

APPEAL # 22-367

TAX TYPE: REFUND REQUEST OF REGISTRATION FEES

TAX YEAR:

DATE SIGNED: 08/15/2022

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, J. FRESQUES

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>TAXPAYER-1,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MOTOR VEHICLE DIVISION OF THE UTAH STATE TAX COMMISSION,</p> <p style="text-align: center;">Respondent.</p>	<p style="text-align: center;"><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 22-367</p> <p>Account No: #####</p> <p>Tax Type: Refund Request of Registration Fees</p> <p>Judge: Nielson-Larios</p>
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**Presiding:**

Aimee Nielson-Larios, Administrative Law Judge

**Appearances:**

For Petitioner: TAXPAYER-1

For Respondent: RESPONDENT’S REP-1, Utah Assistant Attorney General, Representative  
RESPONDENT’S REP-2, Motor Vehicle Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on June 14, 2022, for an Initial Hearing in accordance with Utah Code Ann. § 59-1-502.5. Petitioner (“Taxpayer”) is appealing a Statutory Notice-Refund Request dated DATE, through which Respondent (“Division”) denied the Taxpayer’s request for a refund of registration fees.

APPLICABLE LAW<sup>1</sup>

Utah Code Ann. § 41-1a-201 (effective 5/14/2019, superseded 3/23/2022) prohibits the operation of a motor vehicle in the state of Utah unless it has first been registered, as set forth below:

- (1) Unless exempted, a person or automated driving system may not operate and an owner may not engage an automated driving system, give another person permission to engage an automated driving system, or give another person permission to operate a motor vehicle, combination of vehicles, trailer, semitrailer, vintage vehicle, off-highway vehicle, vessel, or park model recreational vehicle in this state unless it

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<sup>1</sup> Unless indicated otherwise, the Commission cites Utah law in effect as of the date of the Division’s Statutory Notice-Refund Request.

has been registered in accordance with this chapter, Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act.

(2) Subject to Subsection 53-8-209(3), a violation of this section is an infraction.

Registration of a vehicle is for a period of twelve months, as set forth in Utah Code Ann.

§ 41-1a-215 (2012-present), below 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.

....

(4) When the expiration of a registration plate is extended by affixing a registration decal to it, the expiration of the decal governs the expiration date of the plate.

For renewal of a registration, Utah Code Ann. § 41-1a-216 (effective 3/1/2018, superseded 1/1/2022) provides the following, in pertinent part:

(1) The division may receive applications for registration renewal and issue new registration cards at any time prior to the expiration of the registration, subject to the availability of renewal materials.

(2) (a) Except as provided in Subsections (2)(c) and (3), the new registration shall retain the same expiration month as recorded on the original registration even if the registration has expired.

(b) Except as provided in Subsection (2)(c), the year of registration expiration shall be changed to reflect the renewed registration period.

....

For an application for a renewal of a registration, Utah Code Ann. § 41-1a-217 (effective 3/11/2021, superseded 1/1/2022) provides the following, in pertinent part:

(1) (a) An applicant may renew a vehicle registration by:  
(i) filing an application for registration renewal; and  
(ii) paying the fees or taxes required under Section 41-1a-203.

....

(3) **The division shall issue a new registration card that contains:**

(a) **the identical information with respect to the owner** and the vehicle description required by Section 41-1a-213; and

(b) the new expiration date.

(Emphasis added.)

When a vehicle has a new owner, Utah Code Ann. § 41-1a-703 (2019-present) requires the new owner to obtain a new registration, with § 41-1a-703 providing the following, in pertinent part:

(1) **The transferee, before operating or permitting the operation of a transferred vehicle on a highway, shall:**

(a) present to the division the certificate of registration and the certificate of title, properly endorsed;

- (b) apply for a new certificate of title and **obtain a new registration for the transferred vehicle**, as upon an original registration, except as permitted under Sections 41-1a-223, 41-1a-520, and 41-1a-704; and
  - (c) apply to the division to have the license plates assigned to the new registered owner of the transferred vehicle if the license plates were included as part of the sale, trade, or ownership release of the transferred vehicle.
- (2) A violation of this section is an infraction.

(Emphasis added.)

An application for a refund may be made to the Division under Utah Code Ann. § 41-1a-1203 (1992-present), set forth below:

If 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.

Utah Code Ann. § 59-1-1417(1) (2012-present) states, "In a proceeding before the commission, the burden of proof is on the petitioner . . . "

#### DISCUSSION

The Taxpayer asked for a refund of her registration fees for a 12-month registration for her vehicle, a truck. The registration was obtained on DATE, and remains in effect until DATE.

The Taxpayer explained the following information. She received the truck from her husband for HOLIDAY-1 in 2019, and the truck was registered under her husband's name. Back in 2019, the husband and the Taxpayer got along and shared their finances; the husband's car was registered under her name. In 2021, the Taxpayer and her husband were no longer getting along. He refused to register the truck, and he threatened to sell the truck. The Taxpayer explained that it was her truck, rather than her husband's; that she had possessed the truck since she received it in 2019; that she was paying the vehicle loan for it; and that he had only driven it about three times. On DATE, the Taxpayer paid to renew the truck registration, which was in her husband's name. The renewed registration was for MONTH 2021 through MONTH 2022. She started divorce proceedings around the end of MONTH 2021. She said the POLICE DEPT. -1 police told her that her husband could not sell the truck because it was a marital asset. She said her lawyer advised her to transfer the truck title immediately from her husband to her.

Based on the documents submitted by the Division, the Taxpayer gave the DMV, on or about DATE, a Bill of Sale and a Vehicle Application for Utah Title. Those two documents indicated that the Taxpayer purchased the truck from her husband on DATE, for \$\$\$\$\$.

For this appeal, the Taxpayer asserted that the registration obtained in her name on DATE, was in error because the registration involved only a name change. She said that she owned the truck and that the truck was a marital asset. She said that she thinks the Utah Code sections about marital assets support her. She said that she cannot afford to pay duplicate registration fees.

The Division explained the following information in this paragraph. The prior registration was in the husband's name and was renewed for MONTH 2021 through MONTH 2022. The Taxpayer obtained a new registration in her own name on DATE, when the Taxpayer gave the title and registration to the DMV, reporting that she purchased the truck from her husband. The registration in the Taxpayer's name was valid from DATE through DATE. The Division explained that under § 41-1a-703 a new owner is required to secure a new registration. The Division noted that under § 41-1a-215, a registration is for twelve months. The Division explained that the husband's registration for MONTH 2021-MONTH 2022 was canceled when the Taxpayer obtained her registration in MONTH 2021. The Division asserted that the DMV made no error in issuing the renewal in MONTH 2021 or the new registration in MONTH 2021; the registrations were necessary for the Taxpayer to operate the truck in accordance with § 41-1a-201. The Division explained that § 41-1a-215 contains no provision for a refund if a vehicle is sold or stolen before the 12-month period has expired. The Division explained that a Taxpayer may obtain a refund of a registration only if there had been an error, such as if a vehicle was sold or lost in an accident **before** the start of a 12-month registration period. That did not occur in the Taxpayer's situation for either the MONTH 2021 renewal or the MONTH 2021 new registration. The Division said that it cannot refund the registration fees.

After considering the parties' information, the Taxpayer has not shown that the Commission can refund the registration fees in accordance with the Utah Code. The truck was required by § 41-1a-201 to be registered prior to the truck being operated. The MONTH 2021 renewal was correctly issued so that the Taxpayer could legally operate the truck starting in MONTH 2021. The Taxpayer purchased the truck from her husband in MONTH 2021. As the truck's new owner, the Taxpayer was required to register it in her own name, in accordance with § 41-1a-703. The MONTH 2021 registration was correctly issued so the Taxpayer could legally operate the truck from MONTH 2021 through MONTH 2022. Sections 41-1a-215 through 41-1a-217 provide that the registration of a vehicle is for a period of twelve months, and those sections do not provide for a refund if a vehicle is used for fewer than twelve months. Under § 41-1a-1203, a refund of registration fees is allowed if the Division collects a fee in error. Based on the above analysis, the registration fees for the truck were not collected in error; instead, they were necessary for the Taxpayer to legally operate it. The Taxpayer's situation does not meet § 41-1a-1203. The Taxpayer alleged that she owned the truck prior to the MONTH 2021 registration because the truck was a marital asset, she possessed it, and paid the vehicle loan. However, the Taxpayer did not cite to or apply any Utah case law or statutes to support her position. On the other hand, Utah Code Ann. § 30-2-3 states, "A conveyance, transfer or lien executed by either husband or wife to or in favor of the other shall be valid to the same extent as between other persons." The Taxpayer did not show that the truck's being a marital asset affected the Taxpayer's registration of the truck after she purchased it from the husband.

Lastly, the Utah Code does not provide discretion for the Commission to consider the Taxpayer's financial situation in determining whether to grant her request for a refund of registration fees. Thus, the Taxpayer's request for a refund of registration fees must be denied.

Aimee Nielson-Larios  
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission sustains the Division's Statutory Notice-Refund Request, which denied the Taxpayer's request for a refund of registration fees. 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 \_\_\_\_\_, 2022.

John L. Valentine  
Commission Chair

Michael J. Cragun  
Commissioner

Rebecca L. Rockwell  
Commissioner

Jennifer N. Fresques  
Commissioner

**Notice of Payment Requirement: Any balance due as a result of this order must be paid within thirty (30) days of the date of this order, or a late payment penalty could be applied.**