

**BOARD OF TAX APPEALS  
STATE OF LOUISIANA**

**EVAN OBERLA and REBECCA E. DUGGAN,  
PETITIONERS**

**VS.**

**DOCKET NO. 13449B**

**DEPARTMENT OF REVENUE,  
STATE OF LOUISIANA**

**RESPONDENT**

\*\*\*\*\*

**JUDGMENT WITH REASONS**

\*\*\*\*\*

This matter came before the Board for hearing on the merits on January 10, 2024, with Chairman Francis J. “Jay” Lobrano presiding, and Vice-Chairman Cade R. Cole and Judge Lisa Woodruff-White (Ret.) present. Appearing before the Board were Miranda Scroggins, attorney for the Department of Revenue, State of Louisiana (“Department”) and Rebecca E. Dugan, attorney representing herself and Evan Oberla, also appearing in person (collectively, the “Taxpayers”). After presentation of argument and evidence, the Board held the record open for the Department to submit a post-hearing memorandum.<sup>1</sup> The Department filed its memorandum on January 11, 2024. The Board permitted Taxpayers to file a response memorandum during the subsequent thirty days. The matter was deemed submitted on February 12, 2024, the first

---

<sup>1</sup> The Department inadvertently submitted the wrong memorandum prior to the hearing. The memorandum that was submitted was directed to the Department’s Exceptions of Prescription and Lack of Subject Matter Jurisdiction. Those Exceptions were formally withdrawn prior to the hearing. The Department had intended to submit a memorandum directed to the merits of the case.

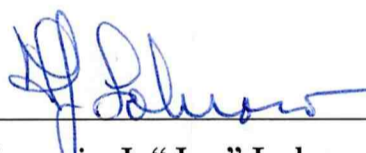
calendar day following expiration of the response period that was not a legal holiday.<sup>2</sup> The Board now issues Judgment in accordance with the attached Written Reasons.

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that there be Judgment in favor of the Department and against the Taxpayers.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Department's denial of the Taxpayers' claim for the Alternative Fuel Tax Credit for the 2021 individual income tax year was correct.

**JUDGMENT RENDERED AND SIGNED** at Baton Rouge, Louisiana, this 13<sup>th</sup> day of March, 2024.

**FOR THE BOARD:**



Francis J. "Jay" Loblano, Chairman  
Louisiana Board of Tax Appeal

---

<sup>2</sup> Taxpayers declined to file a response.

**BOARD OF TAX APPEALS  
STATE OF LOUISIANA**

**EVAN OBERLA and REBECCA E. DUGGAN,  
PETITIONERS**

**VS.**

**DOCKET NO. 13449B**

**DEPARTMENT OF REVENUE,  
STATE OF LOUISIANA**

**RESPONDENT**

\*\*\*\*\*

**REASONS FOR JUDGMENT**

\*\*\*\*\*

This matter came before the Board for hearing on the merits on January 10, 2024, with Chairman Francis J. “Jay” Lobrano presiding, and Vice-Chairman Cade R. Cole and Judge Lisa Woodruff-White (Ret.) present. Appearing before the Board were Miranda Scroggins, attorney for the Department of Revenue, State of Louisiana (“Department”) and Rebecca E. Dugan, attorney representing herself and Evan Oberla, also appearing in person (collectively, the “Taxpayers”). After presentation of argument and evidence, the Board held the record open for the Department to submit a post-hearing memorandum.<sup>3</sup> The Department filed its memorandum on January 11, 2024. The Board permitted Taxpayers to file a response memorandum during the subsequent thirty days. The matter was deemed submitted on February 12, 2024, the first

---

<sup>3</sup> The Department inadvertently submitted the wrong memorandum prior to the hearing. The memorandum that was submitted was directed to the Department’s Exceptions of Prescription and Lack of Subject Matter Jurisdiction. Those Exceptions were formally withdrawn prior to the hearing. The Department had intended to submit a memorandum directed to the merits of the case.

calendar day following expiration of the response period that was not a legal holiday.<sup>4</sup> The Board now issues the foregoing Judgment for the following reasons.

### **Background**

Taxpayers purchased a Kia Niro on September 9, 2021. On April 19, 2022, Taxpayers filed their 2021 Louisiana individual income tax return, claiming the \$2,500.00 Alternative Fuel Tax Credit (“AFTC”) on the purchase of the vehicle. The Department denied the AFTC claim by notice dated September 9, 2022. Taxpayers timely appealed to the Board.

The Taxpayers testified that the vehicle in question is a hybrid automobile. It is capable of running on a combination of electric and gas propulsion, or on either power source independently. If running only on electric power, the vehicle is limited to low speeds. The Department does not dispute the Taxpayers’ characterization of the vehicle or otherwise dispute the relevant facts. Instead, the Department relies solely on its interpretation of the law. The Department claims that the legislature eliminated the AFTC in July 2021 by 2021 Act 385. Thus, the Department’s position is that the Taxpayers purchased the Kia Niro too late to take advantage of the credit.

### **Discussion**

2021 Act 385 deleted former La. R.S. 47:6035(B)(2)(b), which had defined the cost of “qualified clean-burning motor vehicle fuel property” to include, “[t]he cost to the owner of a new motor vehicle purchased at retail originally equipped to be propelled by an alternative fuel, provided

---

<sup>4</sup> Taxpayers declined to file a response.

the motor vehicle is registered in this state.” The Act further deleted former La. R.S. 47:6035(D), which had provided:

In cases of a new motor vehicle purchased by a taxpayer with qualified clean-burning motor vehicle fuel property, as defined in Subparagraph (B)(2)(b) of this Subsection, if installed by the vehicle’s manufacturer the taxpayer may claim a credit against individual or corporate income tax for the taxable period in which the new motor vehicle is purchased equal to ten percent of the cost of the motor vehicle or two thousand five hundred dollars, whichever is less, provided the motor vehicle is registered in this state.

The Act substantially replaced former La. R.S. 47:6035(I), which had set the provisions of La. R.S. 47:6035 to terminate on January 1, 2022, with La. R.S. 47:6035(E), which states, “[n]o credit shall be earned pursuant to this Section for the purchase or installation of qualified clean-burning motor vehicle fuel property on or after January 1, 2022.” The Act specified that it became effective July 1, 2021.

Superficially, Act 385’s elimination of the AFTC effective July 1, 2021, seems to contradict La. R.S. 47:6035(E)’s time period for purchase of a vehicle that lasted until January 1, 2022. Nevertheless, any confusion is remedied when the statute is read as a whole. During the period from July 1, 2021 to January 1, 2022, the AFTC was still available, but only for a drastically reduced class of property. During that period, the AFTC was only available if it fit within the scope of La. R.S. 47:6035(B)(2), which defines the cost of qualified clean-burning motor vehicle fuel property as:

[T]he cost of property that is directly related to the delivery of an alternative fuel into the fuel tank of motor vehicles propelled by alternative fuel, including compression equipment, storage tanks, and dispensing units for alternative fuel at the point where the fuel is delivered, provided the property is installed and located in this state and no credit has been previously claimed on the cost of such

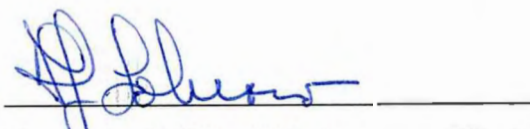
property. The cost of property that is directly related to the delivery of an alternative fuel into the fuel tank of motor vehicles propelled by alternative fuel shall not include costs associated with exploration and development activities necessary for severing natural resources from the soil or ground or costs associated with fueling station infrastructure that is not directly related to the delivery of an alternative fuel into the fuel tank of motor vehicles.

The “point where the fuel is delivered” refers to equipment used to deliver fuel, such as gas pumps, charging stations, storage tanks, and compression equipment. The Taxpayers’ Kia Niro, an automobile, does not fit within the class of property that qualified for the AFTC on the date of purchase.

The Board acknowledges the frustration and expense suffered by the Taxpayers. The legislature’s repeated changes to credits such as the AFTC are difficult, even for tax professionals, to stay abreast of. The change in the law took effect just two months before Taxpayers purchased their vehicle. Nevertheless, the Board is constrained to apply the law as written. The statute, as amended, did not allow the AFTC for the purchase of an automobile when the Taxpayers purchased the Kia Niro. Therefore, the Department correctly disallowed the Taxpayer’s claim for the AFTC.

**Signed in Baton Rouge, Louisiana, this 13<sup>th</sup> day of March, 2024.**

**FOR THE BOARD:**



**Francis J. “Jay” Lobrano, Chairman  
Louisiana Board of Tax Appeal**