

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of:  
**W. PIALET**

) OTA Case No. 221111904  
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**OPINION**

Representing the Parties:

For Appellant: W. Piolet

For Respondent: Dawn Casey, Associate Operation Specialist

R. TAY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, W. Piolet (appellant) appeals an action by Franchise Tax Board (respondent) proposing additional tax of \$2,500, and applicable interest, for the 2018 tax year.

Appellant waived the right to an oral hearing; therefore, this panel decides this matter based on the written record.

**ISSUE**

Whether appellant has shown respondent erred in disallowing a \$2,500 claimed credit for the 2018 tax year.

**FACTUAL FINDINGS**

1. In 2018, appellant purchased a new electric motor vehicle.
2. Appellant timely filed a California income tax return for the 2018 tax year.
3. On line 43 of the return, appellant claimed a credit in the amount of \$2,500 and labeled it the “LOW-EMS VHCL” credit.
4. Respondent reviewed appellant’s tax return and issued a Notice of Proposed Assessment (NPA) disallowing the \$2,500 credit. Appellant protested, and respondent affirmed the NPA by issuing a Notice of Action.
5. Appellant filed this timely appeal.

DISCUSSION

Tax credits are a matter of legislative grace, and taxpayers bear the burden of proving they are entitled to the claimed tax credits. (*Appeals of Swat-Fame, Inc., et al.*, 2020-OTA-046P.) Unsupported assertions are insufficient to meet the burden of proof. (*Appeal of Morosky*, 2019-OTA-312P.) Former R&TC section 17052.11 allowed a \$2,500 credit (the Low Emission Vehicle Credit), subject to certain limitations and qualifications, if a taxpayer purchased a “low-emission motor vehicle” between January 1, 1991, through January 1, 1995. The Low Emission Vehicle Credit is therefore not allowed for purchases of a low emission motor vehicle that occurred on or after January 1, 1995. (Former R&TC, § 17052.11.)


Here, appellant purchased an electric motor vehicle in 2018. By statute, appellant is not entitled to claim the Low Emission Vehicle Credit because appellant did not purchase his electric motor vehicle during the requisite time period. Appellant has not provided sufficient information or evidence to show he is entitled to claim the \$2,500 credit under any other provision under California law. OTA also finds no reason to allow the claimed credit.

HOLDING


Appellant has not shown respondent erred in disallowing the \$2,500 claimed credit for the 2018 tax year.

DISPOSITION

Respondent’s action is sustained in full.

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Richard Tay  
Administrative Law Judge

We concur:

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Kenneth Gast  
Administrative Law Judge

DocuSigned by:  
  
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Cheryl L. Akin  
Administrative Law Judge

Date Issued: 7/24/2023