

Cite as Det. No. 20-0163, 41 WTD 196 (2022)

BEFORE THE ADMINISTRATIVE REVIEW AND HEARINGS DIVISION
DEPARTMENT OF REVENUE
STATE OF WASHINGTON

In the Matter of the Petition for Review of)	<u>D E T E R M I N A T I O N</u>
Application Denials of:)	
)	No. 20-0163
)	
...)	Registration No. . . .
)	

RCW 82.04.4496(8)(c): CLEAN ALTERNATIVE FUEL COMMERCIAL VEHICLE TAX CREDIT APPLICATION – UNTIMELY SUBMISSION OF REQUIRED MATERIALS. The Department is required to deny applications for the Clean Alternative Fuel Commercial Vehicle Tax Credit when taxpayers fail to submit required materials within the statutory timeline for doing so.

Headnotes are provided as a convenience for the reader and are not in any way a part of the decision or in any way to be used in construing or interpreting this Determination.

Margolis, T.R.O. – A provider of maintenance services (Taxpayer) petitions for review of the denial of its applications for Clean Alternative Fuel Commercial Vehicle (CAFCV) tax credits on grounds that its documentation was untimely due to delays caused by the Department. We deny the petition.¹

ISSUE

Whether, under RCW 82.04.4496, the Department correctly denied Taxpayer’s applications for CAFCV tax credits where Taxpayer failed to provide required final documentation by the statutory deadline.

FINDINGS OF FACT

Taxpayer is a facility maintenance company that specializes in the servicing of franchise, big-box stores, convenience stores, and commercial chain accounts.

On October 23, 2019, Taxpayer submitted seven applications for CAFCV tax credits, which require a 3-part application for each vehicle. On the same day, the Department’s Taxpayer Account Administration Division (TAA) sent Taxpayer e-mails with the subject “Commercial Vehicle Credit Application Update,” which Department records show were read the following day. The emails state, in pertinent part, “Your next step is part 3, Receipt of Vehicle. Part 3 must be

¹ Identifying details regarding the taxpayer and the assessment have been redacted pursuant to RCW 82.32.410.

submitted within 15 days of taking possession of the vehicle or the application will be denied.” The emails describe the documents that should be included, including the final purchase invoice, factory build sheet or equivalent, signed attestations regarding the incremental cost of the alternative fuel system, finalized lease agreement for leased vehicles, certification for conversion only vehicles, and a copy of the registration.

On November 14, 2019, Taxpayer contacted TAA, asking questions regarding estimated costs and whether it would be beneficial to wait until 2020 to take the credit. TAA explained that estimated costs could be changed when submitting documentation for part 3 of the application, whether Taxpayer could take the credit in 2020 would depend on when it took possession of the vehicle, and part 3 had to be submitted within 15 days of taking possession. Taxpayer also asked how to get conversion cost estimates on vehicles purchased at auction that had already been converted. TAA suggested calling a dealership or the manufacturer.

On November 18, 2019, Taxpayer called TAA, explaining that the person Taxpayer found to perform the conversion estimate was out due to surgery. TAA suggested that Taxpayer file what it had, reiterating the “15 day from possession” deadline. On that same day, Taxpayer filed Receipt of Vehicle applications for six vehicles, which state that Taxpayer possessed the vehicles on October 23, 2019. On November 27, 2019, TAA denied the applications because documentation for part 3 was not received by November 7, 2019, 15 days after Taxpayer took possession.

Taxpayer petitioned for review of the credit denial for these six vehicles, explaining that the Department’s application instructions were limited; it was unclear that the 15 day period had started, despite Taxpayer seeking guidance and having begun the application process. Taxpayer also found it difficult to get timely answers to questions necessary for moving through the application process, including what documentation would be necessary to establish conversion cost when the vehicles were purchased post-conversion.

ANALYSIS

RCW 82.04.4496 provides a business and occupation (B&O) tax credit for businesses that purchase CAFCVs or for businesses that pay to retrofit commercial vehicles to mainly run on clean alternative fuel. RCW 82.04.4496(8) establishes three distinct steps that taxpayers seeking the CAFCV tax credit must follow in order to receive the credit. At issue here is the third statutory step, which requires taxpayers to provide “final documentation within fifteen days of receipt” of the vehicles:

(8) To claim a credit under this section, the person applying *must*:

...

(c) Provide final documentation *within fifteen days of receipt of the vehicle*, including:

- (i) A copy of the final invoice for the vehicle;
- (ii) A copy of the factory build sheet or equivalent documentation;
- (iii) The vehicle identification number of each vehicle;
- (iv) The incremental cost of the alternative fuel system;
- (v) Attestations signed by both the seller and purchaser of each vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and

(vi) Any other information deemed necessary by the department to support administration or reporting of the program.

RCW 82.04.4496(8)(c) (emphasis added) (effective until January 1, 2020).²

RCW 82.04.4496(11) states that “[i]f a person fails to supply the information as required in subsection (8) of this section, the department *must* deny the application.” (Emphasis added).

The fact that Taxpayer failed to provide the requisite final documentation within fifteen days of receipt of the vehicles is not in dispute. Taxpayer argues that we should allow the credit regardless, on grounds that its applications were delayed because of confusion with the application process. However, the plain language of RCW 82.04.4496 states that the consequence of Taxpayer’s failure is the denial of Taxpayer’s applications. RCW 82.04.4496(8)(c) states that in order to claim the CAFCV tax credit, applicants “*must*” provide final documentation within fifteen days of receipt of the relevant vehicles. RCW 82.04.4496(11)³ states that the Department *must deny* an application if the applicant fails to provide the information “*as required* in subsection (8).” (Emphasis added). Pursuant to these provisions, the Department is without discretion, and must deny Taxpayer’s applications since it failed to submit the information required by subsection (8) within the statutory timeline for doing so. Det. No. 18-0036, 38 WTD 101 (2019) (Taxpayers that apply for the CAFCV credit must submit required materials within 15 calendar days of receipt of the vehicles included in the application).⁴

DECISION AND DISPOSITION

Taxpayer’s petition is denied.

Dated this 10th day of June 2020.

² We note that, effective January 1, 2020, RCW 82.04.4496(8)(c) requires final documentation within thirty days of receipt of the vehicle.

³ [RCW 82.04.4496 has no provisions for waiving the 15-day deadline.]

⁴ Further, we note that [on October 23, 2019,] TAA informed Taxpayer via e-mail that part 3 must be submitted within 15 days of taking possession of the vehicle or the application will be denied.