

BEFORE THE IOWA DEPARTMENT OF REVENUE  
HOOVER STATE OFFICE BUILDING  
DES MOINES, IOWA

<p>IN THE MATTER OF</p> <p>CRCR Corp. Budget Rent A Car 5040 Council Street NE Cedar Rapids, IA 52402</p> <p>v.</p> <p>IOWA DEPARTMENT OF REVENUE</p>	<p><b>DIRECTOR’S FINAL ORDER ON APPEAL</b></p> <p style="text-align: right;">DIA Docket No. 19IDR0098-100 Docket Nos. 2015-340-1-0328 2015-340-1-0329 2015-340-1-0330</p>
---	---

PROCEDURAL SUMMARY

An Administrative Law Judge (“ALJ”) issued a Proposed Decision (Findings of Fact, Conclusions of Law, and Order) in the above-captioned matter on December 24, 2019. The taxpayer, CRCR Corporation (“CRCR”) appealed the Proposed Decision to the Director of the Department of Revenue (“Director”) on January 21, 2020. The Director’s Review was scheduled for April 27, 2020.

The ALJ found that the Department’s three assessments for unpaid motor vehicle use tax (for tax periods prior to July 1, 2008) and unpaid fees for new registration (for tax periods after July 1, 2008) were timely and therefore should be AFFIRMED.

The Director, having examined the record developed by the parties, issues this Order.

FINDINGS OF FACT

The Director hereby adopts and incorporates into this decision the findings of fact made by the ALJ.

CONCLUSIONS OF LAW

CRCR raised several issues in this case. These issues were described in CRCR’s post-hearing submission and largely restated in the ALJ Proposed Decision. Each issue is addressed in turn below.

# 1. *Statute of Limitations*

CRCR’s first argument relates to how the statute of limitations for issuing assessments should be applied in this case. Both parties agree that the relevant statute in this case for determining the statute of limitations for purposes of the assessments is Iowa Code section 423.37(1). However, the parties disagree as to which provision of section 423.37(1) is applicable. Iowa Code section 423.37(1) states the following in full:

As soon as practicable after a return is filed and in any event *within three years after the return is filed, the department shall examine it, assess and determine the tax due* if the return is found to be incorrect, and give notice to the person liable for the tax of the assessment and determination as provided in subsection 2. *The period for the examination and determination of the correct amount of tax is unlimited* in the case of a false or fraudulent return made with the intent to evade tax or in *the case of a failure to file a return*.<sup>1</sup>

The Department argues that the unlimited tax examination and determination period set forth in section 423.37(1) applies because CRCR failed to file a return with the Department for the motor vehicle use tax and fees for new registration due for the periods at issue (i.e., tax years 2004 to 2005, 2006 to 2008, and 2009 to 2011).<sup>2</sup> In contrast, CRCR asserts that the first provision of section 423.37(1)—that the assessments must have been made within three years from the filing of a return—applies because CRCR believes that its filing of registration forms with the Iowa Department of Transportation (“DOT”) for the vehicles it purchased and rented to the public constituted “returns” for purposes of Iowa Code sections 321.105A and 423.37(1).<sup>3</sup> The Director disagrees.

The burden of proof is split in this case, with the Department bearing the burden for tax periods beginning on April 1, 2004, through March 31, 2009, while CRCR has the burden for the for the periods beginning on or after April 1, 2009 and ending June 30, 2011, because the returns for these later periods

---

<sup>1</sup> Iowa Code § 423.37(1) (emphasis added).

<sup>2</sup> *CRCR Corp. v. Iowa Dep’t of Revenue*, No. 19IDR0098-100, at 1–2 (Dec. 24, 2019); Iowa Dep’t of Revenue’s Post-hearing Br. at 2, *CRCR Corp. v. Iowa Dep’t of Revenue*, No. 19IDR0098-100 (Dec. 24, 2019) (Nos. 2015-340-1-0328, 2015-340-1-0329, 2015-340-1-0330).

<sup>3</sup> Taxpayer’s Post-hearing Br. at 2, *CRCR Corp. v. Iowa Dep’t of Revenue*, No. 19IDR0098-100 (Dec. 24, 2019) (Nos. 2015-340-1-0328, 2015-340-1-0329, 2015-340-1-0330).

were due within six years of the notice of assessment.<sup>4</sup> However, the burden of proof in this case is of minimal importance because, as to the statute of limitations issue, the focus is mainly one of statutory construction, rather than one of disputed facts.<sup>5</sup> Indeed, the underlying issue in connection with CRCR’s first argument is the meaning of “return” for purposes of triggering the statute of limitations period in section 423.37(1).

“Return” was not defined by statute during any of the periods in controversy in this case, nor was it defined by statute when the Department issued the assessments.<sup>6</sup> However, it was defined during the periods in controversy by means of a Department regulation as “any form required for tax administration from any person *to the [D]epartment*.”<sup>7</sup> A “[f]orm” means any overall physical arrangement and general layout of communications, using any method of communication, related to tax or other administration and prescribed by the director or otherwise required by law.”<sup>8</sup> Finally, “‘person’ means any individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.”<sup>9</sup> In sum, for CRCR to have a cognizable argument that the three-year statute of limitations period in section 423.37 began to toll with the filing of its registration statements, CRCR would have needed to file such statements with the Department. However, as will be explained and as the record reveals, CRCR did not file such statements with the Department.

Nevertheless, CRCR first argues that the Department’s definition of “return” set forth in Iowa Administrative Code rule 701—8.1 is inappropriate and “[i]n absence of a statutory definition, the term

---

<sup>4</sup> See Iowa Admin. Code r. 701—7.17(11) (“The burden of proof is on the department for any tax periods for which the assessment was not made within six years after the return became due . . .”).

<sup>5</sup> See *Kay-Decker v. Iowa State Bd. Of Tax Review*, 857 N.W.2d 216, 223 n.3 (Iowa 2014) (“Since the underlying issue is one of statutory interpretation, which this court renders de novo, the burden of proof is of little moment in this case.”); *CRCR Corp. v. Iowa Dep’t of Revenue*, No. 19IDR0098-100, at 1 (Dec. 24, 2019) (“The issue . . . arises from CRCR *admittedly* not paying a separate excise tax on . . . vehicle purchases prior to 2008 and then not paying registration fee after 2008 in accord with a change in the law.” (emphasis added)).

<sup>6</sup> See Iowa Code § 421.6; 2018 Iowa Acts, House File 2417 (adding the definition of “return” to Iowa Code section 421.6).

<sup>7</sup> Iowa Admin. Code r. 701—8.1 (emphasis added) (“‘Department’ means the Iowa department of revenue.”).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

should be given its clear and plain meaning.”<sup>10</sup> To support this argument, CRCR relies on the definition of “return” from Merriam-Webster Dictionary, where it is defined as “an account or formal report.”<sup>11</sup> Therefore, CRCR concludes that its registration statements submitted to the DOT for the vehicles in question, which—according to the taxpayer—“clearly identif[y] the vehicle purchased, the amount paid for the vehicle, and the Taxpayers’ position that the purchase is exempt from the Iowa motor vehicle use tax,” are returns.<sup>12</sup> Consequently, CRCR believes that these statements should have triggered the three-year statute of limitations provision in section 423.37(1), and thereby render the Department’s assessments for motor vehicle use tax and the fee for new registration invalid because the assessments were issued more than three years after the filing of the vehicle registration statements. This conclusion is incorrect and, in this case, as explained herein, CRCR’s reliance on a dictionary definition of “return” is inappropriate.

Where a state agency has been given the statutory power to prescribe rules, “state agency rules are given ‘the force and effect of law.’”<sup>13</sup> Here, the Director has been given such statutory authority pursuant to Iowa Code section 421.14, which states that “[t]he [D]irector shall have power to establish all needful rules not inconsistent with law for the orderly and methodical performance of the director’s duties, and to require the observance of such rules by those having business with or appearing before the department.”<sup>14</sup> Therefore, the Department’s definition of return memorialized in Iowa Administrative Code rule 701—8.1 is the appropriate definition in this case, and, for the reasons stated below, CRCR has not satisfied that definition.

As aforementioned, in order to constitute a return, the form in question must be filed with the Department.<sup>15</sup> In this case, CRCR filed the registration statements that it insists are returns with the

---

<sup>10</sup> Taxpayer’s Post-hearing Submission at 2, *CRCR Corp. v. Iowa Dep’t of Revenue*, No. 19IDR0098-100 (Dec. 24, 2019) (Nos. 2015-340-1-0328, 2015-340-1-0329, 2015-340-1-0330).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> See *Des Moines v. Iowa Dep’t of Transp.*, 911 N.W.2d 431, 440 (Iowa 2018) (quoting *Stone Container Corp. v. Castle*, 657 N.W.2d 485, 489 (Iowa 2003)).

<sup>14</sup> Iowa Code § 421.14; Only if an agency’s rule “is ‘illogical, irrational, or wholly unjustifiable’” can a Court reverse an agency’s interpretation of a statutory term. See *Christensen v. Iowa Dep’t of Revenue*, 944 N.W.2d 895 (Iowa 2020). This is a high standard that has not been satisfied here.

<sup>15</sup> See Iowa Admin. Code r. 701—8.1.

DOT.<sup>16</sup> This fact alone disqualifies those documents from constituting returns for purposes of tolling the statute of limitations in Iowa Code section 423.37(1). Yet, CRCR argues that it makes no difference that the registration statements were filed with the DOT because “both the Iowa Department of Transportation and the Iowa Department of Revenue are instrumentalities of the State of Iowa and should be charged with knowledge of the content of the registration statements.”<sup>17</sup> Moreover, CRCR indicates that “[t]he specific reference to [Iowa Code] [s]ection 423.37 in [Iowa Code section 321.105A] clearly indicates that a registration receipt constitutes a return for statute of limitations purposes.”<sup>18</sup> Both of these arguments are unpersuasive.

Although both the Department and the DOT are agencies of the State, the Department and the DOT are nonetheless separate entities, with separate purposes, and one cannot stand in place of the other.<sup>19</sup> The Iowa General Assembly has vested very different powers and duties with each agency. The Department is “administered by [the] [D]irector of revenue who,” among other powers and duties, is responsible for “exercis[ing] general supervision over the administration of the assessment of tax laws of the state.”<sup>20</sup> In contrast, the DOT is “responsible for the planning, development, regulation and improvement of transportation in the state as provided by law.”<sup>21</sup> Indeed, there are even areas in which agencies are prohibited from sharing information with each other, except under specific conditions.<sup>22</sup> To

---

<sup>16</sup> Taxpayer’s Post-hearing Submission. at 2, *CRCR Corp. v. Iowa Dep’t of Revenue*, No. 19IDR0098-100 (Dec. 24, 2019) (Nos. 2015-340-1-0328, 2015-340-1-0329, 2015-340-1-0330) (“[T]he registration statements are filed with the Iowa Department of Transportation . . .”).

<sup>17</sup> *Id.*

<sup>18</sup> Taxpayer’s Post-Hearing Submission at 2, *CRCR Corp. v. Iowa Dep’t of Revenue*, No. 19IDR0098-100 (Dec. 24, 2019) (Nos. 2015-340-1-0328, 2015-340-1-0329, 2015-340-1-0330); Iowa Code § 321.105A states that “Section . . . 423.37 . . . consistent with the provisions of this section, apply with respect to the fees for new registration authorized under this section in the same manner and with the same effect as if the fees for new registration were retail use taxes within the meaning of those statutes.” Iowa Code § 321.105A(4)(b).

<sup>19</sup> See *Hannigan v. Hoffmeister*, 608 N.E.2d 396, 404 (Il. Ct. App. 1992) (“We are not prepared to accept the plaintiff’s argument that the parties are the same because they were both State agencies.”); Iowa Code § 421.2 (“A department of revenue is created.”); Iowa Code § 307.2 (“There is created a state department of transportation . . .”).

<sup>20</sup> Iowa Code § 421.17(1).

<sup>21</sup> Iowa Code § 307.2.

<sup>22</sup> Iowa Code § 422.20, 422.72.

conflate these agencies is to disregard their separate responsibilities and the need for more than one state agency to effectuate an efficient system of government.<sup>23</sup>

In regard to the statute of limitations, CRCR also argues that the Department had notice of its incorrect filing “given the filings to [the Department] showing it was erroneously collecting certain rental tax . . . [and the Department] created this issue by failing to mention the limits of the exemption for larger vehicles to the public.”<sup>24</sup> Both of these claims are without merit. As explained in the preceding paragraph, the Department and the DOT are separate entities; therefore, the filing of registration statements with the DOT did not put the Department on notice of CRCR’s improper filing, regardless of the information contained within those statements. Furthermore, although the Director is to work “in consultation with the department of transportation” to “administer and enforce the fee for new registration,” this does not change the fact that as a result of CRCR’s filing with the DOT, no form was submitted to the Department.<sup>25</sup> Rather, “the county treasurer or the department of transportation . . . remit[ted] to the department of revenue the amount of the fees for new registration.”<sup>26</sup> A fee does not equate to a return.<sup>27</sup> As a result, this theory once again does not sustain the argument that the three-year statute of limitations in section 423.37(1) barred the Department from issuing assessments against CRCR.<sup>28</sup>

---

<sup>23</sup> The United States Tax Court also abides by this principle of separation in regard to the filing of federal tax returns. See *Appleton v. Comm’r*, 140 R.C. 273, 286 (T.C. 2013) (“[T]his Court, as well as others, has held on several occasions that filing a return with the wrong IRS representative does not constitute ‘filing’ for purposes of commencing the limitations period.”).

<sup>24</sup> *CRCR Corp. v. Iowa Dep’t of Revenue*, No. 19IDR0098-100, at 4 (Dec. 24, 2019).

<sup>25</sup> See Iowa Code § 321.105A(4)(a).

<sup>26</sup> See Iowa Code § 321.105A(2).

<sup>27</sup> See Iowa Admin. Code r. 701—8.1 (describing a “return” as a “form”).

<sup>28</sup> Note, the Department previously prevailed against taxpayers who raised a similar argument as CRCR regarding what should be considered a return. In *Leaders v. Iowa Department of Revenue*, the taxpayers “claimed a use tax exemption under Iowa Code section 423.6(12) . . . and, therefore, did not remit any use tax at the time of registration” of their vehicles, nor did they file a return for any of the vehicles at issue. *Leaders v. Iowa Dep’t of Revenue*, No. CVCV101957, at 1 (Iowa Dist. Ct., Dec. 13, 2010). More than three years after the taxpayers’ vehicle purchases, the Department assessed the taxpayers for failure to pay the motor vehicle use tax under Iowa Code section 423.5(1) because the taxpayers were not able to provide evidence that the vehicles were eligible for the claimed exemption. *Id.* at 2. Nevertheless, the taxpayers argued that they did not “fail to file a return, as one is not required when an exemption continues to be met,” and thus, the Department should not have been “afforded an unlimited limitations period.” *Id.* at 5. The taxpayers further argued that their filing of International Fuel Transaction Agreement (“IFTA”) reports with the DOT constituted use tax returns for purposes of tolling the three-year statute of limitations. *Id.* at 7. The Department, and ultimately the court, disagreed, finding that “[a] lengthy discussion is not required to quickly see that an IFTA report filed with the Iowa Department of Transportation does not count as filing a use tax return with the Department of Revenue.” *Id.* In reaching this conclusion, the court compared Iowa Code section 452A.54(4) and Iowa Administrative Code rule 761—505.4(6), “requiring IFTA reports to be filed with the Iowa Department of Transportation” and “requiring reports and remittances to be sent to the Office of Motor Carrier Services, Iowa Department of Transportation,” respectively, with Iowa Code section 423.34, “requiring user[s] to file use tax return[s] as prescribed by the Director of the Iowa Department of Revenue,” Iowa Administrative Code rule 701—8.1, which, as previously noted, defines “return” as “any form required for tax

Notably, CRCR’s notice argument is further unpersuasive because, if successful, a decision in CRCR’s favor based on this argument would erode the bedrock of the separate tax theory. The separate tax theory maintains that when “two liabilities are separate and distinct, arise from different states of facts and are based upon entirely different theories[,] [t]hey present two distinct causes of action upon either of which it would naturally be assumed proceedings might be maintained independently.”<sup>29</sup> Here, the statutory basis for the automobile rental excise tax is Iowa Code chapter 423C (previously Iowa Code chapter 422C), and as explained, this tax “is imposed upon the rental price of an automobile if the rental transaction is subject to sales tax under chapter 423, subchapter II, or the use tax under chapter 423, subchapter III.”<sup>30</sup> An “automobile” means “a motor vehicle subject to registration in any state designed primarily for carrying *nine passengers or less*, excluding motorcycles or motorized bicycles.”<sup>31</sup> In contrast, the motor vehicle use tax and the fee for new registration are imposed under entirely different code provisions. The motor vehicle use tax, relevant in this case for periods prior to July 1, 2008, was imposed pursuant to Iowa Code section 423.5 on the “purchase price” of vehicles subject to registration, and the fee for new registration, which is relevant in this case for tax periods following July 1, 2008, is imposed pursuant to Iowa Code section 321.105A(2) on the “purchase price for each vehicle subject to registration.”<sup>32</sup> The separate statutory basis and different circumstances that give rise to these tax liabilities make clear that they arise from separate facts and theories, and are therefore, “separate and distinct.” Consequently, under the separate tax theory, even if returns were filed with the Department for the automobile rental excise tax—which has not been proven by the record<sup>33</sup>—these returns would not

---

administration from any person to the Department, and Iowa Administrative Code rule 701—8.4(1)(k), which prohibited substitute forms for use tax returns during the years at issue in the case. *Id.* at 7–8. Consequently, the court held that “because the [taxpayers] never filed a use tax return, and the IFTA reports [did] not constitute such return, the Department had an unlimited period to assess use tax on the [taxpayers’] vehicles. *Id.* at 8.

<sup>29</sup> *Michael v. Comm’r*, 22 B.T.A. 639, 642 (B.T.A. 1931); *see Logan v. Comm’r*, 86 T.C. 1222, 1230 (T.C. 1986) (finding that the “Court ha[d] no jurisdiction to consider petitioners’ claim for a credit for overpaid windfall profit tax in the course of [an] income tax deficiency proceeding.”); *see also generally* I.R.S. Tech. Adv. Mem. (Jan. 24, 1992).

<sup>30</sup> Iowa Code § 423C.3 (2010).

<sup>31</sup> Iowa Code § 423C.2 (emphasis added).

<sup>32</sup> Iowa Code § 423.5 (2007); *see CRCR Corp. v. Iowa Dep’t of Revenue*, No. 19IDR0098-100, at 2 (Dec. 24, 2019); Iowa Code § 321.105A(2); *see* 2008 Iowa Acts ch. 1113, Senate File 2420.

<sup>33</sup> Any automobile rental tax returns filed by CRCR have not been made part of the record in this case. *CRCR Corp. v. Iowa Dep’t of Revenue*, No. 19IDR0098-100, at 1 (Dec. 24, 2019) (“It appears CRCR paid an automobile rental tax on the vehicles in question. The issue, though, arises from CRCR admittedly not paying a separate excise tax on the vehicle purchases prior to 2008 and then not paying registration fee after 2008 in accord with a change in the law.” (citations omitted)); *see also* Iowa



have been sufficient to put the Department on notice of the nature of CRCR's motor vehicle use tax and fee for new registration liability.

Lastly, CRCR argues that it was misled by the Department's UT510 Manual because it failed to "indicate[] that [a] taxpayer is required to make . . . filings to claim the exemption" under Iowa Code section 321.105A(2)(c)(14), and the manual stated "that 'motorcycles and motorized bicycles continue to not be eligible for this exemption', but . . . [made] no mention of vehicles that are not designed to carry nine passengers or less."<sup>34</sup> This argument is unpersuasive. In regard to CRCR's obligations under the law, the Iowa Code and Iowa Administrative Code are controlling. CRCR is not excused from tax obligations due to ignorance of the law.<sup>35</sup> This is the case, even if tax law is "complex and confusing."<sup>36</sup> Here, it is clear that the exemption on which CRCR attempted to rely applies only "if the rental of the vehicles is subject to taxation under [Iowa Code] chapter 423C."<sup>37</sup> Although CRCR was in the business of renting vehicles and "[t]he Department does not dispute that sales tax was paid on the rental of the vehicles in question," the vehicles at issue were "a series of larger vehicles not designed for carrying nine passengers or less, i.e., a [sic] cargo vans, trucks, or large passenger[] vans[,] such as a GMC Savana G3500."<sup>38</sup> Therefore, regardless of CRCR's prior tax payments, CRCR's vehicles were not subject to taxation under Iowa Code chapter 423C because "[v]ehicles subject to taxation under Iowa Code chapter 423C include motor vehicles that, among other things, are 'designed primarily for *carrying nine passengers or less*, excluding motorcycles and motorized bicycles.'"<sup>39</sup> The text of the UT510 manual cannot replace the Iowa

---

Department of Revenue's Brief Before Director of Revenue at 9, CRCR Corp. v. Iowa Dep't of Revenue, No. 19IDR0098-100 (Dec. 24, 2019) (Nos. 2015-340-1-0328, 2015-340-1-0329, 2015-340-1-0330) ("[T]he automobile rental tax returns filed by the Taxpayer were not made part of the evidentiary record in this matter."). Therefore, discerning the exact information provided to the Department by CRCR on such returns is not possible.

<sup>34</sup> Taxpayer's Post-hearing Submission at 3, CRCR Corp. v. Iowa Dep't of Revenue, No. 19IDR0098-100 (Dec. 24, 2019) (Nos. 2015-340-1-0328, 2015-340-1-0329, 2015-340-1-0330).

<sup>35</sup> Clark v. Iowa Dep't of Revenue & Fin., 644 N.W.2d 310, 319 (Iowa 2002) ("It is a well-established principle that ignorance of the law is no excuse.").

<sup>36</sup> See Clark v. Iowa Dep't of Revenue & Fin., 644 N.W.2d 310, 319 (Iowa 2002).

<sup>37</sup> Iowa Code § 321.105A(2)(c)(6) (2009).

<sup>38</sup> Iowa Dep't of Revenue's Post-hearing Br. at 3, CRCR Corp. v. Iowa Dep't of Revenue, No. 19IDR0098-100 (Dec. 24, 2019) (Nos. 2015-340-1-0328, 2015-340-1-0329, 2015-340-1-0330); CRCR Corp. v. Iowa Dep't of Revenue, No. 19IDR0098-100, at 1 (Dec. 24, 2019).

<sup>39</sup> CRCR Corp. v. Iowa Dep't of Revenue, No. 19IDR0098-100, at 3 (Dec. 24, 2019) (quoting Iowa Code § 423C.2(1) (2009)).



Code, and regardless, the manual explicitly states that it is to be used for guidance purposes only.<sup>40</sup>

Therefore, CRCR's complete reliance on the UT510 Manual to determine the taxes owed, and ultimately as a basis for discrediting the assessments, in this case is misplaced.

The Director concludes that the unlimited statute of limitations provision under Iowa Code section 423.37 applies in this case.

2. *Violation of the Equal Protection Clause of the United States Constitution and the Constitution of the State of Iowa*

CRCR next argues that the "imposition of the Iowa motor vehicle registration tax to the vehicles in this case, solely because they are designed to carry more than nine passengers, violates the equal protection clauses of the United States and Iowa constitutions" because, according to the taxpayer, this treatment "is arbitrary and capricious and is without foundation in law or in fact."<sup>41</sup> As explained in Section 1 of this Part, the treatment of vehicles based on size is found within the Iowa Code.<sup>42</sup>

Additionally, as a state agency, the Department (and therefore the Director) does not have the authority to decide facial constitutional challenges, such as the one CRCR raises here.<sup>43</sup> The matter can merely "be preserved [at the agency level] for judicial review."<sup>44</sup> However, as the ALJ stated in the proposed decision for this case, "the [constitutional] claim would appear to be difficult to sustain in light of the Supreme Court's decision in *Motor Club of Iowa v. DOT*, which held: 'Automobiles may reasonably be classified different than trucks for registration fee purposes.'"<sup>45</sup> Either way, this argument does not warrant the negation of the assessments against CRCR.

---

<sup>40</sup> Taxpayer's Post-hearing Submission at attach. 1, *CRCR Corp. v. Iowa Dep't of Revenue*, No. 19IDR0098-100 (Dec. 24, 2019) (Nos. 2015-340-1-0328, 2015-340-1-0329, 2015-340-1-0330) ("Please be advised this Manual is intended as a general guide to common questions. The application of tax law is fact-specific and, therefore, the Department could take a position contrary to that stated in the Manual. Any advice or opinion given to members of the public by Department personnel[ ] that is not pursuant to a Petition for Declaratory Order under 701 IAC 7.24 is not binding upon the Department. We make every attempt to keep the Manual current; however, changes in law or policy may not be immediately reflected.").

<sup>41</sup> Taxpayer's Post-hearing Submission at 3, *CRCR Corp. v. Iowa Dep't of Revenue*, No. 19IDR0098-100 (Dec. 24, 2019) (Nos. 2015-340-1-0328, 2015-340-1-0329, 2015-340-1-0330).

<sup>42</sup> See Iowa Code § 321.105A(2)(c)(6); Iowa Code § 423C.2(1) (2009).

<sup>43</sup> *McCracken v. Iowa Dep't of Human Servs.*, 595 N.W.2d 779, 785 (Iowa 1999) ("[T]he agency lacks authority to decide constitutional issues."); see *Shell Oil Co. v. Bair*, 417 N.W.2d 425, 429 (Iowa 1987).

<sup>44</sup> *Soo Line R. Co. v. Dep't of Transp.*, 521 N.W.2d 685, 688 (Iowa 1994).

<sup>45</sup> *CRCR Corp. v. Iowa Dep't of Revenue*, No. 19IDR0098-100, at 4 (Dec. 24, 2019) (quoting *Motor Club of Iowa v. Dep't of Transp.*, 265 N.W.2d 151, 155 (Iowa 1978)).

### 3. *Unjust Enrichment*

Lastly, CRCR argues that its payment of automobile excise tax that were not due to the Department based on CRCR's erroneous analysis of Iowa law would unjustly enrich the Department, and thus, the Department cannot assess CRCR for unpaid motor vehicle use tax and unpaid fees for new registration, which CRCR admits that it did not pay.<sup>46</sup> This argument, like those previous, lacks force. It is true that "[t]he mission of the Iowa Department of Revenue is to serve Iowans and support state government by collecting all taxes required by law, but no more," but it is a taxpayer's responsibility to know and properly follow the law.<sup>47</sup> Nevertheless, the Department recognizes that tax law can be complex.<sup>48</sup> This, in part, is why the Department strives to make itself accessible to taxpayers, encouraging taxpayers to email, call, or visit<sup>49</sup> the Department with questions related to their tax obligations.<sup>50</sup> For more complex situations, the Department further recommends that taxpayers submit Tax Guidance Requests.<sup>51</sup> Moreover, pursuant to Iowa Code section 17A.9 and Iowa Administrative Code rule 701—7.24, a taxpayer may "petition . . . [the Department] for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the" Department.<sup>52</sup> CRCR could have availed itself to these resources, but, as far as the record shows, it did not. It is not the Department's fault that CRCR misinterpreted the law.

---

<sup>46</sup> See Taxpayer's Post-hearing Submission at 3, *CRCR Corp. v. Iowa Dep't of Revenue*, No. 19IDR0098-100 (Dec. 24, 2019) (Nos. 2015-340-1-0328, 2015-340-1-0329, 2015-340-1-0330); *CRCR Corp. v. Iowa Dep't of Revenue*, No. 19IDR0098-100 (Dec. 24, 2019); Taxpayer's Br. Before Director of Revenue at \*1, *CRCR Corp. v. Iowa Dep't of Revenue*, No. 19IDR0098-100 (Dec. 24, 2019) (Nos. 2015-340-1-0328, 2015-340-1-0329, 2015-340-1-0330) ("The Department's Brief correctly states that the Taxpayer does not dispute that it did not pay a separate excise tax on the purchase of vehicles prior to 2008 and did not pay registration fee after 2008.").

<sup>47</sup> Iowa Dep't of Revenue, *About the Department of Revenue*, <https://tax.iowa.gov> (last visited Sept. 16, 2020) (emphasis added).

<sup>48</sup> See *Clark v. Iowa Dep't of Revenue & Fin.*, 644 N.W.2d 310, 319 (Iowa 2002).

<sup>49</sup> Note, "[t]he Department is currently closed to visitors in an effort to reduce the chance of community spread" of COVID-19. Iowa Dep't of Revenue, *Call or Visit the Department*, <https://tax.iowa.gov/call-visit> (last visited Sept. 16, 2020).

<sup>50</sup> Iowa Dep't of Revenue, *Let Us Help You*, <https://tax.iowa.gov/contact-us> (last visited Sept. 16, 2020).

<sup>51</sup> However, "note that the Department does not give individualized tax advice and generally does not make fact-specific determinations outside of the formal Declaratory Order process," and "[a]ny oral or written opinion rendered to members of the public by Department personnel not pursuant to a Petition for Declaratory Order is not binding upon the Department." Iowa Dep't of Revenue, *Tax Guidance*, <https://tax.iowa.gov/law-policy/tax-guidance> (last visited Sept. 17, 2020). "[T]he Department could [also] take a contrary position in the future." Iowa Dep't of Revenue, *Tax Guidance*, <https://tax.iowa.gov/law-policy/tax-guidance> (last visited Sept. 17, 2020).

<sup>52</sup> Iowa Code § 17A.9; see Iowa Admin. Code r. 701—7.24; see also Iowa Dep't of Revenue, *Tax Guidance*, <https://tax.iowa.gov/law-policy/tax-guidance> (last visited Sept. 17, 2020).

In any event, CRCR had an avenue for relief had it chosen to pursue it. Assuming CRCR paid the wrong tax, CRCR could have filed a claim for refund.<sup>53</sup> CRCR need not have waited for the Department to assess motor vehicle use tax and the fee for new registration against it before filing for a refund. However, to take advantage of the ability to claim a refund on erroneously paid tax, CRCR must have “filed the claim for refund with the [D]epartment within three years after the tax payment for which [the] refund . . . claimed became due, or one year after such tax payment was made, whichever time is the later.”<sup>54</sup> Because CRCR did not make such a filing within the time period allowed, the Department and the Director’s hands are tied. Just as the Department is bound by the statute of limitations within Iowa Code section 423.37—which in this case is unlimited because no return was filed as described in Section 1 of this Part of this order—so too is the Department required to abide by the limitations imposed via Iowa Code section 423.47. If the Department permitted a refund to CRCR for any erroneously paid tax when no claim for refund was filed within the statutory deadline, the Department would not only be giving preferential tax treatment to a taxpayer, it would also be blatantly ignoring a statute, neither of which are permitted under the law.

CRCR has also asked the Director to, “[i]n the interest of fairness,” void the assessments against it as improper.<sup>55</sup> While the Director is not insensitive to this request, it is beyond the scope of the Director’s powers. The Director is imbued with limited powers and duties via the Iowa Code.<sup>56</sup> Although the Director has certain powers related to fairness, none of the Director’s powers extend so broadly as to enable the Director to disregard a statute of limitations.<sup>57</sup> Rather, the Director is bound by the authority of

---

<sup>53</sup> See Iowa Code § 423.47 (“If it shall appear that, as a result of mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of this chapter, such amount shall be credit against any tax due, or to become due, on the books of the department from the person who made the erroneous payment, or such amount shall be refunded to such person by the [D]epartment.”).

<sup>54</sup> Iowa Code § 423.47.

<sup>55</sup> Taxpayer’s Br. Before Director of Revenue at \*1, *CRCR Corp. v. Iowa Dep’t of Revenue*, No. 19IDR0098-100 (Dec. 24, 2019) (Nos. 2015-340-1-0328, 2015-340-1-0329, 2015-340-1-0330).

<sup>56</sup> See, e.g., Iowa Code § 421.17 (listing powers and duties of the Director).

<sup>57</sup> See, e.g., Iowa Code § 421.17(10)(a) (permitting the Director, in certain cases, to “correct obvious errors or obvious injustices in the assessment of any individual *property*” (emphasis added)); Iowa Code § 421.18 (requiring public officers and employees to “aid the [D]irector’s efforts to secure a fair, equitable, and just enforcement of the taxation and revenue laws”); Iowa Code § 421.60(2)(i) (authorizing the Director to “abate any unpaid portion of assess tax, interest, or penalties which the [D]irector determines is erroneous, illegal, or excessive”).

the law just as CRCR and other taxpayers are bound by it. Thus, it is the law that drives the Director's decision. The Iowa General Assembly is vested with legislative authority, and, therefore, the power to amend statutes that may produce a result such as the one CRCR argues in favor of here.<sup>58</sup> This is the body to which such concerns should be brought. The Director's duty under the administrative review process is to assure that the laws and rules, as they currently exist, are administered accurately. In this case, the Director finds that such accurate administration has occurred.

ORDER

IT IS THEREFORE ORDERED that the ALJ's Proposed Decision is AFFIRMED in this final order, and the Department's assessments are upheld.

Issued at Des Moines, Iowa this 6 day of November, 2020

IOWA DEPARTMENT OF REVENUE

By

  
Craig Paulsen, Director

---

<sup>58</sup> Iowa Const. Art. III. § 1.

## CERTIFICATE OF SERVICE

I certify that on this 6TH day of November, 2020, I caused a true and correct copy of the Notice of Failure to Respond to Director's Order for Further Briefing to be forwarded, by U.S. mail or delivered to the following persons:

Gary J. Streit  
Shuttleworth & Ingersoll, P.L.C.  
115 3<sup>rd</sup> Street SE, Suite 500  
P.O. Box 2107  
Cedar Rapids, Iowa 52406-2107

Paxton J. Williams  
Assistant Attorney General  
Stephen P. Sullivan  
Assistant Attorney General  
Hoover State Office Building  
1305 East Walnut  
Des Moines, Iowa 50319  
Second Floor  
L O C A L



---

Hollie Welch  
Executive Secretary  
Iowa Department of Revenue