



1 program intended to improve Arizona's air quality, A.R.S. § 43-1086 allowed an income tax credit for  
2 purchases of one or more new original equipment manufactured alternative fuel vehicles for use in this  
3 state. The statute allowed a credit in an amount equal to fifty per cent of the cost of the vehicle or ten  
4 thousand dollars, whichever was more. The statute was subsequently amended for tax year 2000 to limit  
5 the credit to no more than the amount that the taxpayer actually paid for the vehicle. Laws 2000, 7<sup>th</sup> S.S.,  
6 Ch. 1, § 16.

7 The 1999 version of the statute did not define a "purchase" for purposes of receiving the credit.  
8 However, the 2000 amended version specified that in order to qualify for the income tax credit, "the  
9 vehicle shall be in the possession of the taxpayer before December 1, 2000 *or* the taxpayer shall have  
10 paid in full for the vehicle before December 1, 2000." *Id* (emphasis added).

11 Because Appellants did not have physical possession of the NEV in 1999, the Department argues  
12 that they are not entitled to the credit for that year. Appellants counter that a qualified purchase requires  
13 physical possession *or payment in full* and, for support, point to the language of the statute in effect for  
14 2000, as well as similar language in the Department's own rule, A.A.C. R15-2C-702. However, the very  
15 language of the amended statute makes it clear that the amendment does not apply to the 1999 tax year.  
16 Laws 2000, 7<sup>th</sup> S.S., Ch. 1, § 26. Further, the historical note to A.A.C. R15-2C-702 provides that it was  
17 not effective before November 29, 2001.

18 In determining what the Arizona Legislature intended by the word "purchase" in the 1999 statute,  
19 the cardinal principle of statutory construction is to follow the plain and ordinary meaning of a word.  
20 *Dearing v. Arizona Dep't of Economic Security*, 121 Ariz. 203, 589 P.2d 446 (App. 1978); *State Tax*  
21 *Comm'n v. Peck*, 106 Ariz. 394, 476 P.2d 849 (1970). *See also* A.R.S. § 1-213.

22 The parties focus on whether or not "purchase" requires physical possession under the 1999  
23 statute, and they provide multiple, conflicting definitions to support their opposing positions. Clearly,  
24 physical possession of the NEV on or before December 31, 1999 would entitle Appellants to a credit for  
25

1 year 1999. However, Appellants did not possess the NEV until 2000. Consequently, the issue before this  
2 Board is whether Appellants' 1999 payment in full for the NEV entitles them to the credit in 1999.

3 The Board finds that a reasonable person would understand the plain and ordinary meaning of  
4 the word "purchase" to include payment in full of an item. However, a reasonable person would also  
5 understand that the payment must be for an existing item. Therefore, payment in full for an item that has  
6 not yet been manufactured would not qualify as a purchase.

7 The Energy Office of the Arizona Department of Commerce published information on Alternative  
8 Fuel Vehicle Incentives in July 1999. This information is not binding on the Department. There is, in fact,  
9 no evidence that the Department approved or even reviewed the publication. Nonetheless, the  
10 publication was distributed to assist taxpayers. It provides that taxpayers must have a vehicle factory  
11 invoice. Such an invoice identifies an existing vehicle. This requirement supports the Board's reasonable  
12 interpretation of "purchase" in this case.

13 Although Appellants' NEV was "assigned" a VIN, this can occur before the vehicle is  
14 manufactured. Appellants did not provide a vehicle factory invoice identifying an NEV existing at the time  
15 they paid in full for it. Therefore, Appellants have not satisfied the requirements of the applicable statute  
16 and are not entitled to the credit for tax year 1999.

17 CONCLUSIONS OF LAW

18 Appellants are not entitled to the credit for tax year 1999. See A.R.S. § 43-1086 (as it read in  
19 1999).

20 ORDER

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

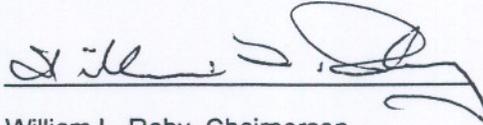
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This decision becomes final upon the expiration of thirty (30) days from receipt by the taxpayer, unless either the State or taxpayer brings an action in superior court as provided in A.R.S. § 42-1254.

DATED this 26th day of February, 2004.

STATE BOARD OF TAX APPEALS



William L. Raby, Chairperson

WLR:ALW

CERTIFIED

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