to purchase a different Ford Excursion from Sanderson Ford and arranged for its conversion to an AFV. Appellants paid an additional \$9,500 deposit on this vehicle. Appellants took possession of the vehicle December 28, 2000. The total purchase price of the vehicle was \$57,615.44.

At the hearing before the Board, Appellant argued that the Department had misunderstood the facts of this case. Appellant testified that they never cancelled their first order or contracted to purchase a second, different vehicle. According to Appellant, they had entered into a contract for the purchase of the vehicle before October 20, 2000, paid a substantial deposit (in two installments), and arranged financing

<sup>2</sup> This is the current version of A.R.S. § 43-1086.

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and were only prevented from possessing the vehicle by December 1, 2000 due to delays in the
conversion process. Therefore, Appellants argue they should be entitled to a refund. The Department
agreed to review the matter.

The Department subsequently submitted a document it had received from Appellant during the Department's appeal process confirming the facts surrounding the two separate contracts as presented by the Department at the hearing. The Appellants have not refuted this evidence.

The evidence establishes that Appellants did not enter into a contract for the purchase of the AFV they ultimately bought before October 20, nor were they in possession of the AFV before December 1, 2000.

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## CONCLUSIONS OF LAW

Appellants have not satisfied the requirements of SB 1004; therefore, they are not entitled to the refund claimed.

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## ORDER

THEREFORE, IT IS HEREBY ORDERED that the appeal is denied, and the final order of the Department is affirmed.

This decision becomes final upon the expiration of thirty (30) days from receipt by the taxpayer,

17 unless either the State or taxpayer brings an action in superior court as provided in A.R.S. § 42-1254.

DATED this 20th day of October

STATE BOARD OF TAX APPEALS

, 2003.

William L. Raby, Chairperson

WLR:ALW

CERTIFIED

Copies of the foregoing Mailed or delivered to:

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