

09-1274
REFUND REQUEST
SIGNED 08-13-2009

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, vs. MOTOR VEHICLE DIVISION OF THE UTAH STATE TAX COMMISSION, Respondent.	INITIAL HEARING ORDER Appeal No. 09-1274 Impound No. ##### Tax Type: DUI Administrative Fee Tax Year: 2009 Judge: Marshall
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Presiding:

Jan Marshall, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, *Pro Se*
For Respondent: RESPONDENT REP 1, Assistant Attorney General
 RESPONDENT REP 2, Motor Vehicle Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing on May 20, 2009, and was reconvened on July 1, 2009 to allow the Division time to verify whether the Taxpayer's vehicle had been reported stolen. Petitioner is requesting a refund of the administrative impound fee assessed when his vehicle was impounded following an arrest of the driver for driving under the influence.

APPLICABLE LAW

A refund of the DUI administrative fee shall be refunded under Utah Code Ann. §41-6A-1406(6)(c), as follows:

The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refund 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

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- (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.

Utah Code Ann. §41-6a-1406(6)(c) (2008).

DISCUSSION

Petitioner requested a refund of the administrative impound fee assessed. Petitioner stated that the vehicle was stolen on December 25, 2008, and was recovered by the police on December 27, 2008. He stated that he turned in paperwork regarding the stolen vehicle, and no longer has a copy of the police report. Petitioner stated that he provided the Division with the name of the officer and the police report number.

The Division's representative stated that under Utah Code Ann. §41-61-1406(6)(c)(i), the administrative impound fee can be refunded if the arrested person's driver license was not suspended or revoked, and a copy of the letter from the Driver License Division was submitted within 30 days; or if a police report is submitted within 30 days showing that the vehicle was stolen. The Division's representative stated that the Petitioner did file his request within 30 days, but asked for additional time to verify that the vehicle was reported stolen. The Division issued a letter to the Petitioner on June 2, 2009 that verifies the vehicle was reported stolen, and that the refund request was approved. However, the Petitioner is not the registered owner of the vehicle. The Division's letter indicates that in order to process the refund, the owner of the vehicle must submit a letter indicating the funds can be released to the Petitioner.

The May 20, 2009 hearing reconvened on July 1, 2009. At which time, the Petitioner stated that the vehicle was registered in his wife's name. The Division's representative once again confirmed that if the registered owner submits a letter authorizing the Petitioner to receive the refund, it would be issued. To date, neither the Division nor the Petitioner has provided the Commission with verification that the refund has been issued.

Utah Code Ann. §41-61-1406(6)(c) sets forth the circumstances under which a refund of the administrative impound fee can be refunded. Petitioner provided information that a stolen vehicle report was filed within 30 days, which was verified by the Division. However, the Petitioner is not the registered owner of the vehicle, and has not provided documentation from the registered owner authorizing Petitioner to receive the refund.

DECISION AND ORDER

Based upon the foregoing, the Commission orders the Division to issue the refund to Petitioner upon receipt of documentation from the registered owner authorizing Petitioner to receive the refund. 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 _____, 2009.

Jan Marshall
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION

DATED this _____ day of _____, 2009.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner