

09-1445
REFUND REQUEST
SIGNED 11-17-2009

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	INITIAL HEARING ORDER
Petitioner,	Appeal No. 09-1445
v.	Tax Type: Refund / Sales and Use Tax, Registration Fees and Age- Based Fees
MOTOR VEHICLE DIVISION OF THE UTAH STATE TAX COMMISSION,	Judge: Chapman
Respondent.	

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, Taxpayer
For Respondent: RESPONDENT REP, from Motor Vehicle Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing on November 2, 2009.

PETITIONER (“Petitioner” or “taxpayer”) applied to Taxpayer Services Division (“Division”) for a refund of sales and use tax, registration fees and the age-based uniform fee that she paid in January 2009 to register a 2004 Buick Century (“vehicle”) that she had purchased from a STATE dealer on (X). Approximately one month after registering the vehicle, the taxpayer returned it to the dealer who had sold it to her, and she received a refund of her purchase price. Because the vehicle was damaged and returned to the dealer for a refund of the purchase price, the taxpayer asked the Division to refund all amounts that she paid to register the vehicle. The amounts that the taxpayer paid to register the vehicle included \$\$\$\$\$ of sales and use tax, \$\$\$\$\$ of registration fees and \$\$\$\$\$ of age-based uniform fees.

Appeal No. 09-1445

In a Statutory Notice dated March 18, 2009, the Division denied the taxpayer's refund request for registration fees. In addition, the Division informed the taxpayer in this Statutory Notice that "[r]efund requests for age based county fee(s) must be processed by the local county assessor. Please contact the local county assessor of the county in which your vehicle is located." In a Statutory Notice dated March 24, 2009, the Division also denied the taxpayer's refund request for sales and use tax.

Because the vehicle was returned to the purchaser and the purchase price was refunded, the Division has since determined that the transaction that gave rise to the sales and use tax liability has been cancelled. In a letter dated August 25, 2009, the Division informed the taxpayer that it had approved her request to receive a refund of the \$\$\$\$ of sales and use tax she paid to register the vehicle. As a result, the only issues remaining before the Commission are whether the taxpayer should be refunded the registration fees and the age-based uniform fees that she paid to register the vehicle.

The taxpayer explains that although the dealer refunded the purchase price of the vehicle, she had to pay \$\$\$\$ in transportation costs when she received the vehicle and another \$\$\$\$ in transportation costs to have the vehicle delivered back to the dealer in STATE. Because of these expenses, she would like to be refunded all of the amounts she was required to pay to register the vehicle. For these reasons, she asks the Commission to refund the \$\$\$\$ of registration fees and the \$\$\$\$ of age-based uniform fees that she paid.

The Division asks the Commission to deny the remaining refund requests. First, it asserts that Utah law does not provide for partial registration fees for motor vehicles that weigh 12,000 pounds or less.¹ The vehicle at issue in this case weighs considerably less than 12,000 pounds. Second, the Division asserts that Utah law does not provide for partial age-based uniform fees or for the Commission to refund such fees if

¹ UCA §41-1a-1207 provides for reduced registration fees for vehicles that are registered for only a portion of the year, but only if that vehicle weighs more than 12,000 pounds. For example, for a vehicle that weighs more than 12,000 pounds and is registered for three months or less, Section 41-1a-1207 provides that the registration fee is only 30% of the regular registration fee.

a vehicle is registered for less than a year. The Division states that under a contract between the Tax Commission and the counties that receive the age-based uniform fees, a taxpayer is required to submit a refund request for an age-based uniform fee not to the Commission but to the county that received the fee (i.e., the county in which the vehicle was registered). For these reasons, the Division asks the Commission to deny the taxpayer's request to receive a refund of any portion of the \$\$\$\$ of registration fees and the \$\$\$\$ of age-based uniform fees that she paid to register the vehicle at issue.

APPLICABLE LAW

Utah Code Ann. §41-1a-215 provides that the period for which a vehicle is registered is 12 months, as follows in pertinent part:

(1) (a) Except as provided under Subsections (2) and (3), every vehicle registration, every registration card, and every registration plate issued under this chapter for the first registration of the vehicle in this state, continues in effect for a period of 12 months beginning with the first day of the calendar month of registration and does not expire until the last day of the same month in the following year.

UCA §59-2-405.1 provides for an age-based uniform fee in lieu of ad valorem property tax for vehicles that are required to be registered and that weigh 12,000 pounds or less, as follows in pertinent part:

.....
(2) (a) Except as provided in Subsection (2)(b), there is levied as provided in this part a statewide uniform fee in lieu of the ad valorem tax on:
(i) motor vehicles as defined in Section 41-1a-102 that:
(A) are required to be registered with the state; and
(B) weigh 12,000 pounds or less; and
(ii) state-assessed commercial vehicles required to be registered with the state that weigh 12,000 pounds or less.

.....
(5) (a) The revenues collected in each county from the uniform fee shall be distributed by the county to each taxing entity in which the property described in Subsection (2) is located in the same proportion in which revenue collected from ad valorem real property tax is distributed.
(b) Each taxing entity shall distribute the revenues received under Subsection (5)(a) in the same proportion in which revenue collected from ad valorem real

property tax is distributed.

DISCUSSION

Utah law specifically identifies those circumstances under which a taxpayer may receive a refund of taxes or fees that he or she has paid. However, no Utah law exists that authorizes the Commission to refund the \$\$\$\$ of registration fees that the taxpayer paid to register the vehicle at issue, regardless of the length of time that the vehicle was registered. In addition, no Utah law exists that requires a refund of the \$\$\$\$ of age-based uniform fees that were also paid. The Commission has ruled in prior cases that for a vehicle that weighs 12,000 pounds or less, it is not authorized to refund registration fees or uniform fees in lieu of property tax.² For these reasons, the Commission denies the taxpayer's request for a refund of the registration fees and age-based uniform fees that she paid to register the vehicle at issue.

DECISION AND ORDER

Based upon the foregoing, the Commission denies the taxpayer's refund request for the \$\$\$\$ of registration fees and the \$\$\$\$ of age-based uniform fees that she paid to register the vehicle at issue. 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

² See *USTC Appeal No. 06-1189* (Initial Hearing Order Feb. 23, 2007); *USTC Appeal No. 97-1390* (Initial Hearing Order Feb. 17, 1998).

Appeal No. 09-1445

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

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

KRC/09-1445.int