

2017 WL 8315248 (La.Bd.Tax.App.)

Board of Tax Appeals

State of Louisiana

JEFFREY & DENISE PRATTINI, PETITIONER

v.

SECRETARY, DEPARTMENT OF REVENUE, RESPONDENT

Docket No. 8262

November 8, 2017

JUDGMENT WITH WRITTEN REASONS ON CROSS MOTIONS FOR SUMMARY JUDGMENT

*1 On October 11, 2017 a hearing was held before the Board on the Secretary Department of Revenue, State of Louisiana's (the "Secretary") Motion for Summary Judgment and the Cross Motion for Summary Judgment of Jeffrey & Denise Prattini (the "Taxpayers"), with Judge Tony Graphia (Ret.), Chairman, presiding, and Board Members Cade R. Cole and Francis "Jay" Lobrano present. Participating in the hearing were: Aaron Long, attorney for the Secretary, and Jeffery K. Pratinni, esq., *pro se*, attorney for Taxpayers. After the hearing the case was taken under advisement, and the Board now unanimously renders Judgment for the following written reasons:

Taxpayers appeal the Secretary's denial of a \$3,000.00 tax credit for the purchase of a 2011 model Ford Expedition automobile. Importantly, the Taxpayers purchased the Ford automobile on March 24, 2012. The Taxpayers amended their 2011 Louisiana Tax return on December 19, 2012 and claimed a credit of \$3,000.00 for the 2012 purchase of the Ford automobile on their 2011 tax return.

The credit is created under the provisions of La. 47:6035. La. R.S. 47:6035 C states in pertinent part:

C. The credit provided for in Subsection A of this Section shall be allowed against individual or corporate income tax for the taxable period in which the property is purchased and installed, if applicable and shall be equal to fifty percent of the cost of the qualified clean burning motor vehicle fuel property ..." (Emphasis supplied)

The statute is clear that the credit is allowed for the taxable period in which the vehicle is purchased. The regulations additionally provide that the credit "shall be claimed on the personal or corporate income tax return for the period when the taxpayer incurred the cost for the qualified clean-burning motor fuel vehicle property." LAC 61:1.1913(D).

On December 20, 2012 (the day after the Taxpayers filed their claim), the Secretary promulgated a rule which provided that the Secretary would not pay any La. R.S. 47:6035 credit if the application for which was not postmarked before June 14, 2012.

This Board and the First Circuit found that the aforesaid regulations did not restrict the payment of certain credits under the statute. *Barfield v. Bolotte*, 2015-CA-0847 (La. App. 1st Cir. 12/23/15), 185 So.3d 781. The Secretary has acquiesced to that ruling and paid claims pursuant to its holding, the Secretary's basis for contesting the current claim is no longer based on those same issues.

Taxpayers had until December 31, 2016 to file a claim for a refund based on the 2012 credit eligibility. The Taxpayers never filed an amended 2012 return claiming the credit. Taxpayers had previously amended their 2011 return to seek the credit for the 2012 purchase, but the statute is clear that the credit is only for the same taxable period in which the property was purchased.

*2 The law is clear, the requirement that the credit be claimed for the same period in which the property was purchased was in the original and all subsequent versions of this credit statute. La. R.S. 47:6035(C). The law prohibits the Taxpayer from being entitled to the requested credit in the 2011 tax period for a vehicle purchased in 2012.

A 2012 amended return could have been filed at any time prior to December 31, 2016, and the current cause of action could have been amended if that refund was denied for any reason.

The Taxpayer then argues that detrimental reliance allows it to claim the 2012 purchase on the 2011 return. The Taxpayer has not put forward an argument that would give rise to the high standard set for detrimental reliance in a tax case. *Showboat Star Partnership v. Slaughter*, 2000-1227, p. 13 (La. 4/3/01); 789 So.2d 554, 562. A press release cannot bind the Secretary, and the actual regulation complained of was only adopted after this Taxpayer filed their refund. Furthermore, nothing in that regulation prevented the Taxpayer from filing a return for the correct year following the *Bolotte* decision.

For the foregoing reasons the Secretary's Motion for Summary Judgment is granted, and the Taxpayers' Motion for Summary Judgment is denied.

IT IS ORDERED, ADJUDGED, AND DECREED that the Taxpayer's Motion for Summary Judgment BE AND IS HEREBY DENIED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Secretary's Motion for Summary Judgment BE AND IS HEREBY GRANTED, and the Taxpayer's Petition BE AND IS HEREBY DISMISSED.

Baton Rouge, Louisiana this 8 day of November, 2017.

Judge Tony Graphia (Ret.)
Chairman

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