

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

3 DISCUSSION

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

7 On December 4, 2000, the Legislature enacted SB 1004² to retroactively adjust and limit some of
8 the benefits originally available under SB 1504. For those who converted vehicles they owned prior to the
9 passage of SB 1504 in April 2000, SB 1004 eliminated tax credits based on a percentage of a vehicle's
10 purchase price. Further, in order to qualify for a tax credit under the amended provision, a taxpayer must
11 have entered into a contract or purchase order for an AFV before October 20, 2000. Finally, SB 1004
12 required the taxpayer be in possession of the AFV before December 1, 2000. The governor signed the
13 legislation into law on December 14, 2000.

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

20 At the hearing before the Board, Appellant argued that the Department had misunderstood the
21 facts of this case. Appellant testified that they never cancelled their first order or contracted to purchase a
22 second, different vehicle. According to Appellant, they had entered into a contract for the purchase of the
23 vehicle before October 20, 2000, paid a substantial deposit (in two installments), and arranged financing
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² This is the current version of A.R.S. § 43-1086.

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

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

7 The evidence establishes that Appellants did not enter into a contract for the purchase of the AFV
8 they ultimately bought before October 20, nor were they in possession of the AFV before December 1,
9 2000.

10 CONCLUSIONS OF LAW

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

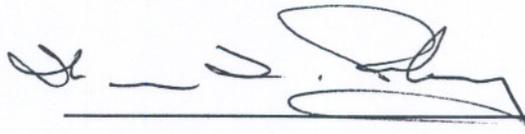
13 ORDER

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

16 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.

18 DATED this 20th day of October, 2003.

19 STATE BOARD OF TAX APPEALS

20 

21 William L. Raby, Chairperson

22 WLR:ALW

23 CERTIFIED

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