

09-1309
REFUND REQUEST
SIGNED 08-10-2009

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,

Petitioner,

v.

MOTOR VEHICLE DIVISION OF THE
UTAH STATE TAX COMMISSION,

Respondent.

INITIAL HEARING ORDER

Appeal No. 09-1309

Tax Type: Refund / Registration Fees

Judge: Chapman

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REP, from PETITIONER

For Respondent: RESPONDENT REP 1, Assistant Attorney General
RESPONDENT REP 2, from Motor Vehicle Division
RESPONDENT REP 3, from Motor Vehicle Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing on August 4, 2009.

On December 3, 2007 and January 31, 2008, PETITIONER (“Petitioner” or “taxpayer”) paid registration fees to reregister four vehicles in Utah. The fees for the four vehicles amounted to \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$, respectively. The taxpayer claims that it never completed the registration of these vehicles, and on September 29, 2008, the taxpayer asked the Motor Vehicle Division (“Division”) to refund the fees. On October 9, 2008, the Division denied the taxpayer’s refund request. The Division asks the Commission to sustain its action to deny the refund request, while the taxpayer asks the Commission to refund the fees.

APPLICABLE LAW

Utah Code Ann. §41-1a-1203 provides that “[i]f the division through error collects any fee not required to be paid, the fee shall be refunded to the person paying the fee upon written application for a refund made within six months after date of the payment.”

DISCUSSION

The four vehicles at issue are identified as: 1) a 2007 Ford with Utah plate number ##### - 1 (“Vehicle 1”), on which \$\$\$\$\$ in fees were paid; 2) a 2006 Ford with Utah plate number ##### - 2 (“Vehicle 2”), on which \$\$\$\$\$ in fees were paid; 3) a 2007 Ford with Utah plate number ##### - 3 (“Vehicle 3”), on which \$\$\$\$\$ in fees were paid; and 4) a 2007 Jeep with Utah plate number ##### - 4 (“Vehicle 4”), on which \$\$\$\$\$ in fees were paid.

The taxpayer is an auto titling company that provides titling services for clients in all states. The taxpayer provides titling services for COMPANY, an entity that owned the four vehicles at issue. The taxpayer remitted checks to pay the annual registration fees of the vehicles at issue, all of which had previously been registered in Utah. Initially, the taxpayer received notice that registration could not be completed because emissions certificates had not been submitted for the vehicles.

The Division proffered that emissions certificates were submitted and registration completed on December 20, 2007 for Vehicle 3 and April 24, 2008 for Vehicle 4. The taxpayer claims that it was unaware that registration had been completed for these two vehicles and states that it would withdraw its refund request for these vehicles if they were registered. The taxpayer proffered no evidence to refute Division records showing that these two vehicles were subsequently registered. As a result, the Commission denies the taxpayer’s refund request for Vehicle 3 and Vehicle 4.

The Division admits that emission certificates were not received for Vehicle 1 and Vehicle 2 and that these vehicles were never registered. Nevertheless, the Division argues that the refund request should

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be denied on the basis that the request is untimely. Section 41-1a-1203 provides that a registration fee erroneously collected may be refunded, but only if the request for refund is made within six months of payment. For Vehicle 1, the registration fees were paid on December 3, 2007. For Vehicle 2, the fees were paid on January 31, 2008. The taxpayer requested a refund of the fees on September 29, 2008, which is approximately ten months after the fees for Vehicle 1 were paid and approximately eight months after the fees for Vehicle 2 were paid. Under these circumstances, Section 41-1a-1203 precludes refund of the registration fees paid for Vehicle 1 and Vehicle 2.

DECISION AND ORDER

Based upon the foregoing, the Commission finds that the taxpayer has not shown that any of the registration fees at issue should be refunded. The taxpayer's refund request is denied. 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.

Kerry R. Chapman
Administrative Law Judge

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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

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