

13-799
TAX TYPE: DUI ADMINISTRATIVE FEE
TAX YEAR: 2013
DATE SIGNED: 8-29-2013
COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN, R. PERO
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p style="text-align: center;">Petitioner,</p> <p>vs.</p> <p>DIVISION OF MOTOR VEHICLES, UTAH STATE TAX COMMISSION,</p> <p style="text-align: center;">Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 13-799</p> <p>Tax Type: DUI Administrative Fee</p> <p>Judge: Phan</p>
---	---

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: REPRESENTATIVE FOR PETITIONER, Representative
For Respondent: REPRESENTATIVE FOR RESPONDENT, Assistant Attorney General
RESPONDENT, Accounting Supervisor, Division of Motor Vehicles

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing on August 6, 2013. Petitioner is requesting a refund of the \$\$\$\$ administrative impound fee assessed when a vehicle owned by Petitioner was impounded following the arrest of the driver for driving under the influence.

APPLICABLE LAW

A refund of the DUI administrative fee shall be granted 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 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 representative for Petitioner explained that the vehicle in question had been authorized for use by an employee of Petitioner. It was the employee who was authorized to drive the vehicle. However, the employee had allowed another person to drive the vehicle at the time of the impound. That person wrecked the vehicle and was arrested for driving under the influence. The vehicle was declared a total loss due to the wreck. Petitioner also stated that the towing and impound company, COMPANY, told them if they surrendered the title to the vehicle to COMPANY the impound fee would be refunded to them. Petitioner did not file a stolen vehicle report with the police regarding the vehicle.

The representative for Respondent (“Division”) explained that the fee may be refunded only under two circumstances pursuant to Utah Code Sec. 41-6a-1406(6)(c). This would be if the vehicle was stolen at the time of the impound as shown by a copy of the stolen vehicle report, or if the Driver License Division did not suspend or revoke the license of the driver, and the refund request was filed within thirty-days of the final notification from Driver License.

Upon review of the information provided in this matter, there is no basis to refund the \$\$\$\$ administrative impound fee to Petitioner. Petitioner had authorized an employee to drive this vehicle, the employee let a third person drive the vehicle. Petitioner is still the owner of the vehicle and responsible for it ultimately. Petitioner did not have a police report showing that the vehicle was stolen, nor did Petitioner submit a letter from Driver License Division showing that no action had been taken against the license of the driver of the vehicle. The Petitioner argues that COMPANY had told them this fee would be refunded if they surrendered the title to the towing yard. However, COMPANY has no authority over this fee, nor may it make representations on behalf of the Division. The request should be denied.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission denies Petitioner’s request for a refund of the 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

Appeal No. 13-799

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 _____, 2013.

R. Bruce Johnson
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner