

Before the  
Administrative Hearing Commission  
State of Missouri



JOHN LYYTINEN,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. 14-0003 RV
	)	
DIRECTOR OF REVENUE,	)	
	)	
Respondent.	)	

**DECISION**

John Lyytinen is not entitled to an additional credit toward sales tax on the purchase of his 2007 Cadillac and is liable for sales tax in the amount of \$1,203.46 thereon.

**Procedure**

On January 2, 2014, Lyytinen filed a complaint challenging the Director of Revenue's (Director's) final decision assessing unpaid motor vehicle sales tax on his purchase of a 2007 Cadillac. The Director filed an answer on February 5, 2014. On August 20, 2014, we held a hearing. The Director was represented by Spencer Martin and Chris Fehr. Lyytinen represented himself.

**Findings of Fact**

1. On September 13, 2010, Lyytinen purchased a 2007 Cadillac for \$21,981.

2. On December 3, 2010, Lyytinen purchased a 2007 Chevrolet for \$36,373.72 and traded in a 2011 Chevrolet with a value of \$96,572.72.

3. On February 8, 2011, Lyytinen submitted applications for title for both 2007 vehicles described above.

4. Lyytinen received a credit for all of the sales tax otherwise due and owing on the 2007 Chevrolet based on the excess value of the 2011 trade-in over the purchase price of the 2007 Chevrolet.

5. Lyytinen was also, erroneously, given credit for all of the sales tax due and owing on the 2007 Cadillac.

6. The Director discovered the error and assessed sales tax on the 2007 Cadillac, which assessment Lyytinen now appeals.

### **Conclusions of Law**

This Commission has jurisdiction over appeals from the Director's final decisions.<sup>1</sup> Lyytinen has the burden of proof.<sup>2</sup> 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.<sup>3</sup>

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[.]

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<sup>1</sup> Section 621.050.1, RSMo 2000.

<sup>2</sup> *Id.*

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

\* \* \*

Where the trade- in or exchange allowance . . . exceeds the purchase price of the purchased article there shall be no sales or use tax owed. This section shall also apply to motor vehicles, trailers, boats, and outboard motors sold by the owner or holder of the properly assigned certificate of ownership if the seller purchases or contracts to purchase a subsequent motor vehicle, trailer, boat, or outboard motor within one hundred eighty days before or after the date of the sale of the original article[.]

Lyytinen seeks to apply \$38,218.00 in excess net proceeds from the trade-in of the 2011 Chevrolet for the 2007 Chevrolet to cover the entire purchase price of the 2007 Cadillac and escape the assessment of sales tax on the earlier transaction. In other words, Lyytinen is seeking to apply an excess credit from one transaction (the trade of the 2011 Chevrolet for the 2007 Chevrolet) to another, earlier transaction (the purchase of the 2007 Cadillac). The Director asserts that the law does not allow Lyytinen to do so, and we agree.

Tax credits are construed strictly against the taxpayer.<sup>4</sup> Section 144.025 provides a credit against the purchase price for purposes of the tax imposed when an item is taken in trade as a credit or partial payment on the purchase price of the article being sold. Lyytinen surrendered the 2011 Chevrolet in trade for the 2007 Chevrolet and received the credit allowed him on the trade-in.

Even though the aggregate purchase price of both 2007 vehicles acquired by Lyytinen in 2010 was less than the trade-in value of the 2011 Chevrolet, he is only entitled to the trade-in credit on one transaction. Section 144.025 makes no allowance for such a retrospective application of a credit for the vehicle acquired before a trade-in. It specifically states that when “the trade- in or exchange allowance . . . exceeds the purchase price of the purchased article there shall be no sales or use tax owed.” It does *not* expressly provide for a refund of any tax or for

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

the use of the credit in another transaction. Because the statute does not so provide, and, as a credit provision, it must be strictly construed against the taxpayer, we conclude that the credit is only allowed to apply up to the purchase price of the item against which it is applied so that no sales or use tax is owed on the purchase. Any “excess” credit is not refundable or transferable.

Lyytinen received the full amount of the credit allowed by law when he registered the 2007 Chevrolet, and in fact, maximized the value of the credit by trading the 2011 Chevrolet for the more expensive of the two he purchased in 2010. He is not entitled to combine the transactions or to split the credit between his two purchases. We must apply the law as written, and we are not authorized to make exceptions.<sup>5</sup> Therefore, we conclude that Lyytinen is not entitled to the credit on the state or local sales tax owed on his purchase of the 2007 Cadillac.

### **Summary**

We affirm the assessment of the unpaid sales tax on the 2007 Cadillac against Lyytinen and find that he owes \$1,203.46 on the purchase of that motor vehicle.

SO ORDERED on December 24, 2014.

\\ Sreenivasa Rao Dandamudi  
SREENIVASA RAO DANDAMUDI  
Commissioner

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<sup>5</sup> *Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985).