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Aug 10, 2016, 3:27 pm

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**IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON**

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**UNITED AIRLINES, INC.,**

Petitioner,

v.

**WASHINGTON STATE DEPARTMENT OF REVENUE, *ET AL*,**

Respondents.

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**PETITIONER'S REPLY BRIEF ADDRESSING VERIFICATION OF  
UNITED'S ADMINISTRATIVE REFUND CLAIM**

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## I. INTRODUCTION

In its Answer to Petition for Review, Respondents Washington Department of Revenue and King County (collectively "DOR") contend UAL failed to verify its underlying administrative refund claim. ***Answer to Petition for Review, p.18.*** DOR raised this issue in the underlying appeal before the Court of Appeals, but the Court of Appeals did not address this issue in its decision. UAL therefore offers this Reply Brief pursuant to RAP 13.4(d), solely on this issue.

## II. SUPPLEMENTAL FACTUAL BACKGROUND

On December 31, 2012, David Perkins, acting as UAL's duly authorized agent, filed a claim under RCW 84.69.020 with King County, requesting a refund of taxes paid as a result of a manifest error in description. **CP 454; CP 581-582; CP 576.** UAL expressly approved and authorized Mr. Perkins to file the claim on its behalf. **CP 574-578; CP 579-583.**

In a letter dated February 19, 2013, King County denied the refund requests of UAL, asserting the claim for refund related to a disagreement with the valuation property. **CP 530.**

On April 29, 2014, with UAL's express permission and approval, Mr. Perkins presented supplementary property tax refund requests to King County seeking refund of the same possessory

interest taxes paid by UAL. **CP 446-455,544-573; CP 576-577; CP 582-583.** Bill Gile, Senior Manager of Tax for UAL signed these petitions. **CP 455.** Mr. Perkins' letter specifically stated:

Please find the enclosed revised petitions for property tax refund originally filed by letter dated December 31, 2012 on behalf of the above-referenced taxpayer for tax years 2010, 2011, and 2012. The enclosed revised petitions for property tax refund are intended to relate back to and amend the originally filed petitions.

Please note that the original petitions filed for property tax refund have already been denied or no action was taken within six months of the filing. As such, actions have been commenced in Superior Court on the original petitions as provided for under RCW 84.69.120.

Should there be any action taken by the Superior Court dismissing the suits commenced on the original petitions for refund of property tax for lack of jurisdiction, the enclosed revised petitions filed will become original petitions for refund of property tax.

**CP 544-573.**

In a letter dated May 7, 2014, King County denied the UAL's April 29, 2014 Petitions for Property Tax Refund, contending UAL's claim did not involve a manifest error in the description of the property. **CP 558-559.**

**II. ARGUMENT**

**A. UAL's Administrative Refund Claim Complied with the Statutory Requirements of RCW 84.69.030(1)(a).**

DOR contends UAL's December 2012 tax refund claims were not "verified" because they were not signed under oath by a UAL employee or officer, even though its own forms fail to meet this alleged requirement. Contrary to DOR's claims, 84.69.030(1)(a) does not require a signature under oath by a taxpayer. Moreover,

the petitions were signed by an agent of UAL (David Perkins), who was authorized to act on behalf of UAL. RCW 84.69.030(1)(a) provides, in full:

Except as provided in this section, no orders for a refund under this chapter may be made except on a claim verified by the person who paid the tax, the person's guardian, executor or administrator.

The term "executor" is not defined in the code. An "executor" is commonly defined as "[s]omeone who performs or carries out some act." *Black's Law Dictionary* (10th ed. 2014). Mr. Perkins was acting as UAL agent and authorized representative when he presented UAL's administrative appeal. **CP 446-573; CP 579-693**. He qualified as an "executor" for UAL. King County did not raise any objection to UAL's petition, or express any concern, reservation or doubt as to Mr. Perkins' authority to present the claims on UAL's behalf. **CP 446-573**.

Nor is the term "verified" defined by statute. DOR wants to construe the definition of "verify" narrowly—alleging that it means to swear to the truth or the facts asserted. *Black's Law Dictionary* defines "verify": "1. To prove to be true; to confirm or establish the truth or truthfulness of; to authenticate. . . ." *Black's Law Dictionary* (10th ed. 2014). If the Legislature intended "verify" to mean oath or

swear, it would have, as shown by the statute defining the terms “oath” and “swear”: “‘Oath’ may be held to mean affirmation, and the word ‘swear’ may be held to mean affirm.” **RCW 84.04.070**.

The Legislature chose to not use either the term “oath” or “swear” but instead the term “verify”, meaning something less than a requirement of signing under oath or under penalty of perjury. The term “verify” should be given its broadest interpretation.

To the extent there is any argument as to what the legislature intended with regards to the term “verify” or “executor”, where there is any doubt as to the meaning of a tax statute, it must be construed against the taxing power. **Duwamish**, at 254; citing **Mac Amusement Co. v. Dept. of Revenue**, 95 Wn. 2d 963, 966, 633 P.2d 68 (1981).

UAL “verified” its December 2012 petition through its authorized agent, Mr. Perkins. **CP 446-573; CP 579-693**. Perkins reviewed the underlying data, including UAL’s payment of taxes and the calculations of tax refunds UAL believed to be due. **Id.** The data was all verified as true and correct by UAL officers in their tax department and Perkins. **Id.**

DOR’s own petition form offered for “manifest error” claims contradicts DOR’s current position. In DOR’s form, on page 2, there

is a section entitled "Statement By Taxpayer" which provides in its entirety:

Statement By Taxpayer		
I hereby state that the contents of the foregoing petition are true and correct to the best of my knowledge and belief, and request that the said tax be refunded in conformity with this petition.		
Date	Signature of Taxpayer or Agent	Title
Address		
City, State, Zip		

**CP 446-573.**

This form allows the "Taxpayer or Agent" to sign the petition. The form does not require the signor "swear", "affirm" or "declare under penalty of perjury" any aspect of the claim. This language does not satisfy the requirements for a declaration. **RCW 9A.72.085.** For DOR to claim "verified" means to *swear to the truth* is inconsistent with its own authorized form; as is their claim that a UAL employee/officer was required to sign the form. David Perkins, UAL authorized agent acting on behalf of UAL, complied with the statutory requirements of RCW 84.69.030(1)(a).

**B. The April 2014 petition for refund was a ratification of the December 2012 petition.**

On April 29, 2014, UAL submitted a supplemental refund petitions for assessed years 2009, 2010 and 2011, relating back to the initial petitions. **CP 446-573.** These "revised" petitions requested

the same relief as requested by the December 2012 petitions, and confirmed UAL officers had ratified the prior petitions. Under agency law:

[r]atification is the affirmance by a person of a prior act which did not bind him but which was done or professedly done on his account, whereby the act, as to some or all persons, is given effect as if originally authorized by him.

***National Bank of Commerce v. Thomsen***, 80 Wash.2d 406, 413, 495 P.2d 332 (1972) (citing Restatement (Second) of Agency §82 (1958)); ***Riss v. Angel***, 131 Wn. 2d 612, 934 P.2d 669 (1997). UAL ratified the petition submitted by Mr. Perkins in 2012, and again ratified the same allegations in 2014. **CP 446-573; CP 579-693; CP 574-578**. Such ratification, which UAL disputes was even necessary, relates back to the initial act – the presentation of the December 2012 petitions. In the event a court were to determine the December 2012 petitions were not properly “verified”, this issue was remedied by the April 2014 petitions when UAL ratified the prior petitions.

### III. CONCLUSION

DOR’s contention that UAL’s petition for a tax refund must somehow fail because it was not properly “verified” is without merit. The statute does not require the signor to sign under oath as claimed by DOR, and forms offered by King County for the express purpose

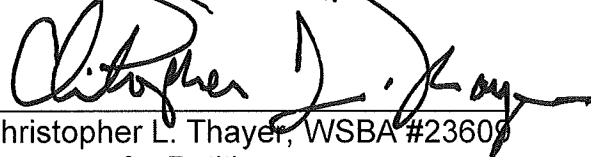


of filing petitions under RCW 84.69.030, authorize a taxpayer to submit a petition signed by an authorized "agent". UAL submitted a petition verified by a duly authorized agent, and subsequently formally ratified these same claims. DOR's contention that UAL's claim should have been dismissed on these grounds alone must fail.

UAL respectfully requests that the Washington Supreme Court accept review of the decision of Division I of the Court of Appeals.

Respectfully submitted this 9 day of August, 2016.

~~PIVOTAL LAW GROUP, PLLC~~

A handwritten signature in black ink, appearing to read "Christopher L. Thayer", written over a horizontal line.

Christopher L. Thayer, WSBA #23609  
Attorneys for Petitioner

**CERTIFICATE OF SERVICE**

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date a true copy of this Petition for Review was served on counsel of record as indicated below:

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Dated this 10<sup>th</sup> day of August, 2016, at Seattle, Washington.

  
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Tara L. Peterson