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September 4, 2012

OPINION NO. 2012-04

DEPARTMENT OF MOTOR VEHICLES;
FEES; REGISTRATION: A transfer of registration occurs when there is a transfer of ownership of a vehicle or the vehicle becomes unusable, and the holder of the original registration transfers the registration from the previously owned vehicle to another vehicle to be registered to the same holder. The Department must charge the six dollar transfer fee when the customer elects to use his or her credit from a surrendered registration on either a new or existing vehicle registration. There is no statutory minimum dollar amount that can be considered a credit.

Bruce Breslow, Director
State of Nevada
Department of Motor Vehicles
555 Wright Way
Carson City, Nevada 89711

Dear Director Breslow:

On February 23, 2012, you requested a formal opinion from the Office of the Attorney General regarding how and when to apply the six dollar (\$6.00) "transfer of registration fee" provided for in NRS 482.480. The Department of Motor Vehicles'

(Department) current interpretation of this issue equates a “transfer” with reassigning a license plate from one vehicle to another by the same registered owner. As you explained in your letter, when a customer transfers his or her registration and license plate to another vehicle, and does not apply for use of credits, a transfer fee of six dollars (\$6.00) is charged to the customer. However, if the customer chooses to receive a new registration and license plate, exclusive of the use of credits, the customer is only charged one dollar (\$1.00) in addition to other fees. In these circumstances, you have asked the following questions: 1) What constitutes a “transfer of registration” under NRS 482.480; 2) should the Department charge the six dollar (\$6.00) transfer fee when a customer wants to use his or her credit from a surrendered registration on either a new or existing vehicle registration; and, 3) is there a minimum dollar amount that may constitute a credit?

QUESTION ONE

What constitutes a “transfer of registration” under NRS 482.480?

ANALYSIS

“To determine legislative intent, [the Nevada Supreme Court] first looks at the plain language of a statute.” *Allstate Insurance Co. v. Fackett*, 125 Nev. 132, 138, 206 P.3d 572, 576 (2009) (citing *Salas v. Allstate Rent-A-Car, Inc.*, 116 Nev. 1165, 1168, 14 P.3d 511, 513-14 (2000)). The Court will “only look beyond the plain language if it is ambiguous or silent on the issue in question.” *Id.* Here, NRS 482.480 sets out the fee schedule for various registration transactions. The fee pertinent to this opinion is found in section (5), which reads as follows:

There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:

5. For each transfer of registration, a fee of \$6 in addition to any other fees.

NRS 482.480(5). NRS 482.480(5) does not define the term “transfer of registration.” The term furthermore could be given different meanings, and is therefore ambiguous. When a statute is ambiguous, it may be construed by referring to well-known canons of statutory construction. *State of Nevada Employees Ass’n v. Lau*, 110 Nev. 715, 718, 877 P.2d 531, 534 (1994). The court “read[s] statutes within a statutory scheme harmoniously with one another to avoid an unreasonable or absurd result.” *Fackett*, 125 Nev. at 138, 206 P.3d at 576 (citing *Torrealba v. Kesmetis*, 124 Nev. 95, 101, 178 P.3d 716, 721 (2008)). Therefore, other sections of NRS Chapter 482 may be considered to determine the meaning of a “transfer of registration.”

Elsewhere within NRS Chapter 482, NRS 482.399(1) provides that a vehicle's registration expires upon the transfer of ownership of, or interest in, any vehicle by any holder of a valid registration, or if the vehicle is destroyed. The predicate to a transfer of registration is the transfer of ownership of a vehicle, or a vehicle becoming unusable. NRS 482.399(2) further describes this:

The holder of the original registration may transfer the registration to another vehicle to be registered by the holder and use the same regular license plate or plates or special license plate or plates issued pursuant to NRS 482.3667 to 482.3822, inclusive, or 482.384, on the vehicle from which the registration is being transferred, if the license plate or plates are appropriate for the second vehicle, upon filing an application for transfer of registration and upon paying the transfer registration fee and the excess, if any, of the registration fee and governmental services tax on the vehicle to which the registration is transferred over the total registration fee and governmental services tax paid on all vehicles from which he or she is transferring ownership or interest.

NRS 482.339(2). In sum, based on NRS 482.399(2), a transfer of registration occurs when the holder of the original registration transfers the registration from a previously owned or unusable vehicle to another vehicle to be registered by the holder. This, in turn, occurs when the holder makes either one or both of two elections: 1) to transfer plates from one vehicle to another; 2) to use credit due under NRS 482.399(3) and (4), as described in answer to the following question.

CONCLUSION TO QUESTION ONE

NRS 482.399 and 482.480 should be read together in a manner to avoid an unreasonable or absurd result. A "transfer of registration" occurs when there is a transfer of ownership of a vehicle or the vehicle becomes unusable, and the holder of the original registration transfers the registration from the previously owned vehicle to another vehicle to be registered to the same holder.

QUESTION TWO

Should the Department charge the six dollar (\$6.00) transfer fee when a customer wants to use his or her credit from a surrendered registration on either a new or existing vehicle registration?

ANALYSIS

As discussed in answer to Question One, NRS 482.480 requires a fee of six dollars (\$6.00) to be charged for a transfer of registration. The holder must pay the six dollar (\$6.00) transfer of registration fee and also the excess, if any, of the registration fee and governmental service tax paid on all vehicles from which the holder is transferring ownership or interest.

The amount of registration fees and governmental service tax remaining on the vehicle(s) from which the holder transfers ownership is referred to as credit. NRS 482.399(3) and (4) set out how the credit is to be computed. The governmental services tax credit is the "portion of the tax paid on the first vehicle attributable to the remainder of the current registration period or calendar year on a pro rata monthly basis against the tax due on the second vehicle or any other vehicle of which the person is the registered owner." NRS 482.399(3). The registration fee credit is the "portion of the registration fee paid on each vehicle attributable to the remainder of the current calendar year or registration period on a pro rata basis against the registration fee due on the vehicle to which registration is transferred." NRS 482.399(4). If either credit exceeds the amount due on the new registration, the holder is not entitled to a refund of the excess amount. NRS 482.399(5). The application of credit from the registration of a previously owned vehicle to another vehicle registration constitutes a transfer of registration. Therefore, the six dollar (\$6.00) transfer of registration fee must be charged if a customer elects to use the credit on either a new or existing vehicle registration.

CONCLUSION TO QUESTION TWO

The Department must charge the six dollar (\$6.00) transfer fee when the customer elects to use his or her credit from a surrendered registration on either a new or existing vehicle registration.

QUESTION THREE

Is there a minimum dollar amount that may constitute a credit?

ANALYSIS

Regarding credits to apply to registration fees when a transfer of registration occurs, NRS 482.399(4) provides:

In computing the registration fee, the Department or its agent . . . shall credit the portion of the registration fee paid on each vehicle attributable to the remainder of the current

calendar year or registration period on a pro rata basis against the registration fee due on the vehicle to which registration is transferred.

NRS 482.399(4). Further, NRS 482.399(5) provides guidance when the Department will not issue a refund:

If the amount owed on the registration fee or governmental services tax on the vehicle to which registration is transferred is less than the credit on the total registration fee or governmental services tax paid on all vehicles from which a person transfers ownership or interest, no refund may be allowed by the Department.

NRS 482.399(5). Pursuant to this statute, there is no minimum dollar amount that can be considered as a credit, even when that dollar amount is less than six dollars (\$6.00).

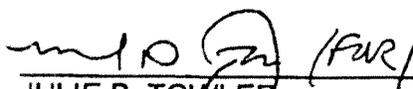
CONCLUSION TO QUESTION THREE

There is no statutory minimum dollar amount that can be considered a credit.

Sincerely,

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Attorney General

By:

 (FUR)

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JBT/JMR