

**COMMONWEALTH OF MASSACHUSETTS  
APPELLATE TAX BOARD**

**JOHN FINLAYSON**

**v.**

**BOARD OF ASSESSORS OF  
THE TOWN OF BILLERICA**

Docket Nos. F347527  
F347528

Promulgated:  
February 20, 2024

These are appeals filed under the formal procedure pursuant to G.L. c. 60A, § 2 and G.L. c. 59, §§ 64 and 65, from the refusals of the Board of Assessors of the Town of Billerica ("assessors" or "appellee") to abate motor vehicle excise assessed pursuant to G.L. c. 60A, § 1 ("§ 1") for calendar years 2019 and 2020 ("calendar years at issue") on a 2019 Toyota Rav 4 ("Toyota") owned by John Finlayson ("appellant") as well as excise assessed on a second vehicle owned by the appellant, a 2004 Ford ("Ford"),<sup>1</sup> for calendar year 2019.

Chairman DeFrancisco ("Presiding Commissioner") heard these appeals under G.L. c. 58A, § 1A and 831 CMR 1.20<sup>2</sup> and issued single-member decisions for the appellant. However, after further consideration, the decisions have been revised as follows and are re-issued concurrently with these findings. The decision that was

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<sup>1</sup>The appellant's abatement application for calendar year 2019 listed a '2004 Windstar' and the Toyota, while the appellant's petition corresponding to docket number 347528 for calendar year 2019 listed a '2004 Ford Freestar'. The Presiding Commissioner determined that this discrepancy was a typographical error and treated the 'Windstar' and the 'Freestar' as a single vehicle, hereinafter referred to as the 'Ford'.

<sup>2</sup>All regulation citations in these findings of fact and report are to the version of the regulations in effect prior to January 5, 2024.

issued previously for docket number F347527 remains for the appellant, but it now includes calendar year 2020 as well as calendar year 2019, consistent with the calendar years referenced on the petition corresponding to docket number F347527. The revised decision for docket number F347527 also now specifies that the abatements of the excise on the Toyota are in the amounts of \$100.83 for calendar year 2019 and \$403.50 for calendar year 2020.

In addition, the decision previously issued for the appellant for docket number F347528 is revised to now render the decision for the appellee, as discussed below. It is also revised to reflect that it pertains to calendar year 2019, consistent with the date referenced on the petition corresponding to docket number F347528.

These findings of fact and report are made pursuant to the request of the appellant under G.L. c. 58A, § 13 and 831 CMR 1.32.

*John Finlayson, pro se*, for the appellant.

*John Speidel*, Assessor, for the appellee.

## **FINDINGS OF FACT AND REPORT**

Based on testimony and documents entered into evidence by the parties at the hearing of these appeals, the Presiding Commissioner made the following findings of fact.

The appellant was the assessed owner of the Toyota for the calendar years at issue. The appellant was also the owner of the Ford for calendar year 2019. Excise was assessed on the Toyota in the amounts of \$100.83 for calendar year 2019 and \$403.50 for calendar year 2020, and excise was assessed on the Ford in the amount of \$70.00 for calendar year 2019. The appellant timely paid the amounts due on both vehicles. On April 28, 2022, the appellant timely filed abatement applications with the assessors for the calendar years at issue, which the assessors denied on July 21, 2022. The appellant timely filed two petitions with the Appellate Tax Board ("Board") on September 30, 2022. The petition corresponding to docket number F347527 included both calendar years at issue and listed the Toyota as the motor vehicle at issue. The petition corresponding to docket number F347528 included only calendar year 2019 and listed the Ford as the motor vehicle at issue. Based on these facts, the Presiding Commissioner found and ruled that the Board had jurisdiction to hear and decide these appeals.

At the hearing of these appeals, the appellant argued that he is a disabled veteran who was eligible for an exemption from motor

vehicle excise for the calendar years at issue. In support of his argument, he submitted a letter dated October 21, 2019, addressed to the appellant from the United States Department of Veterans Affairs that stated, in part: "The effective date of when you became totally and permanently disabled due to your service-connected disabilities: October 10, 2018." It further stated: "[The appellant is] considered to be totally and permanently disabled due to [the appellant's] service-connected disabilities." In addition, the appellant submitted a photograph of a disabled person parking placard issued by the Massachusetts Registry of Motor Vehicles ("RMV") with an expiration date of March 25, 2019, and a letter of determination from the RMV dated November 12, 2021, approving the appellant's request for Disabled Veteran Parking Plates.

The assessors, for their part, offered into evidence jurisdictional documents. The assessors argued they had not received documentation from the Medical Advisory Board of the RMV verifying that the appellant qualified for status as a disabled veteran for the calendar years at issue.

Based on the evidence presented, the Presiding Commissioner found that the appellant was a disabled veteran during the calendar years at issue, which qualified him for the motor vehicle excise exemption under § 1. Although the Presiding Commissioner was not presented with evidence of a formal determination of disability

issued by the Medical Advisory Board of the RMV for the calendar years at issue, the Presiding Commissioner found that the appellant was permanently disabled during the calendar years at issue, for purposes of § 1, based on the determination by the United States Department of Veterans Affairs of the appellant's "total and permanent disability" as of October 10, 2018, due to military service-related disabilities.

Notably, the assessors did not contest the appellant's status as a disabled veteran. They simply argued that they had not received the paperwork from the RMV confirming the appellant's disabled veteran status. Notwithstanding the absence of formal paperwork from the RMV determining the appellant to be permanently disabled for the calendar years at issue, the assessors concluded that the appellant was entitled to an abatement of the motor vehicle excise for the year following the calendar years at issue, calendar year 2021, based on the RMV's subsequent determination of the appellant's disability. The Presiding Commissioner also noted that the appellant was issued a disabled placard by the RMV that was valid through March 2019.

Having found the determination by the United States Department of Veterans Affairs, as well as other supporting evidence, to be credible evidence of the appellant's permanent and total disability for purposes of the exemption provided by § 1, the Presiding Commissioner issued a decision for the appellant for

docket number F347527 and ordered abatements in full of the excise assessed to the appellant. That decision is now revised to specify that the abatements apply to the excise assessed on the Toyota and are in the amounts of \$100.83 for calendar year 2019 and \$403.50 for calendar year 2020.

The Presiding Commissioner also found and ruled that where the appellant sought abatements for two different motor vehicles for calendar year 2019, the exemption allowed by § 1 for a disabled veteran limits the potential exemption to a single motor vehicle per calendar year. Here, the Ford was a second vehicle for which an exemption was requested for calendar year 2019. As such, the Presiding Commissioner ruled that the Ford was not entitled to an exemption, and a revised decision for docket number F347528 is now issued in favor of the appellee.

#### **OPINION**

Pursuant to § 1, an excise shall be assessed and levied on every motor vehicle registered in the Commonwealth under G.L. c. 90, for the privilege of registration. However, § 1 exempts a motor vehicle owned or leased by a disabled veteran from such excise, stating:

The excise imposed by this section shall not apply to a motor vehicle owned and registered by or leased to a veteran, as defined in section 7 of chapter 4, who according to the records of the United States Veterans Administration, by reason of service in the armed forces of the United States, has suffered loss, or permanent loss of use of, one or both feet, or loss, or permanent

loss of use of one or both hands, or has been determined by the medical advisory board established under section 8C of chapter 90 to be permanently disabled.

Here, the appellant presented credible evidence in the form of a letter issued directly by the United States Department of Veterans Affairs stating that due to his military service-connected disabilities, the appellant was totally and permanently disabled as of October 10, 2018. Notwithstanding the absence of paperwork issued by the RMV, given the permanency of the appellant's disability, as determined by the United States Department of Veterans Affairs, the Presiding Commissioner found that he remained disabled during the calendar years at issue. "The credibility of witnesses, the weight of the evidence, and the inferences to be drawn from the evidence are matters for the board." *Cumington School of Arts, Inc. v. Assessors of Cumington*, 373 Mass. 597, 605 (1977).

With respect to the appellant's request for an abatement of the excise assessed on the Ford, which was a second vehicle owned by the appellant during calendar year 2019, § 1 limits the motor vehicle excise exemption to a single vehicle, specifically providing: "This exemption shall apply to not more than one motor vehicle owned and registered for or leased for the personal, noncommercial use of such veteran or person."

Accordingly, the Presiding Commissioner issued a revised decision for the appellant with respect to docket number F347527 and granted abatements in full of the excise assessed to the appellant on the Toyota in the amounts of \$100.83 for calendar year 2019 and \$403.50 for calendar year 2020. The Presiding Commissioner issued a revised decision for the appellee with respect to docket number F347528.

**THE APPELLATE TAX BOARD**

By: /S/   
Mark J. DeFrancisco, Chairman

A true copy,

Attest: /S/   
Clerk of the Board