

Before the
Administrative Hearing Commission
State of Missouri



NATHANIEL REEVES,)	
)	
Petitioner,)	
)	
vs.)	No. 14-0789 RV
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

Nathaniel Reeves is not entitled to a refund of sales tax on his purchase of a 2006 Jeep.

Procedure

On May 19, 2014, Reeves filed a complaint challenging the Director of Revenue's (Director's) final decision denying him a refund of motor vehicle sales tax on his purchase of a 2006 Jeep. The Director filed an answer on June 16, 2014. On October 1, 2014, we held a hearing. The Director was represented by Christopher Fehr. Reeves appeared *pro se*.

Findings of Fact

1. On October 12, 2013, Reeves purchased a 2006 Jeep for \$18,000.
2. On May 3, 2014, Reeves sold a 1991 GMC for \$10,100.
3. On May 9, 2014, Reeves submitted an application for sales tax refund.

4. The Director rendered a final decision denying the application for refund on May 13, 2014.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director's final decisions.¹ Reeves has the burden of proof.² Our duty in a tax case is not merely to review the Director's decision, but to find the facts and determine, by the application of existing law to those facts, the taxpayer's lawful tax liability for the period or transaction at issue.³

Section 144.025.1, RSMo 2013, provides in part:

[I]n any retail sale . . . where any article on which sales or use tax has been paid, credited, or otherwise satisfied or which was exempted or excluded from sales or use tax is taken in trade as a credit or part payment on the purchase price of the article being sold, the tax imposed by sections 144.020 and 144.440 shall be computed only on that portion of the purchase price which exceeds the actual allowance made for the article traded in or exchanged, if there is a bill of sale or other record showing the actual allowance made for the article traded in or exchanged... This section shall also apply to motor vehicles... sold by the owner... if the seller purchases or contracts to purchase a subsequent motor vehicle ... **within one hundred eighty days** before or after the date of the sale of the original article[.]
[Emphasis added].

Reeves seeks to offset his liability for sales tax on the purchase price of the 2006 Jeep he purchased on October 12, 2013 by the sale price of the 1991 GMC he sold on May 3, 2013. But tax credits are construed strictly against the taxpayer.⁴ Under the law, the sale of the 1991 GMC cannot be considered a trade-in or exchange because it was too remote in time from the purchase of the 2006 Jeep.

¹ Section 621.050.1, RSMo 2000.

² *Id.*

³ *J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

⁴ *Hermann v. Director of Revenue*, 47 S.W.3d 362, 365 (Mo. banc 2001).

A refund is a limited waiver of sovereign immunity and is not allowed unless expressly permitted by statute.⁵ “When a state consents to be sued, it may be proceeded against only in the manner and to the extent provided by the statute; and the state may prescribe the procedure to be followed and such other terms and conditions as it sees fit.”⁶ Section 144.025.1 allows for a refund of sales tax only if the purchase of the subsequent motor vehicle occurs within 180 days of the sale of the first motor vehicle. Here, Reeves’ sale of the 1991 GMC occurred 203 days after the purchase of the 2006 Jeep. Therefore, Reeves’ sale of the 1991 GMC does not meet the conditions required by § 144.025.1, and he is not entitled to a refund of sales tax.

We must apply the law as written, and we are not authorized to make exceptions.⁷

Summary

Reeves is not entitled to a refund of sales tax on the 2006 Jeep.

SO ORDERED on December 24, 2014.

\\ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner

⁵ *Community Fed. Sav. & Loan Ass’n v. Director of Revenue*, 796 S.W.2d 883, 885 (Mo. banc 1990).

⁶ *State ex rel. Brady Motorfrate, Inc. v. State Tax Comm’n*, 517 S.W.2d 133, 137 (Mo. 1974).

⁷ *Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985).