



- any documentation to substantiate appellants' carryover of the low-emission vehicle credit to 2019.<sup>1</sup>
3. On May 10, 2023, appellants protested the NPA.
  4. On August 15, 2023, respondent issued a Notice of Action to appellants affirming the NPA.
  5. Appellants filed this timely appeal.

### DISCUSSION

Tax credits are a matter of legislative grace and statutes granting tax credits must be strictly construed against taxpayers with any doubts resolved in favor of respondent. (*Appeal of Pino*, 2020-OTA-375P.) Taxpayers have the burden of establishing that they are entitled to claimed tax credits. (*Appeal of Buehler*, 2023-OTA-215P.) Unsupported assertions are insufficient to meet the taxpayers' burden of proof. (*Appeal of Morosky*, 2019-OTA-312P.)

Former R&TC section 17052.11 allowed a credit (the low-emission vehicle credit), subject to certain limitations and qualifications, if a taxpayer purchased a "low-emission motor vehicle" in the 1991 through 1995 tax years and allowed any unused credits to be carried over to subsequent tax years. The low-emission vehicle credit is therefore not allowed for purchases of a low emission motor vehicle that occurred after the 1995 tax year. (Former R&TC, § 17052.11.)

Appellants assert that they are entitled to a low-emission vehicle credit of \$1,709 in tax year 2019 based on their purchase of a Tesla Model 3 vehicle during that year. To support this assertion, appellants provided information issued by the California Air Resources Board which appellants assert establishes their compliance with California's Clean Vehicle Rebate Project, and a copy of a third-party website's explanation of the Clean Vehicle Rebate Project. Appellants' information does not, however, establish that they purchased their vehicle within the statutory time period required under former R&TC section 17052.11 to claim the low-emission vehicle credit.<sup>2</sup>

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<sup>1</sup> The NPA specifically stated, "We have no documentation to substantiate the carryover credit(s) claimed on your California income tax return."

<sup>2</sup> California Clean Vehicle Rebate Project (CVRP) provided rebates for qualifying vehicle purchases and was administered by the California Air Resources Board and the Center for Sustainable Energy. Rebates were distributed on a first-come, first serve basis and eligible applicants were required to complete and submit applications directly on the CVRP Website. (See <https://ww2.arb.ca.gov/our-work/programs/clean-vehicle-rebate-project/about>.) Appellants' potential eligibility for this rebate, does not establish that they are entitled to a tax credit pursuant to former R&TC, § 17052.11.


By statute, appellants are not entitled to claim the low-emission vehicle credit because they did not purchase their electric motor vehicle during the requisite time period required under R&TC section 17052.11. As a result, appellants have not met their burden of proof to establish that they are entitled to claim the low-emission vehicle credit in 2019.

HOLDING


Appellants have not demonstrated that respondent erred in disallowing the low-emission vehicle credit claimed for the 2019 tax year.


DISPOSITION

Respondent’s action is sustained.

Signed by:  
  
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Seth Elsom  
Hearing Officer

We Concur:

DocuSigned by:  
  
8A4204847A67463...  
Andrew Wong  
Administrative Law Judge

Signed by:  
  
25F0FE00FF56470...  
Natasha Ralston  
Administrative Law Judge

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