

APPEAL # 25-754

TAX TYPE: AUDIT - SALES & USE TAX

TAX YEAR: 2024

DATE SIGNED: 02/13/2026

COMMISSIONERS: J. VALENTINE, R. ROCKWELL, J. FRESQUES AND J. DEEDS

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>TAXPAYER,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>BUSINESS TAXES AND DISCOVERY 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. 25-754</p> <p>Account No: #####</p> <p>Tax Type: Audit - Sales &amp; Use Tax</p> <p>Tax Year: 2024</p> <p>Judge: Kuehnl</p>
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**Presiding:**

Matthew Kuehnl, Administrative Law Judge

**Appearances:**

For Petitioner: TAXPAYER

For Respondent: RESPONDENT'S REP-1, Tax Examiner Manager

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on November 4, 2025 for an Initial Hearing in accordance with Utah Code Ann. §59-1-502.5. The Taxpayer requested a waiver of the tax, penalty, and interest assessed as a result of a sales tax audit on the purchase of a motor vehicle. The Taxpayer was assessed \$\$\$\$\$ in additional tax, a %%%%% negligence penalty of \$\$\$\$\$ and interest in the amount of \$\$\$\$\$.<sup>1</sup>

APPLICABLE LAW

Sales and use tax is imposed under Utah Code Ann. §59-12-103(1) on the following:

A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

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<sup>1</sup> Pursuant to Utah Code Ann. §59-1-402, interest continues to accrue on any unpaid balance.

(a) retail sales of tangible personal property made within the state;  
...

Utah Code Ann. §59-12-102(120) defines “sale” as follows:

(118)(a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.  
...

Utah Code Ann. §59-12-102(116) defines “retail sale” as follows:

(116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:  
(a) resale;  
(b) sublease; or  
(c) subrent.

Utah Code Ann. §59-12-102(107) defines “purchase price” and “sales price” as follows:

(107)(b) "Purchase price" and "sales price" include:  
(i) the seller’s cost of the tangible personal property, a product transferred electronically, or services sold;  
(ii) expenses of the seller, including:  
(A) the cost of materials used;  
(B) a labor cost;  
(C) a service cost;  
(D) interest;  
(E) a loss;  
(F) the cost of transportation to the seller; or  
(G) a tax imposed on the seller;  
...

Utah Code Ann. §59-12-104 provides for certain exemptions from sales and use tax, as follows in pertinent part:

Exemptions from the taxes imposed by this chapter are as follows:

...  
(23) a product stored in the state for resale;  
...  
(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

Penalties are assessed under Utah Code Ann. §59-1-401(7) as follows:

(7)(a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

- (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

...

The Commission has been granted the discretion to waive penalties and interest. Utah Code Ann. §59-1-401(14) provides, “Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.”

The Commission has promulgated Administrative Rule R861-1A-42 to provide additional guidance on the waiver of penalties and interest, as follows in pertinent part:

- (1) Reasonable Cause for Waiver of Interest. Grounds for waiving interest are more stringent than for penalty. To be granted a waiver of interest, the taxpayer must prove that the commission gave the taxpayer erroneous information or took inappropriate action that contributed to the error.
- (2) Reasonable Cause for Waiver of Penalty. The following clearly documented circumstances may constitute reasonable cause for a waiver of penalty:
  - (a) Timely Mailing...
  - (b) Wrong Filing Place...
  - (c) Death or Serious Illness...
  - (d) Unavoidable Absence...
  - (e) Disaster Relief...
  - (f) Reliance on Erroneous Tax Commission Information...
  - (g) Tax Commission Office Visit...
  - (h) Unobtainable Records...
  - (i) Reliance on Competent Tax Advisor...
  - (j) First Time Filer...
  - (k) Bank Error...
  - (l) Compliance History:
    - (a) The commission will consider the taxpayer's recent history for payment, filing, and delinquencies in determining whether a penalty may be waived.
    - (ii) The commission will also consider whether other tax returns or reports are overdue at the time the waiver is requested.
  - (m) Employee Embezzlement...
  - (n) Recent Tax Law Change...
- (4) Other Considerations for Determining Reasonable Cause.
  - (a) The commission allows for equitable considerations in determining whether reasonable cause exists to waive a penalty. Equitable considerations include:
    - (i) Whether the commission had to take legal means to collect the taxes;
    - (ii) If the error is caught and corrected by the taxpayer;
    - (iii) The length of time between the event cited and the filing date;
    - (iv) Typographical or other written errors; and
    - (v) Other factors the commission deems appropriate.

- (b) Other clearly supported extraordinary and unanticipated reasons for late filing or payment, which demonstrate reasonable cause and the inability to comply, may justify a waiver of the penalty.
- (c) In most cases, ignorance of the law, carelessness, or forgetfulness does not constitute reasonable cause for a waiver. Nonetheless, other supporting circumstances may indicate that reasonable cause for waiver exists.
- (d) Intentional disregard, evasion, or fraud does not constitute reasonable cause for waiver under any circumstance.

Utah Code Ann. §59-1-1417 provides:

(1) In a proceeding before the commission, the burden of proof is on the petitioner except for determining the following, in which the burden of proof is on the commission:

- (a) whether the petitioner committed fraud with intent to evade a tax, fee, or charge;
- (b) whether the petitioner is obligated as the transferee of property of the person that originally owes a liability or a preceding transferee, but not to show that the person that originally owes a liability is obligated for the liability; and
- (c) whether the petitioner is liable for an increase in a deficiency if the increase is asserted initially after a notice of deficiency is mailed in accordance with Section 59-1-1405 and a petition under Part 5, Petitions for Redetermination of Deficiencies, is filed, unless the increase in the deficiency is the result of a change or correction of federal taxable income:
  - (i) required to be reported; and
  - (ii) of which the commission has no notice at the time the commission mails the notice of deficiency.

#### DISCUSSION

At the Initial Hearing, the Taxpayer indicated that on or about MONTH DATE, YEAR, the Taxpayer was involved in an auto accident that resulted in a total loss of her vehicle. On or about MONTH DATE, YEAR, INSURANCE COMPANY-1 issued a check to PERSON-1, the policyholder and father of the Taxpayer, in the amount of \$\$\$\$ as “Collision Coverage; TOTAL LOSS” for the Taxpayer’s vehicle.

At the Initial Hearing, the Taxpayer indicated that a week after her car accident, she went to COUNTRY-1 on a pre-planned trip. While she was gone, her parents and her grandfather, PERSON-2 (“grandfather”), found a replacement vehicle for the Taxpayer. Because the Taxpayer was out of the country, she was unable to purchase the vehicle.

In order to secure the vehicle for the Taxpayer, on or about MONTH DATE, YEAR, the Taxpayer’s grandfather obtained financing from CREDIT UNION-1 to purchase a YEAR Subaru Outback (“subject vehicle”) in the amount of \$\$\$\$\$. Of that amount, \$\$\$\$\$ was paid directly to PERSON-2, and the remaining \$\$\$\$\$ was paid to COMPANY-1 in CITY-1 City, Utah. The

Taxpayer provided a copy of the Motor Vehicle Contract of Sale (“contract”) from COMPANY-1, which shows that the purchase price of the vehicle was \$\$\$\$\$. The contract shows a line item for “Utah Sales Use Tax on Taxable Amount” in the amount of \$\$\$\$\$, and “Utah License and Registration Fees” in the amount of \$\$\$\$\$, for a total balance due of \$\$\$\$\$. Additionally, there is a calculator tape that shows an additional \$\$\$\$\$ and \$\$\$\$\$ were added to the cost of the vehicle for a warranty for the vehicle, bringing the total amount owed to \$\$\$\$\$, which represents the total amount of the loan obtained by the Taxpayer’s grandfather.

On or about MONTH DATE, YEAR, the Taxpayer secured a loan from CREDIT UNION-1 in the amount of \$\$\$\$\$ to finance the purchase of the subject vehicle. The Taxpayer provided a copy of the grandfather’s CREDIT UNION-1 Member Account History, which shows the origination of the loan for the subject vehicle in the amount of \$\$\$\$\$ on MONTH DATE, YEAR. On MONTH DATE, YEAR, the account shows two payments, one for \$\$\$\$\$, which the Taxpayer indicated represented the funds from INSURANCE COMPANY-1, and \$\$\$\$\$, which represents the loan proceeds from the loan secured by the Taxpayer. This paid off the balance of the grandfather’s loan.

At the Initial Hearing, the Taxpayer indicated that the vehicle was purchased by the grandfather for the Taxpayer while she was in COUNTRY-1 as she was unable to purchase the vehicle herself. The Taxpayer indicated that her family had researched the vehicle and felt they needed to act quickly before the vehicle was sold to someone else. The Taxpayer indicated that as soon as she returned home from her trip to COUNTRY-1, she went through the process to obtain a loan to reimburse her grandfather for the purchase of the vehicle. The Taxpayer indicated that the amount of her loan plus the insurance proceeds equaled the exact amount of the loan obtained by her grandfather. The Taxpayer indicated that because she was only reimbursing her grandfather for the purchase of the vehicle that she did not believe it qualified as a separate transaction, and that is why she indicated the purchase price was \$\$\$\$\$ on the Vehicle Application for Utah Title.

The Division’s representative stated that because sales tax is a transactional tax, it is charged every time ownership of the vehicle changes. It is the Division’s position that the grandfather appropriately paid sales tax on the initial purchase from COMPANY-1, which collected the tax, and that when title to the vehicle was transferred to the Taxpayer, she was required to pay sales tax on that transaction. The Division explained that a sale is defined by Utah Code Ann. §59-12-102(118) as any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property for consideration. The Division’s representative stated that the Taxpayer’s grandfather transferred title of the subject vehicle to the Taxpayer for

consideration, the consideration being the loan proceeds received from the Taxpayer in the amount of \$\$\$\$\$. The Division's representative indicated that a negligence penalty of %%% was assessed to the Taxpayer because on the application for Utah title, the Taxpayer indicated the purchase price was \$\$\$\$\$ rather than the \$\$\$\$\$.

The Division's representative explained that they considered the sales and use tax exemptions identified in Utah Code Ann. §59-12-104(23) and (25) but determined that neither exemption was applicable in this matter.<sup>2</sup>

### **Commission Findings and Analysis**

In accordance with Utah Code Ann. §59-1-1417(1), the Petitioner has the burden of proof with respect to the assessment of the sales and use tax, penalty, and interest in this appeal. Reviewing the information presented, the Commission finds that the sales and use tax audit deficiency was properly assessed in accordance with Utah Code Ann. §59-12-103(1)(a), which imposes a sales and use tax on retail sales of tangible personal property made within the state. Utah Code Ann. §59-12-107(7) requires the purchaser of a vehicle purchased from someone other than a regular licensed vehicle dealer to pay the sales or use tax directly to the commission at the time of registration if the vehicle is subject to titling or registration under the laws of this state.

At the Hearing, the Taxpayer indicated that she paid her grandfather \$\$\$\$<sup>3</sup> to reimburse him for purchasing the subject vehicle for her while she was out of the country on a trip to COUNTRY-1 that had been planned prior to her car accident. The Taxpayer indicated that \$\$\$\$ of the amount paid to her grandfather were proceeds from the loan she obtained for the subject vehicle and the remaining funds paid to her grandfather were the insurance proceeds received from her car accident. The Commission finds that the Taxpayer's purchase of the subject vehicle was a retail sale of tangible personal property that was subject to sales and use tax under Utah Code Ann. §59-12-103. Utah Code Ann. §59-12-102(116) defines "retail sale" as a sale, lease, or rental for a purpose other than: (a) resale; (b) sublease; or (c) subrent, and Utah Code Ann. §59-12-102(118) defines "sale" as "any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property . . . for consideration." The Commission finds that the Taxpayer's purchase of the subject vehicle was a transfer of title of tangible personal property for consideration.

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<sup>2</sup> Because the Division found these sales and use tax exemptions to be inapplicable in this matter and because the Taxpayer did not assert that either exemption applies, the Commission declines to further address these exemptions in this Initial Hearing Order.

<sup>3</sup> The Division's audit only applied the sales and use tax on \$\$\$\$ based on the loan obtained by the Taxpayer. The Division did not request to change or increase the audit and requested the original audit be upheld.

Utah Code Ann. §59-12-102(107) defines “purchase price” or “sales price” as follows:

(107)(a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

The Commission notes that the Taxpayer asserted that the Taxpayer’s purchase of the subject vehicle was an intrafamily transfer of an asset without gain and that the Taxpayer was simply reimbursing her grandfather for the purchase he made on her behalf. However, Utah Code Ann. §59-12-103 defines “sale” as “any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property . . . for consideration.” The Commission notes that the definition of “sale” only requires that there is consideration given. The Commission finds that the payment the Taxpayer made to her grandfather for the transfer of the subject vehicle’s title to the Taxpayer was consideration that was given for the transfer of the subject vehicle’s title. Thus, the Commission finds that the transaction between the Taxpayer and her grandfather did involve a transfer of title for consideration.

Furthermore, there is no statutory provision that authorizes a sales or use tax exemption for intrafamily asset transfers. The Commission finds that the transfer of the vehicle’s title was a transfer of title of tangible personal property for consideration, is a transaction that is subject to sales or use tax, and is a transaction that is not exempt from sales or use tax. Furthermore, the Taxpayer’s submitted Vehicle Application for Utah Title incorrectly stated that the purchase price was \$\$\$\$\$ and was a gift, and the Taxpayer’s submitted title document incorrectly stated that the sales price of the motor vehicle was \$\$\$\$\$ and was a gift. The Commission finds that the Taxpayer failed to pay the total amount of sales and use tax owing at the time of registration and the Division’s sales and use tax audit deficiency should be sustained.

The Division assessed a negligence penalty in accordance with Utah Code Ann. §59-1-401(7)(a)(i). The Utah Supreme Court held in *Benjamin v. Utah State Tax Comm’n*, that a negligence penalty is appropriate "when the tax-payer has failed to pay taxes and a reasonable investigation into the applicable rules and statutes would have revealed that the taxes were due." (citing *Hales Sand & Gravel, Inc. v. Audit Div.*, 842 P.2d 887, 895 (Utah 1992)).<sup>4</sup> Furthermore, the Court stated that “[t]he taxpayer can escape the penalty if he or she can show that he or she based the nonpayment of taxes on a legitimate, good faith interpretation of an arguable point of

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<sup>4</sup> *Benjamin v. Utah State Tax Comm’n*, 2011 UT 14, 32, 250 P.3d 39, 47 (Utah 2011).

law."<sup>5</sup> The Commission notes that the Taxpayer failed to pay the sales and use tax due on the purchase of the subject vehicle. However, the Commission notes that this is a complex fact pattern where the Taxpayer believed she was simply repaying her grandfather and that this repayment did not result in an additional transaction that was subject to sales and use taxes. Thus, the Commission finds that the negligence penalty assessed in the Statutory Notice should be abated.

Pursuant to Utah Code Ann. §59-10-537, interest is assessed if a tax is not paid by the due date. It has been determined that there is a tax deficiency for the audit period at issue. The Commission has the discretion to waive interest under Utah Code Ann. §59-1-401(14), and has promulgated Administrative Rule R861-1A-42 regarding the waiver of interest. Subsection (2) of Rule R861-1A-42 specifically provides, “[g]rounds for waiving interest are more stringent than for penalty. To be granted a waiver of interest, a taxpayer must prove that the commission gave the taxpayer erroneous information or took inappropriate action that contributed to the error.” Interest is not assessed to punish taxpayers. Instead, interest is assessed to compensate the state for the time value of money. The State of Utah was denied the use of the funds from the time the taxes were originally due. In this appeal, the Taxpayer has the burden of proof and has not provided any information to show that the Commission gave her erroneous information or took inappropriate action that contributed to the error. Thus, the Taxpayer has not demonstrated sufficient grounds for the waiver of interest in this appeal.

Matthew Kuehnl  
Administrative Law Judge

#### DECISION AND ORDER

Based on the foregoing, the Commission sustains the Auditing Division’s sales and use tax audit and interest assessed for the February 1, 2024 to February 29, 2024 audit period. The Commission abates the negligence penalty assessed by the Division pursuant to Utah Code Ann. §59-1-401(7)(a)(i). 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

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<sup>5</sup> *Id.*

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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 \_\_\_\_, 2026.

John L. Valentine  
Commission Chair

Rebecca L. Rockwell  
Commissioner

Jennifer N. Fresques  
Commissioner

John T. Deeds  
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.**