



1 gas Crown Victorias and five extended passenger vans. The City did award Appellant the contract, and  
2 in August 2000, Appellant executed individual purchase orders with Pioneer Ford for fifty-five cars and  
3 five vans. Appellant paid ten percent down on each vehicle and arranged to finance the remaining  
4 balance through a line of credit with Ford Motor Credit Company.

5 Appellant did not take delivery of the vehicles until the summer of 2001. The title and registration  
6 applications for the vehicles indicated liens held by Ford Motor Credit Company dated between May and  
7 July 2001. Appellant drew on the line of credit to pay Pioneer Ford when the vehicles were delivered to it  
8 and started making payments on the line of credit in June or July of 2001.

9 Appellant amended its 2001 Arizona income tax return to claim a credit for the purchase of sixty  
10 new Alternative Fuel Vehicles. In June 2004, the Arizona Department of Revenue (the "Department")  
11 denied Appellant the credit. After unsuccessfully protesting the denial to the Department, Appellant now  
12 timely appeals to this Board.

#### 13 DISCUSSION

14 The issue before the Board is whether Appellant is entitled to the credit claimed for tax year 2001.  
15 The Department argues that Appellant is not entitled to the credit because the vehicles were neither paid  
16 for in full nor in Appellant's possession prior to December 1, 2000. Appellant argues that it is entitled to  
17 the credit because it relied on and complied with A.R.S. § 43-1086 as it existed at the time Appellant  
18 entered into the purchase agreements for the AFVs at issue. Alternatively, Appellant argues that it is  
19 entitled to the credit under the amended statute because it had paid in full for the vehicles by securing  
20 financing.

21 A tax credit is a matter of legislative grace and is not a matter of taxpayer right. Tax credits are  
22 strictly construed against the taxpayer. *Davis v. Ariz. Dep't of Rev.*, 197 Ariz. 527, 529-30, 4 P.3d 1070,  
23 1072-73 (App. 2000).

24 Generally, statutes do not create contractual rights. *Proksa v. Ariz. State Sch. For the Deaf and*  
25 *Blind*, 205 Ariz. 627, 629, 74 P.3d 939, 941 (2003). Further, a right that is provided by statute can be

1 removed by statute before the right has vested. *See, Aranda v. Industrial Comm'n of Arizona*, 198 Ariz.  
2 467 (2000). The Arizona Legislature amended A.R.S. § 43-1086 more than a year before Appellant could  
3 have filed its 2001 income tax return claiming the credit. Thus, the amended statute governs that return.

4 Absent the Legislature's clear and unequivocal intent to be contractually bound, statutes create  
5 neither private contractual nor vested rights but instead establish the current State policy, which is  
6 inherently subject to revision and repeal. *Id.* This is especially true of tax statutes because the Arizona  
7 Constitution specifically prohibits the Legislature from contracting away its power to tax. Ariz. Const. Art.  
8 9, § 1.

9 Appellant did not possess the vehicles at issue prior to December 1, 2000, and the fact that  
10 Appellant secured financing prior to December 1, 2000 does not satisfy the "paid in full" requirement  
11 under the amended statute. Therefore, the Board finds that Appellant is not entitled to the credit claimed.

12 CONCLUSIONS OF LAW

13 Appellant is not entitled to the credit claimed. A.R.S. § 43-1086; *Davis v. Ariz. Dep't of Rev.*, 197  
14 Ariz. 527, 529-30, 4 P.3d 1070, 1072-73 (App. 2000); *Proksa v. Ariz. State Sch. For the Deaf and Blind*,  
15 205 Ariz. 627, 629, 74 P.3d 939, 941 (2003); *see, Aranda v. Industrial Comm'n of Arizona*, 198 Ariz. 467  
16 (2000).

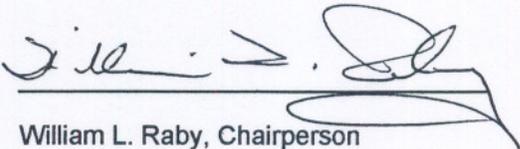
17 ORDER

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

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

22 DATED this 18th day of January, 2005.

23 STATE BOARD OF TAX APPEALS

24   
25 \_\_\_\_\_  
William L. Raby, Chairperson

1 WLR:ALW

2 CERTIFIED

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