# ADMINISTRATIVE HEARING COMMISSION OF MISSOURI

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| THOMAS HART, | ) | |
| | ) | |
| Petitioner, | ) | |
| | ) | |
| v. | ) | No. 23-0683 |
| | ) | |
| DIRECTOR OF REVENUE, | ) | |
| | ) | |
| Respondent. | ) | |

**DECISION**

Thomas Hart is not entitled to a sales tax refund for the purchase of his 2023 Hyundai.

**Procedure**

On August 23, 2023, Hart filed a complaint with attached documents appealing the Director's denial of a vehicle sales-tax credit. On September 26, 2023, the Director filed an answer. On January 10, 2024, we held a hearing on the matter. Hart represented himself; J. Ross Shelton represented the Director.

**Findings of Fact**

1. On May 10, 2022, Carli Zaragoza, who is Hart's domestic partner, suffered the total loss of her 2015 Kia Optima.

2. On October 11, 2022, Hart purchased a 2023 Hyundai for $55,205. He paid $4,609.62 in state and local sales tax.

3. On February 14, 2023, Zaragoza's insurance company paid her $14,986 for the loss.

4. On April 19, 2023, Hart filed Form 426 with the Director requesting a tax refund for the purchase of a vehicle he acquired within 180 days of the total loss of Zaragoza's Kia.

5. On July 27, 2023, the Director sent Hart a letter denying his refund request.

## Conclusions of Law

This Commission has authority over appeals from the Director's final decisions. Section 621.050.1.[1] 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. *See J.C. Nichols Co. v. Dir. of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990). Hart has the burden of proving that he is entitled to a tax exemption under the law. Section 621.050.2.

A refund is a limited waiver of sovereign immunity and is not allowed unless expressly permitted by statute. *Community Fed. Sav. & Loan Ass'n v. Director of Revenue*, 796 S.W.2d 883, 885 (Mo. banc 1990). "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." *State ex rel. Brady Motorfrate, Inc. v. State Tax Comm'n*, 517 S.W.2d 133, 137 (Mo. 1974). Accordingly, tax credits and exemptions from taxation are construed strictly against the taxpayer, and any doubt or ambiguity is resolved against the taxpayer. *Hermann v. Dir. of Revenue*, 47 S.W.3d 362, 365 (Mo. banc 2001); *see also*, *Branson Props. USA, L.P. v. Dir. of Revenue*, 110 S.W.3d 824, 825 (Mo. banc 2003).

Section 144.027.1 states, in relevant part:

> When a motor vehicle, trailer, boat or outboard motor for which all sales or use tax has been paid is **replaced** due to theft or a casualty loss in excess of the value of the unit, the director shall permit the amount of the **insurance proceeds plus any owner's deductible obligation, as certified by the insurance company, to be a credit against the purchase price of another motor vehicle**, trailer, boat or outboard motor which is purchased or is contracted to purchase within one hundred eighty days of the date of payment by the insurance company **as a replacement motor vehicle**, trailer,

[1] Unless otherwise noted, statutory references are to RSMo 2016.

boat or outboard motor.

(Emphasis added). Section 144.027.1 explicitly states that the credit applies to the price of a *replacement* vehicle. "Replace" means to substitute. *Replace,* WEBSTER'S NEW COLLEGE DICTIONARY 962 (3rd ed. 2008). The credit thus allows the *owner* of a vehicle that is declared a total loss to replace that vehicle with another vehicle and avoid having to pay the full amount of sales tax. An owner is:

> **any person**, firm, corporation or association, **who holds the legal title to a vehicle** . . . or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof, with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional . . . lessee . . . then such conditional . . . lessee . . . shall be deemed the owner[.]

Section 301.010(45), RSMo Supp. 2023 (emphasis added). While Hart and Zaragoza may be domestic partners, they are not the same "person" under the law. *See* § 144.010(8)[2] ("'Person' includes any *individual*, firm, [various types of business organizations], state, county, political subdivision, department, commission . . . estate, trust . . . or any other group or combination acting as a unit . . . ." (emphasis added)). Hart did not hold the legal title to the Kia; therefore, he was not the owner of the Kia and does not qualify for a credit for its replacement.

Accordingly, Hart may not use the amount of the insurance proceeds awarded to Zaragoza as a credit against the purchase price of his Hyundai. Hart is not entitled to a sales-tax refund.

SO ORDERED on February 5, 2026.

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KATIE JO WHEELER
Commissioner

[2] RSMo Supp. 2022.