

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 15831
[REDACTED]	)	
Petitioner	)	DECISION
	)	
	)	
	)	

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On June 27, 2001, the Sales Tax Audit Section of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination to [Redacted]. (taxpayer), proposing additional sales and use tax and interest for the period of October 1, 1997 through September 30, 2000 in the total amount of \$24,570.

The taxpayer filed a timely protest and petition for redetermination but did not request an informal hearing. The taxpayer is in the business of selling all terrain vehicles (ATV's) and snowmobiles.

At issue are sales of snowmobiles and all terrain vehicles (ATV's). The taxpayer sold many of these vehicles to out-of-state residents. Many of these sales took place in Idaho and the vehicles were delivered to the purchasers in [Redacted]. The taxpayer mistakenly believed, however, that the exemption provided by Idaho Code § 63-3622R applied to these sales. During the audit period this statute stated, in relevant part:

- 63-3622R. Motor vehicles and used mobile homes. There are exempted from the taxes imposed by this chapter:
  - (a) Sales of motor vehicles for use outside of this state, even though delivery be made within this state, but only when:
    - (1) The motor vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state; and
    - (2) The motor vehicles and trailers will be titled and licensed immediately under the laws of another state, will not be used in this state more than twenty-five percent (25%) of the mileage in any calendar year, and will not be required to be titled under the laws of this state.

Idaho Code § 63-3606B, which defines “motor vehicle,” states:

**63-3606B. Motor vehicle.** The term "motor vehicle" means a vehicle registered or required to be registered for use on public roads. The term "motor vehicle" does not include vehicles not required to be registered pursuant to section 49-426, Idaho Code, or intended for off-road use only, including snowmobiles, boats and aircraft, and all-terrain vehicles and off-road motorcycles when not used on public roads.

Thus, for the time period of the audit, Idaho Code § 63-3622R only exempted sales of vehicles intended for use on public roads. Effective July 1, 2001, this exemption was expanded to include sales of snowmobiles and ATV's.

The taxpayer's protest letter did not raise any issues of law or fact. The taxpayer stated that its business was located [Redacted]. The taxpayer had relied on the advice of a manager who had assured the owners that sales of these vehicles to out-of-state residents were not taxable. The taxpayer states that the out-of-state customers paid sales tax in [Redacted] and therefore it would be double taxation to collect tax from them again.

The Commission notes that other retailers similarly situated were required to collect and remit the tax. Also, if the taxpayer had collected the tax from the [Redacted] customers, the customers would have been given credit for the Idaho sales tax paid if they registered the vehicles in [Redacted].

Since the taxpayer did not raise any substantive issues, the Notice of Deficiency is affirmed.

WHEREFORE, the Notice of Deficiency Determination dated June 27, 2001, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax and interest (calculated through April 12, 2002):

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
20,496	\$5,032	<u>\$25,528</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2001, 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]

\_\_\_\_\_  
ADMINISTRATIVE ASSISTANT 1