

TEXAS COMPTROLLER *of* PUBLIC ACCOUNTS

P.O. Box 13528 • AUSTIN, TX 78711-3528



September 9, 2016

Peter White
[REDACTED]

RE: Motor Vehicle Tax Refund Request
Taxpayer Number: [REDACTED]

Dear Taxpayer:

Your refund claim covering VIN [REDACTED] has been reviewed and our examination indicates the requested refund must be denied. The denial is based on the following reason:

The vehicle is not a hydrogen powered vehicle. Per the tesla website (www.tesla.com) the Tesla Model S is a fully electrically powered vehicle that can be charged at home using a power wall. The Tesla gigafactory (www.tesla.com/gigafactory) broke ground in 2014 to produce lithium-ion batteries used to power the Tesla Model S. According to the California Environmental Protection Agency website (www.arb.ca.gov/msprog/hydrogen/hydrogen) the Tesla Model S is not listed as a hydrogen powered vehicle. Since the Tesla Model S is not a fully hydrogen powered vehicle, it does not meet the qualifications set out in statute 152.090.

Statute 152.090 Certain Hydrogen-Powered Motor Vehicles. (A) In this section, "hydrogen-powered motor vehicle" means a vehicle that meets the phase II standards established by the California Air Resources Board as of September 1, 2007, for an ultra low-emission vehicle II or stricter phase II emission standards established by that board and: (1) Is hydrogen power capable and has a fuel economy rating of at least 45 miles per gallon; or (2) Is fully hydrogen-powered.

152.021 Retail Sales Tax (a) a tax is imposed on every retail sale of every motor vehicle sold in this state. Except as provided in this chapter, the tax is an obligation of and shall be paid by the purchaser of a motor vehicle. (b) The tax rate is 6-1/4 percent of the total consideration.

The tax due and payable under Chapter 152 of the tax code is a transaction tax a refund may be granted if it is found that the tax was unlawfully or erroneously collected. The claimant is responsible for providing a burden of proof to show clear and convincing evidence that the vehicle is entitled to the exemption and the claimant has not met this burden. Based on the foregoing facts as presented by the claimant and the interstate use exemption, it is the recommendation that the refund request be denied.

If you disagree with the denial or believe that your refund request or documents were not properly considered, you are entitled to appeal the denial by requesting a refund hearing. The written request

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(Statement of Grounds) and any additional supporting documentation must be submitted within 30 days of the date of this letter, mailed to the address listed below, and must state all factual and legal grounds or reasons as to why you disagree with the denial. See Title 34 Texas Administrative Code Sections 1.5 and 1.7. A copy of the Rules of Practice and Procedures can be found on our website at http://comptroller.texas.gov/taxinfo/taxpubs/tx96_254.pdf.

Comptroller of Public Accounts
Sales and Motor Vehicle Tax Refunds
Attention: Laqueta Taylor
P.O. Box 13528
Austin, Texas 78711-3528

If you have questions about the denial of your claim or the hearing procedures, please call 1-800-531-5441, ext. 3-4390. The Austin number is 512-936-4390.

Sincerely,



Laqueta Taylor
Sales and Motor Vehicle Tax Refunds
Revenue Accounting Division