

ENTERPRISE RENT-A-CAR
200 Vestavia Parkway, Suite 3700
Birmingham, AL 35216,

Petitioner,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. MV. 01-234

FINAL ORDER

The Madison County, Alabama License Commissioner denied refunds of motor vehicle license taxes and registration fees, issuance fees, and ad valorem taxes paid by Enterprise Rent-A-Car (APetitioner@) in November 2000 concerning 113 motor vehicles. The Petitioner appealed to the Administrative Law Division pursuant to Code of Ala. 1975, § 40-2A-7(c)(5)a. A hearing was conducted on May 23, 2001. Chuck Carr and Tom O'Hara represented the Petitioner. Assistant Counsel John Breckenridge represented the Department.

The Petitioner paid motor vehicle license tax and registration fees, issuance fees, and ad valorem tax to the Madison County License Commissioner in November 2000 concerning 113 motor vehicles. The issue in this case is whether the Petitioner is entitled to a refund of any or all of the amounts paid.

The Petitioner is a rental car company doing business in Alabama. It registered hundreds of its motor vehicles in various counties in Alabama in November 2000. It also mistakenly re-registered 113 of the vehicles with the Madison County License Commissioner in the same month.

The Petitioner petitioned the Madison County License Commissioner for refunds. The License Commissioner denied the refunds because the Petitioner failed to surrender the license plates and decals that had been issued for the subject vehicles, as required by Dept. Reg. 810-14-1-23. The Petitioner

appealed, explaining that the licenses and decals had been inadvertently discarded.

All private passenger motor vehicles in Alabama must be registered annually. Code of Ala. 1975, ' 40-12-242. When registering a vehicle, the owner must pay the license tax and registration fee pursuant to ' 40-12-242, the appropriate ad valorem tax pursuant to ' 40-12-253, and a \$1.25 issuance fee to the appropriate county licensing official, as required by ' 40-12-171. The Petitioner paid the above amounts twice on the 113 vehicles in issue in this case.

The Department is authorized to issue refunds for any erroneously paid license tax. Code of Ala. 1975, ' 40-12-23. That section applies to the license tax and registration fee levied at ' 40-12-242. However, Dept. Reg. 810-14-1-.23(4) requires that before a refund can be issued, the applicant must surrender the license plate or revalidation decal to the county licensing official. Such plates and decals must be surrendered to prevent their improper use.

In this case, the Petitioner was unable to surrender the subject tags and decals to the Madison County License Commissioner. Consequently, refunds of the license taxes and registration fees paid pursuant to ' 40-12-242 were properly denied.

The \$1.25 issuance fee levied at ' 40-12-271 is to reimburse the county licensing official for the cost of issuing motor vehicle licenses. The Petitioner thus properly paid that issuance fee each time it registered the vehicles. Those amounts should not be refunded. The Petitioner also paid ad valorem tax twice on the subject vehicles for the same period. Payment of ad valorem tax to Madison County after the tax had already been paid to another county constituted an improper overpayment. The Administrative Law Division does not, however, have jurisdiction concerning ad valorem taxes, with exceptions not applicable here, and thus cannot order a refund of the ad valorem taxes that were overpaid. Code of Ala. 1975, ' 40-2A-2(2).

The Department suggested at the May 23 hearing that the Petitioner should resubmit its petition for refund to the Madison County License Commissioner, with proof that ad valorem taxes had been previously paid on the subject vehicles. If such adequate proof is presented, the tax erroneously paid a second time to Madison County should be refunded. The 810-14-1-.23(4) requirement that the plate or decal must first be surrendered applies only to refunds of license taxes and registration fees levied at § 40-12-242. It does not apply to ad valorem taxes, and thus does not prevent the License Commissioner from granting the refunds.

This Final Order may be appealed to circuit court within 30 days. Code of Ala. 1975, § 40-2A-9(g).

Entered May 30, 2001.