

17-900
TAX TYPE: PROPERTY TAX
TAX YEAR: 2017
DATE SIGNED: 10/17/2017
COMMISSIONERS: J VALENTINE, M CRAGUN, R PERO, R ROCKWELL
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	INITIAL HEARING ORDER
Petitioner,	Appeal No. 17-900
v.	Tax Type: Exempt Property
COUNTY-1 TAX ADMINISTRATION, STATE OF UTAH,	Tax Year: 2017
Respondent.	Judge: Phan

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT-1, COUNTY-1 Deputy District Attorney
RESPONDENT-2, COUNTY-1 Tax Administration

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on September 12, 2017 for an Initial Hearing in accordance with Utah Code Subsection 59-2-1102(7) and Section 59-1-502.5. Petitioner (“Property Owner”) had filed an appeal of Respondent’s (“County’s”) decision to deny two motor vehicles for the United States Armed Forces Exemption, which is commonly referred to as the “veterans’ property tax exemption.”

APPLICABLE LAW

Utah law provides at Utah Code Subsection 59-2-103(1) for a property tax as follows:

All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

Utah law does provide for some property tax exemptions, deferrals and abatements at Utah Code, Chapter 2, Part 11. The Armed Forces Exemption is set out at 59-2-1104 and provides in pertinent part:

...

(2)(a) Subject to Subsection (2)(c), the amount of taxable value of the property described in Subsection (2)(b) is exempt from taxation as calculated under Subsections (3) through (6) if the property described in Subsection (2)(b) is owned by: (i) a veteran with a disability; (ii) the unmarried surviving spouse or a minor orphan of a: (A) deceased veteran with a disability; or (B) veteran who was killed in action or died in the line of duty; or (iii) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(2)(b) Subsection (2)(a) applies to the following property: (i) the claimant's primary residence; (ii) for a claimant described in Subsection (2)(a)(i) or (ii), tangible personal property that: (A) is held exclusively for personal use; and (B) is not used in a trade or business; or (iii) for a claimant described in Subsection (2)(a)(i) or (ii), a combination of Subsections (2)(b)(i) and (ii).

Utah Code Sec. 59-2-1105 provides further requirements regarding the veteran's exemption which in pertinent part state:

(1)(a) Except as provided in Subsections (1)(b) through (d), an exemption under Section 59-2-1104 may be allowed only if the interest of the claimant is on record on January 1 of the year the exemption is claimed.

(b) A claimant may claim an exemption under Section 59-2-1104 regardless of whether the interest of the claimant is on record on January 1 of the year the exemption is claimed if the claimant is: (i) the unmarried surviving spouse of: (A) a deceased veteran with a disability as defined in Section 59-2-1104; or (B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104; or (ii) a minor orphan of: (A) a deceased veteran with a disability as defined in Section 59-2-1104; or (B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104.

(c) If the claimant has an interest in real property under a contract, the exemption under Section 59-2-1104 may be allowed if it is proved to the satisfaction of the county that the claimant is: (i) the purchaser under the contract; and (ii) obligated to pay the taxes on the property beginning on January 1 of the year the exemption is claimed.

Utah law provides that when someone establishes residency in Utah, he or she is required to register their vehicles in Utah at Utah Code Subsection 41-1a-202(3) as follows:

Unless otherwise exempted under Subsection (2), registration under this chapter is required for any motor vehicle, combination of vehicles, trailer, semitrailer, or vintage vehicle within 60 days of the owner establishing residency this state.

DISCUSSION

The facts were not in dispute between the parties and the issue before the Commission is a question of law. The Property Owner is a veteran with a disability for purposes of Utah Code Sec. 59-2-1104. This was not in dispute. He had been living in STATE-1 with his family and they purchased a residence in COUNTY-1, Utah and moved to Utah in SPECIFIED DATE. The Utah residence became their primary residence and he did receive the veterans' property tax exemption on his Utah residence for tax year 2017. The Property Owner also applied for exemption on two vehicles that he owned and it was the vehicles that were at issue in this appeal. Although there was not a dispute that the Property Owner owned these vehicles on January 1, 2017, the issue was that they were not registered in Utah as of that date. The County denied the property tax exemption for the two vehicles based on its interpretation of Utah Code Subsection 59-2-1105(1)(a) which states, "an exemption under Section 59-2-1104 may be allowed only if the interest of the claimant is **on record** on January 1 of the year the exemption is claimed (emphasis added)."

At the time of the move, the Property Owner owned these two motor vehicles and these vehicles were registered in STATE-1. The STATE-1 registrations were still current so he did not register these vehicles in Utah right away, but he did register them in Utah during 2017 and paid the uniform fee in lieu of property taxes on these vehicles at the time of registration. One vehicle was a SUBJECT VEHICLE-1, which had been registered in STATE-1 for the period from January 26, 2016 to January 31, 2017. At the hearing, there had been a question whether the SUBJECT VEHICLE-1 had a current registration in STATE-1 as of January 1, 2017, because the Property Owner had provided to the County only his STATE-1 registration for the prior year. After the hearing, the Property Owner provided documentation that the vehicle had been registered in STATE-1 up through January 31, 2017. The Property Owner had registered this SUBJECT VEHICLE-1 in Utah on January 31, 2017.

The second vehicle was a VEHICLE-2. This vehicle had been registered in STATE-1 on May 11, 2016 and had an STATE-1 registration through May 31, 2017. The Property Owner registered this vehicle in Utah in 2017, but whether this was registered in January or May was unclear. There was no dispute that the Property Owner was the owner of both of these vehicles on January 1, 2017.

The representatives for the County explained that there had been some disagreement on the County Council regarding what was meant by "interest of the claimant is **on record**" as of January 1 pursuant to Utah Code Subsection 59-2-1105(1)(a). Ultimately, the Council denied the exemption concluding that the vehicles would have to be registered in Utah as of January 1 to

qualify for the exemption. However, the representative for the County stated that the County was primarily interested in getting a ruling from the Tax Commission, so that the law would be uniformly applied throughout all the counties.

The Tax Commission has issued decisions in three previous appeals in which it had found that the veteran claiming the exemption needed to own the property as of January 1, of the tax year at issue. However none dealt specifically with what would be an interest of the claimant “on record” regarding a motor vehicle. *Initial Hearing Order Appeal No. 15-230* (September 21, 2015), involved a veteran who owned one home where he had resided as his primary residence in Utah on January 1, sold that home later in the year and purchased a different home in a different County in Utah for his primary residence. The Commission held that the veteran qualified for the exemption on the residence he owned on January 1 and not the residence he purchased later in the year and owned when he filed the application for exemption. In *Initial Hearing Order, Appeal No. 16-1087* (November 1, 2016) the veteran did not own the vehicle on January 1, and, therefore, the exemption was denied. That appeal did not look further at whether registration was required in addition to ownership because that veteran did not even own the vehicle on the January date. A third decision, *Initial Hearing Order Appeal No. 16-2001*, dealt with a residence that was purchased by the veteran after January 1 and so the exemption was denied.¹

In this appeal, the Commission must determine what is meant by “the interest of the claimant is **on record**” in regards to motor vehicles under Utah Code Subsection 59-2-1105(1)(a). In interpreting the law, the Commission needs to first consider that this issue is in regards to a tax exemption and the courts have held that tax exemption statutes are “strictly construed against the party claiming the exemption.” See *Morton Int’l, Inc. v. Auditing Div. of the Utah State Tax Comm’n*, 814 P.2d 581, 591 (Utah 1991). In *MacFarlane v. Utah State Tax Comm’n* 134 P.3d 1116, 1121 (Utah 2006) the Utah Supreme Court has clarified, “While we agree that the rule of strict construction applies to tax exemptions, this rule is only a secondary consideration that does not always come into play. The rule of strict construction should not be utilized to defeat the intent of the legislative body . . . The best evidence of that intent is the plain language of the statute.” (Internal Citations Omitted.)

Utah Code Subsection 59-2-1105(1)(a) does not say “registered *in Utah*,” it just says “on record.” However, if the vehicle were not registered in Utah at some point during the tax year there would be no property tax on the vehicle to exempt. Vehicles are commonly bought and sold and they are registered throughout the year as they are purchased, or as taxpayers move into the

¹ These and other Tax Commission decisions are published in a redacted format at tax.utah.gov/commission-office/decisions.

state. Utah law requires that vehicles be registered in Utah within sixty-days from when the owner establishes residency in Utah. *See* Utah Code Subsection 41-1a-202(3). Had the Property Owner complied with this statutory requirement, these vehicles would have been registered in Utah by August 2016, and therefore registered in Utah on the January 1, 2017 date. Had this occurred the County would have granted the exemption.

The County did point out that there could be a broad interpretation of the requirement at Utah Code Subsection 59-2-1105(1)(a) that the claimant's interest be on record. The broad interpretation was that "on record" meant ownership. Under this broad interpretation, if the veteran established he was the owner of the vehicle on January 1, he could qualify regardless of whether or not the vehicle was registered in any state on January 1. The County representatives acknowledged when considering the exemption for a veteran's primary residence they did not require that a deed be recorded, noting that Utah Code Subsection 59-2-1105(1)(c) provides if the claimant is a purchaser under contract, the County can allow the exemption and under Subsection 59-2-1105(1)(d) the claimant may be the grantor of a trust. In cases where a deed had not been filed at the County Recorder's Office, the County would look at evidence to establish ownership. In this appeal, it is clear that the Property Owner owned these vehicles as of January 1, 2017. Therefore, under this broad definition the vehicles would qualify for the exemption regardless of the fact that they were not registered in Utah.

In considering the arguments of the County, the Commission must consider the plain language of the statute to determine what is meant by having the "interest of the claimant on record" as required by Utah Code Sec. 59-2-1105. Does this mean that the claimant need merely show that he or she owned the vehicle, need the claimant show further that he or she was the registered owner of the vehicle, or the more strict reading that he or she was the registered owner in a Utah registration? Having something "on record" is not synonymous with registration and had the Utah Legislature intended registration in Utah it could easily have said so. Instead the Legislature chose not to use "registration" in the statute. A definition given by Merriam-Webster's online Legal Dictionary, of "record" is "the documentary account of something . . ." Therefore, it would appear that documentation of ownership as of January 1 would constitute having the ownership "on record." The Property Owner's failure to register the vehicles pursuant to Utah Code Subsection 41-1a-202(3) within sixty-days does not prohibit him from obtaining the

exemption for his vehicles. The Legislature has provided other legal repercussions for failing to register, which are set out at Utah Code Section 41-1a-1303.5.²

DECISION AND ORDER

Based on the foregoing, the Tax Commission finds that the Property Owner was entitled to the veterans' property tax relief for the two vehicles, which he owned on January 1, 2017, but were not yet registered in Utah until later in 2017. The County is to provide the exemption to the Property Owner. 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, or emailed, 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

or emailed to:
taxappeals@utah.gov

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

DATED this _____ day of _____, 2017.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Rebecca L. Rockwell
Commissioner

² Utah Code provides the consequences for failing to register a vehicle in Utah within sixty days at Utah Code Sec. 41-1a-1303.5, which makes it a class C misdemeanor and provides for a minimum fine of \$1000 that may be reduced under circumstances outlined in Subsection (1)(b).