

05-0920  
Refund Request  
Signed 12/30/2005

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)		
	)	<b>ORDER</b>	
Petitioner,	)		
	)	Appeal No.	05-0920
v.	)		
	)		
MOTOR VEHICLE ENFORCEMENT	)	Tax Type:	DUI Impound
DIVISION, UTAH STATE TAX	)		
COMMISSION,	)	Judge:	Robinson
	)		
Respondent.	)		

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**Presiding:**

R. Spencer Robinson, Administrative Law Judge

**Appearances:**

For Petitioner:	PETITIONER			
For Respondent:	Assistant	Attorney	General	RESPONDENT
	REPRESENTATIVE			

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on October 4, 2005.

Petitioner requests a refund of the impound fee assessed when he was arrested for driving under the influence. He states an unidentified DMV employee told him that if he were acquitted, the fee would be refunded. He relied on that representation.

He states his attorney advised him not to attend the administrative hearing at the Driver License Division. Because he failed to attend the hearing, his driver's license was administratively suspended. He was acquitted following his trial on the

driving under the influence charge. At the time of the hearing before the Commission, his driver's license remained suspended.

#### APPLICABLE LAW

41-6a-1406 (6) (previously 41-6-102.5 (5))

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 30 days of the final notification from the Driver License Division; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 30 days of the impoundment.

#### DISCUSSION

The foregoing statute prohibits the relief requested by Petitioner. In the absence of evidence the Driver License Division has determined Petitioner's driver license should not be suspended or revoked, the Commission has no power to refund the administrative impound fee.

#### DECISION AND ORDER

Based on the foregoing, the Commission denies Petitioner's request for a refund of the administrative impound fee. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of

this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission  
Appeals Division  
210 North 1950 West  
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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R. Spencer Robinson  
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Palmer DePaulis  
Commissioner

Marc B. Johnson  
Commissioner

