

Before the
Administrative Hearing Commission
State of Missouri



KAMARIA HARRIS,)	
)	
Petitioner,)	
)	
vs.)	No. 13-0144 RV
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

Kamaria Harris is liable for an additional \$145.27 in local sales tax on her purchase of a motor vehicle.

Procedure

On January 28, 2012, Harris filed a complaint appealing a final decision by the Director of Revenue (“the Director”) assessing additional local sales tax on her purchase of a motor vehicle. We held a hearing on June 20, 2013. Legal Counsel Benjamin C. Slawson represented the Director. Harris represented herself. The matter became ready for our decision on August 6, 2013, the date Harris’s written argument was due.

Findings of Fact

1. Harris resided within the city limits of Raytown, Missouri, in 2012.

2. On April 26, 2012, Harris purchased a motor vehicle, a 2012 Honda (“the Honda”) for \$38,737.40 from a motor vehicle dealer in Missouri.¹

3. On May 18, 2012, Harris registered and titled the Honda at the Raytown license office (“the license office”).

4. Although Harris provided her correct address to the license office when she registered the Honda, the license office representative incorrectly determined the amount of local tax owed. The representative calculated the amount of local tax Harris owed based on the combined Kansas City/Jackson County rate of 3.625%, instead of the Raytown/Jackson County rate of 4.0%.

5. Harris paid a total amount of \$3,192.84, by credit card. This total represented the following amounts paid:

Titling fee	\$ 8.50
Agent fee	\$ 2.50
Additional agent fee	\$ 7.00
Registration fee	\$ 48.50
State sales tax	\$1,636.66
Local sales tax	\$1,404.23
Credit card fee	<u>\$ 85.45</u>
TOTAL	\$3,192.84

6. The City of Raytown audited the license office. The audit determined that Harris had paid local sales tax at the rate of 3.625% on her purchase of the Honda. The correct tax rate for Raytown was 4.0% (2.75% Raytown and 1.75% Jackson County).

¹ There is no evidence in the record where the dealer was located. With no evidence to the contrary, and because Harris has the burden of proof in this proceeding, we infer that the dealer was located in Missouri.

7. On January 18, 2013, the Director issued a final decision assessing Harris additional local sales tax in the amount of \$145 – the difference between the amount of local sales tax Harris paid (\$1,404.23), and the correct local sales tax for Raytown (\$1,549.50).

8. Harris timely appealed the Director’s final decision.

Conclusions of Law

We have jurisdiction to hear Harris’ complaint. Section 621.050.1.² Harris has the burden to prove she is not liable for the amount that the Director assessed. Sections 621.050.2 and 136.300.2. Our duty in a tax case is not merely to review the Director’s decision, but to find the facts and to determine, by the application of existing law to those facts, the taxpayer’s lawful tax liability for the period or transaction at issue. *J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990). We may do whatever the law permits the Director to do, and we must do what the Director must do. *State Bd. of Regis’n for the Healing Arts v. Finch*, 514 S.W.2d 608, 614 (Mo. App., W.D. 1974).

Section 144.070.1, RSMo Supp. 2012, provides:

At the time the owner of any new or used motor vehicle, trailer, boat, or outboard motor which was acquired in a transaction subject to sales tax under the Missouri sales tax law makes application to the director of revenue for an official certificate of title and the registration of the motor vehicle, trailer, boat, or outboard motor as otherwise provided by law, the owner shall present to the director of revenue evidence satisfactory to the director of revenue showing the purchase price exclusive of any charge incident to the extension of credit paid by or charged to the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in its acquisition, the applicant shall pay or cause to be paid to the director of revenue the sales tax provided by the Missouri sales tax law in addition to the registration fees now or hereafter required according to law, and the director of revenue shall not issue a certificate of title for any new or used motor vehicle, trailer, boat, or outboard motor subject

² Statutory references, unless otherwise noted, are to RSMo 2000.

to sales tax as provided in the Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to 144.510 has been paid as provided in this section or is registered under the provisions of subsection 5 of this section.

Section 144.069 provides:

All sales of motor vehicles, trailers, boats and outboard motors shall be deemed to be consummated at the address of the owner thereof, and all leases of over sixty-day duration of motor vehicles, trailers, boats and outboard motors subject to sales taxes under this chapter shall be deemed to be consummated unless the vehicle, trailer, boat or motor has been registered and sales taxes have been paid prior to the consummation of the lease agreement at the address of the lessee thereof on the date the lease is consummated, **and all applicable sales taxes levied by any political subdivision shall be collected on such sales by the state department of revenue on that basis.**

(Emphasis added). Thus, when the purchaser of a motor vehicle registers that vehicle, he or she must pay all applicable taxes, including all sales taxes levied by a political subdivision. The local sales taxes are determined by the owner's address because § 144.069 deems any such sale to be consummated there.

Finally, § 32.087.13, RSMo Supp. 2012, provides:

Local sales taxes imposed pursuant to the local sales tax law on the purchase and sale of motor vehicles, trailers, boats, and outboard motors shall not be collected and remitted by the seller, but **shall be collected by the director of revenue at the time application is made for a certificate of title, if the address of the applicant is within a taxing entity imposing a local sales tax under the local sales tax law.**

(Emphasis added). Harris lived within city limits of Raytown when she registered the Honda. But she paid local sales tax at a rate lower than Raytown's, because that is what the license office told her to pay.

Harris registered her vehicle and paid the tax, believing she had discharged her duty. Almost two years later, she received a notice telling her she owed additional tax. No doubt this

was an unpleasant surprise. Although the notice of assessment did not so state, her underpayment of local sales tax was evidently due to a mistake made by the license office. Harris believes the license office personnel should be competent to calculate the correct taxes and fees when a taxpayer registers her vehicle, and that the license office should take responsibility for any deficiency resulting from its mistake.

This sentiment is understandable, but we are unable to simply excuse Harris' liability for the additional tax. Because this Commission was created by state statutes, we have only such authority as the statutes give us. *State Bd. of Reg'n for the Healing Arts v. Masters*, 512 S.W.2d 150, 161 (Mo. App., K.C.D. 1974). Neither the Director, his employees, nor this Commission has the power to change the law. *Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985). The law provides that all applicable sales taxes, including all local sales taxes, must be paid when a vehicle is registered. Harris did not pay the correct amount of local sales tax when she registered the Honda. She must do so now. She is entitled to a credit against this amount of \$1,404.23, the amount she previously paid.

Summary

Harris is liable to pay the assessment of \$145.27, additional local sales tax owed to the City of Raytown, on her purchase of the Honda.

SO ORDERED on August 9, 2013.

\s\ Karen A. Winn

KAREN A. WINN

Commissioner