

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
[REDACTED][REDACTED],) DOCKET NO. 14481
)
) DECISION
Petitioner.)
_____)

On December 29, 1999, the Revenue Operations Bureau of the Idaho State Tax Commission (Commission) denied a request for refund by [Redacted] (Taxpayer) which was submitted on August 13, 1999. Taxpayer requested a refund of Idaho sales and use tax in the total amount of \$846.33.

On March 1, 2000, a timely protest and petition for redetermination of the refund denial was filed by the taxpayer. Neither a formal hearing nor an informal conference has been requested by the taxpayer. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the refund denial.

On August 13, 1999, the taxpayer faxed in a Sales Tax Refund Claim requesting a refund of sales tax paid to the state. In the claim, the taxpayer stated:

[Redacted] leased a Toyota Pickup from [Redacted]. At the end of the lease, an individual wanted to purchase the vehicle. Instead of turning the vehicle back in, [Redacted] sold the individual the car. The name of the individual is [Redacted]. A copy of his payment of \$865.00 to the Idaho State Tax Commission is enclosed. [Redacted] then had to turn around and pay another \$846.33 to the state. He was not involved with the sale of the vehicle, but before [Redacted] would release the title, [Redacted] had to pay the sales tax. Please refund the money. Thank you.

The taxpayer's payment of \$846.33 was not paid directly to the state of Idaho but to [Redacted] On October 22, 1999, the Tax Review Specialist (TRS) sent the taxpayer a letter

requesting he provide a letter from [Redacted] stating that the vehicle was sold directly to [Redacted]. The taxpayer did not respond to this letter.

A second letter was sent by the TRS on December 9, 1999, again asking the taxpayer to provide documentation from [Redacted] that the vehicle was sold directly to [Redacted]. The TRS informed the taxpayer in the second letter, that if [Redacted] sold the vehicle to him and he in turn sold it to [Redacted], no exemption to the sales tax would apply. The taxpayer did not respond to this letter either.

A Notice of Deficiency Determination Refund Denial was sent to the taxpayer on December 29, 1999 which denied the taxpayer's refund claim of \$846.33. In this notice, the TRS stated the underlying computations and reasons for this determination were:

A lease purchase is subject to sales or use tax on the full purchase price at the time the vehicle is delivered to the lessee. A true lease and a lease with an option to purchase are subject to sales tax on each lease payment and on the buy-out or residual value when a lessee exercises his option to buy.

The taxpayer protested the denial of his refund claim in a letter dated March 1, 2000. The taxpayer stated in the letter two reasons why the Commission should grant his refund claim.

The taxpayer's first reason is, despite repeated inquiries, he was never informed by [Redacted] that he would be considered a buyer first and would be responsible for paying sales tax on the vehicle.

The Commission cannot be held responsible for third party information the taxpayer did or did not receive from [Redacted].

The taxpayer's second reason is that he never bought the pickup truck because the credit union where all business was conducted through has no documentation verifying that he secured a loan to buy the pickup truck. The taxpayer then stated that, because he never bought the

pickup truck, he should not have to pay sales tax on it.

In this case, the taxpayer's financial transactions were handled by his credit union. It was not necessary for the taxpayer to take out a loan because he had a ready buyer for the pickup truck. The proceeds from the sale of the pickup truck to [Redacted] (a transaction) could have been used by the credit union to pay off the taxpayer's remainder amount on the lease. If this occurred, the taxpayer purchased the pickup truck from [Redacted] (a transaction).

[Redacted] was required to collect the sales tax on each lease payment because "sale" includes the lease or rental of tangible personal property when consideration is transferred. Idaho Code Section 63-3612(2)(h). [Redacted] was also required to collect sales tax from the taxpayer on the amount of the remainder value on his lease when he used his option to purchase the pickup truck because "sale" means any transfer of title of tangible personal property for consideration. Idaho Code Section 63-3612 (1).

Each sale in the preceding paragraph is a "sale at retail." Idaho Code Section 63-3609 defines a "sale at retail" as a sale for any purpose other than resale in the regular course of business or lease or rental of property in the regular course of business where such rental or lease is taxable under Section 63-3612(h), Idaho Code.

Idaho Code Section 63-3619 stated:

An excise tax is hereby imposed upon each sale at retail at the rate of five per cent (5%) of the sales price of all retail sales subject to taxation under this chapter, and such amount shall be computed monthly on all sales at retail within the preceding month.

Sales Tax Administrative Rule 024.12.b. on Rentals and Leases of Tangible Personal Property stated:

Lease with option to purchase agreements include transfers in which the personal property owner/lessor transfers possession,

dominion, control or use of the property to another for consideration over a stated term and the owner/lessor keeps the property at the end of the term unless the lessee exercises an option to buy the property. The owner/lessor must collect sales tax from the lessee at the time the rental is charged. If the lessee exercises the option to buy, the owner/lessor must collect sales tax from the lessee/buyer on the full remaining purchase price, the residual, when the option is exercised.

The taxpayer's argument in his refund claim was that he should not have to pay sales tax on the same vehicle that [Redacted] paid sales tax on. As the Idaho Supreme Court said in *Boise Bowling Center v. State of Idaho*, 461 P. 2d 262, 933 Idaho 367 (1969), these are two entirely distinct transactions. There are two entirely different taxpayers. "A sales tax is not a tax on property but rather an excise tax – a levy on certain transactions designated by statute." Also, "There is no double taxation when two separate and distinct privileges are being taxed even though the subject matter to which each separate transaction pertains may be identical."

The taxpayer has not provided a letter from [Redacted] stating that the vehicle was sold directly to [Redacted]. Therefore, the Commission finds that the taxpayer exercised his option to purchase the pickup truck from [Redacted], which correctly charged him the sales tax on that transaction.

WHEREFORE, the denial of refund dated December 29, 1999, is hereby AFFIRMED in accordance with the provisions of this decision, and is APPROVED, AFFIRMED AND MADE FINAL.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this ___ day of _____, 2000.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2000, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]
[Redacted]

Receipt No. [Redacted]
