

APPEAL #24-2075
TAX TYPE: MOTOR VEHICLE
TAX YEAR: 2024
DATE SIGNED: 11/13/2025
COMMISSIONERS: J. VALENTINE, R. ROCKWELL, J. FRESQUES AND J. DEEDS

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MOTOR VEHICLE DIVISION - CUSTOMER SERVICE, UTAH STATE TAX COMMISSION,</p> <p style="text-align: center;">Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 24-2075</p> <p>Account No: #####</p> <p>Tax Type: Motor Vehicle; Impound Fee</p> <p>Tax Year: 2024</p> <p>Judge: Nielson-Larios</p>
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Presiding:

Aimee Nielson-Larios, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER'S REP-1, Representative
For Respondent: RESPONDENT'S REP-1, Assistant Attorney General
RESPONDENT'S REP-2, Motor Vehicle Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on March 4, 2025 for an Initial Hearing in accordance with Utah Code Ann. §59-1-502.5. The Petitioner asks the Commission to reverse the Respondent's ("Division") denial of the Petitioner's request for a refund of a \$\$\$\$ administrative impound fee and a \$\$\$\$ administrative testing fee. The Division asks the Commission to sustain the denial.

APPLICABLE LAW

Utah Code Ann. § 41-6a-502 prohibits a driver from operating a vehicle while under the influence of alcohol or a drug, with § 41-6a-502(1) stating the following:

An actor commits driving under the influence if the actor operates or is in actual physical control of a vehicle within this state if the actor:

- (a) has sufficient alcohol in the actor's body that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;
- (b) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the actor incapable of safely operating a vehicle; or
- (c) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation or actual physical control.

Utah Code Ann. § 41-6a-518.2 provides the following:

- (1)(b)(i) "Interlock restricted driver" means a person who has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system
- (5) An interlock restricted driver who operates or is in actual physical control of a vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

Utah Code Ann. § 41-6a-527(1) provides situations in which a peace officer must impound a vehicle, with one of the reasons being a violation of § 41-6a-502 or 41-6a-518.2. Subsection § 41-6a-527(1) states the following:

If a peace officer arrests, cites, or refers for administrative action the operator of a vehicle for violating Section 41-6a-502, 41-6a-517, 41-6a-518.2, 41-6a-520, 41-6a-530, 41-6a-606, 53-3-231, Subsections 53-3-227(3)(a)(i) through (vii), Subsection 53-3-227(3)(a)(x), or a local ordinance similar to Section 41-6a-502 which complies with Subsection 41-6a-510(1), the peace officer shall seize and impound the vehicle in accordance with Section 41-6a-1406, except as provided under Subsection (2).

Utah Code Ann. § 41-6a-1406(1) states that the impoundment of the vehicle "shall be at the expense of the owner."

Utah Code Ann. § 41-6a-1406(7)(a) states:

The vehicle, vessel, or outboard motor impounded or removed to a state impound yard as described in this section shall be released after a party . . . :

- (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;
- (ii) presents identification sufficient to prove ownership of the impounded or removed vehicle, vessel, or outboard motor;
- (iii) completes the registration, if needed, and pays the appropriate fees;
- (iv) if the impoundment was made under Section 41-6a-527 or Subsection 41-1a-1101(3), pays:
 - (A) an administrative impound fee of \$425; and
 - (B) in addition to the administrative fee . . . an administrative testing fee of \$30; and

- (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

Utah Code Ann. § 41-6a-1406(7)(c) states the requirements that must be met for the State Tax Commission to waive or refund the administrative impound fee and administrative testing fee are as follows:

The administrative impound fee and the administrative testing fee assessed under Subsection (7)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner . . . 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 180 days after the day on which the Driver License Division mailed the final notification; or
- (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

Utah Code Ann. § 59-1-1417 provides that “[i]n a proceeding before the commission, the burden of proof is on the petitioner” with the exception of certain enumerated circumstances that are not applicable in this matter..

DISCUSSION

The burden of proof is on the Petitioner for this proceeding, in accordance with § 59-1-1417(1).

On MONTH DATE, 2024, TAXPAYER vehicle was impounded. On MONTH DATE, 2024, the Division issued a denial of TAXPAYER request for a refund of the administrative impound fee and administrative testing fee charged when the vehicle was impounded. The vehicle was impounded in connection with a traffic stop wherein TAXPAYER was cited for DUI and for operating a vehicle without an ignition interlock system device.

At the hearing, Mr. TAXPAYER representative, PETITIONER’S REP-1, argued that the administrative impound fee and administrative testing fee should be waived because there was no action taken against TAXPAYER for the DUI and provided a letter from the Driver License Division (“DLD”) that stated it had decided “to take no action and not deny, suspend or revoke” TAXPAYER driving privilege. The letter from the DLD did not make any reference to TAXPAYER status as an “interlock restricted driver” or regarding the violation for operating a motor vehicle without an ignition interlock system. PETITIONER’S REP-1 did not provide any documentation showing that TAXPAYER was not an interlock restricted driver at the time the vehicle was impounded. PETITIONER’S REP-1 did not assert that the vehicle was stolen at the time it was impounded.

The Division argued that the reason the vehicle was impounded was two-fold: first, TAXPAYER was suspected of driving under the influence of drugs or alcohol; and second, TAXPAYER was operating the vehicle without the ignition interlock system in the vehicle as required for an interlock restricted driver. The Division concedes that if the vehicle were impounded only due to the suspicion of DUI, for which no action was taken on the arrest, the letter from the DLD would satisfy the requirement to refund the administrative impound fee and administrative testing fee. However, the Division argued that because there was no documentation to show that TAXPAYER was not an interlock restricted driver, and there was no ignition interlock system installed in the vehicle being operated by TAXPAYER, the officer was required to impound the vehicle pursuant to Utah Code Ann. §41-6a-527(1), and as such the impound was not improper and the fee should not be waived or refunded. The information submitted by the Division stated that TAXPAYER vehicle was impounded, in part, pursuant to a citation for an ignition interlock system violation. It further argued that this “is not an offense for which the administrative impound fee is refundable unless the vehicle was stolen, which Petitioner does not allege.” However, the Division did not cite to any specific statute, rule or precedent that would support this argument.

After considering the information and arguments presented at this Initial Hearing, the Commission considers the applicable Utah statutes. Utah Code Ann. §41-6a-527(1) provides that “if a peace officer arrests, cites, or refers for administrative action the operator of a motor vehicle for violating Section . . . 41-6a-518.2 [regarding the operation of a motor vehicle without an ignition interlock system for an interlock restricted driver]... the peace officer **shall** seize and impound the vehicle in accordance with Section 41-6a-1406, except as provided under Subsection (2).” (Emphasis added). Subsection (2) provides a number of circumstances wherein the vehicle may be released to another registered owner, other than the operator, to avoid incurring the impound fee. There was no information provided by the Petitioner that would indicate there was any request made for any other registered owner to remove the vehicle from the scene to avoid the vehicle being impounded. As such, because the Petitioner did not provide any documentation to indicate he was not an interlock restricted driver at the time the vehicle was impounded, and was cited by a peace officer for operating a motor vehicle without an ignition interlock system, the peace officer was required to impound the vehicle.

Utah Code Ann. §41-6a-527(1), provides that a vehicle is impounded at the expense of the owner of the vehicle. Utah Code Ann. §41-6a-1406(7)(c) states that the “administrative impound fee and the administrative testing fee assessed under Subsection (7)(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 180 days after the day on which the Driver License Division mailed the final notification”¹

Petitioner provided a letter from the Driver License Division dated MONTH DATE, 2024 indicating that “it is the decision of this department to take no action and not deny, suspend or revoke your driving privilege.” This letter was provided to the Tax Commission within 180 days after the issuance of the letter and clearly meets the requirements outlined in Utah Code Ann. §41-6a-527(1). As such, the Commission is required to refund the administrative impound fee and the administrative testing fee to the registered owner.

DECISION AND ORDER

For the reasons outlined herein, the Commission grants the Petitioner’s request to refund the administrative impound fee in the amount of \$\$\$\$ and the administrative testing fee in the amount of \$\$\$\$\$. 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.

¹ Utah Code Ann. §41-6a-1406(7)(c) also requires waiver of the administrative impound fee and administrative testing fee in certain circumstances involving a stolen vehicle. Neither party asserted that the vehicle in this matter was stolen.

DATED this _____ day of _____, 2025.

John L. Valentine
Commission Chair

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner

John T. Deeds
Commissioner