



STATE OF ARKANSAS  
**Department of Finance  
and Administration**

**OFFICE OF THE DIRECTOR**

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May 22, 2019

[REDACTED]

RE: In the Matter of [REDACTED]  
Request for Revision  
Docket No: 19-056

[REDACTED]:

This letter is prepared in response to your request for a revision of the Administrative Decision entered in the above-referenced matter on November 2, 2018. Your e-mail, dated November 13, 2018, is considered a timely filed request for revision and this letter will constitute the final Administrative Decision of the Arkansas Department of Finance and Administration (“Department”) under the Arkansas Tax Procedure Act. Ark. Code Ann. § 26-18-405 (Supp. 2017).

**FACTS**

The administrative hearing dealt with the issue of whether you were entitled to a motor vehicle tax credit in relation to the purchase of a new vehicle. The hearing officer held that you failed to prove by a preponderance of the evidence entitlement to the claimed credit. The following facts are adopted for purposes of this response:

- On September 5, 2017, you purchased a 2015 [REDACTED] Motorcycle (VIN [REDACTED]) (“Vehicle A” hereafter) from a third party, [REDACTED].
- You registered Vehicle A on October 3, 2017 and claimed a trade-in credit for the sale of a 2012 [REDACTED] (VIN [REDACTED]) (Vehicle “B” hereafter), which reduced the state and local sales tax due on your purchase of Vehicle A.
- At the time you registered Vehicle A, you provided a bill of sale dated August 26, 2017 reflecting the sale of Vehicle B to another third party, [REDACTED]. The bill of sale did not include an address for the purchaser, [REDACTED].
- Vehicle B was not registered by the purchaser and is still registered in your name.

- The Office of Tax Credits denied the trade-in credit of \$7,500.00 and assessed additional tax against you in relation to the purchase of Vehicle A. You timely protested the assessment of the tax and requested that the matter be set for hearing.

The hearing officer correctly set forth the law concerning the burden of proof in this matter. In rendering his decision, the hearing officer determined that the bill of sale you provided did not comply with the requirements of Arkansas Gross Receipts Tax Rule GR-12.1(D)(1)(a) in that the bill of sale did not include an address for the purchaser of Vehicle B, preventing the application of the motor vehicle tax credit. The hearing officer correctly noted that your claim of a sales tax credit in lieu of trade-in on the private sale of Vehicle B was not supported by the evidence in the record, including evidence that Vehicle B was still registered in your name. The hearing officer sustained the assessment as a result of your failure to demonstrate by a preponderance of the evidence that you had complied with the requirements of GR-12.1(D)(1)(a) and were entitled to the motor vehicle tax credit on your purchase of Vehicle A.

In your request for revision, you state:

I wish that a revision on the decision of the Administrative Law Judge, Judge Ray Howard, be revised. I feel this is unfair on my part. Me providing an address for the buyer, of my 2012 [REDACTED], does not change the fact, that the owner of the bike has not licensed it. He could be out of state or could have changed addresses or never has any intentions [*sic*] of licensing the bike. I cannot help that nor should it be my problem. As I have stated before, I have never been asked by the DMV for an address on a bill of sale. The person at the DMV gave me the credit. I paid what she told me to pay. The other thing is, why do the employees of the [REDACTED] DMV think this is wrong? They have stated to me that, they cannot believe I am being charged for this. That is a fact.

You did not include any additional facts or documentation in support of your request for revision. To the extent that your request for a revision requests the application of estoppel, the hearing officer correctly held that the evidence does not support a claim of estoppel.

### ANALYSIS

Arkansas Code Annotated § 26-52-510(b)(1)(A) (Repl. 2014) provides that, when a used motor vehicle is taken in trade as a credit or part payment on the sale of a new or used motor vehicle, gross receipts (sales) tax shall be paid on the net difference between the total consideration for the purchased vehicle and the credit for the used vehicle taken in trade.

Documents included in the record and maintained by the Office of Motor Vehicle support the fact that you purchased Vehicle A for \$11,500 on September 5, 2017. Consequently, the Department bore its burden of showing that a sale of tangible personal property occurred. As the

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Taxpayer, you bore the burden of proving by a preponderance of the evidence that you were entitled to the motor vehicle tax credit. The record does not support the fact that you sold Vehicle B by private sale within forty-five (45) days of your purchase of Vehicle A, which is required in order to establish entitlement to the motor vehicle tax credit.

### **CONCLUSION**

For the reasons set forth above, the decision of the hearing officer is affirmed and the assessment will be upheld. This concludes your administrative remedies under the Arkansas Tax Procedure Act. The Taxpayer may seek relief from this decision according to the procedure set forth in Ark. Code Ann. § 26-18-406 (Repl. 2014 and Supp. 2017).

Sincerely,

Walter Anger  
Deputy Director and  
Commissioner of Revenue