

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

In the Matter of the Protest of )  
 )  
[Redacted] ) DOCKET NO. 18489  
 )  
 ) DECISION  
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\_\_\_\_\_ )

On August 11, 2004, the Sales, Use, and Miscellaneous Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayer). The Notice proposed additional use tax and interest in the total amount of \$2,776.00 for the period of January 1, 2004, through January 31, 2004. The taxpayer filed a timely appeal and petition for redetermination on October 13, 2004.

In its petition, the taxpayer requested a redetermination of the deficiency based on Idaho tax statutes and administrative agency rule interpretations. The Commission held an informal conference with the taxpayer on February 24, 2005.

The taxpayer operates school buses for the [Redacted] School District. The company owns several school buses. Until November of 2003, the buses had been registered under the International Registration Plan (IRP). Under the IRP, the registration fees are apportioned according to the mileage in the various states in which the owner operates the vehicles. Purchases of such vehicles are exempt from tax as long as the owner meets the requirements of Idaho Code § 63-3622R which states:

**63-3622R. MOTOR VEHICLES, USED  
MANUFACTURED HOMES, VESSELS, ALL-TERRAIN  
VEHICLES, TRAILERS, OFF-ROAD MOTORCYCLES AND  
SNOWMOBILES.**

There are exempted from the taxes imposed by this chapter:

- (a) Sales to nonresidents of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs), motorcycles intended for off-road use and snowmobiles, for use outside of this state even though delivery be made within this state, but only when:

(1) The motor vehicles, vessels, ATVs, motorcycles intended for off-road use, snowmobiles 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, vessels, ATVs, motorcycles intended for off-road use, snowmobiles and trailers will be registered immediately under the laws of another state, will be titled in another state if required to be titled in that state, will not be used in this state more than sixty (60) days in any twelve (12) month period, and will not be required to be titled under the laws of this state.

(3) For the purpose of this subsection (a), the term “all-terrain vehicle” or “ATV” means any recreational vehicle with three (3) or more tires, weighing under eight hundred fifty (850) pounds, forty-eight (48) inches or less in width, having a wheelbase of sixty-one (61) inches or less, traveling on low-pressure tires of ten (10) psi or less.

(4) For the purpose of this section, the term “vessel” means any boat intended to carry one (1) or more persons upon the water which is either:

- (i) Sold together with a motor, or
- (ii) Eleven (11) feet in length or more, but shall not include canoes, kayaks or inflatable boats, unless such canoes, kayaks or inflatable boats are sold together with a motor.

(b) Sale of used manufactured homes, whether or not such used manufactured homes are sold for use outside this state, and whether or not such used manufactured homes are sold by a dealer. Every manufactured home sale after its sale as a “new manufactured home,” as defined in section 63-3606, Idaho Code, is a sale as a used manufactured home.

(c) Sale or lease of motor vehicles with a maximum gross registered weight over twenty-six thousand (26,000) pounds, which shall be immediately registered under the international registration plan or similar proportional or pro rata registration system, whether or not base plated in Idaho, and the sale or lease of trailers which are part of a fleet of vehicles registered under such proportional or pro rata registration system when such vehicles and trailers are substantially used in interstate commerce. *If such a motor vehicle or trailer is not substantially used in interstate commerce during any annual registration period under the international registration plan, it shall be deemed used in Idaho and subject to the use tax under section 63-3621, Idaho Code.* For the purpose of this subsection, “substantially used in interstate commerce” means that the vehicles or trailers will be part of a fleet with a minimum of ten percent (10%) of the miles operated by the fleet accrued outside of Idaho in any annual registration period under the international registration plan.

(d) The use or other consumption of a motor vehicle temporarily donated to a driver’s education program sponsored by a nonprofit

educational institution as defined in section 63-3622O, Idaho Code.  
(Emphasis added.)

In November of 2003 the taxpayer did not register the buses under the IRP but instead paid the full registration fee for the state of Idaho. According to the taxpayer, the vehicles were used exclusively in Idaho from November of 2003 through October of 2004. The taxpayer intended to register the buses IRP again in November 2004.

The taxpayer's general manager stated that in November, 2003, in his estimation, the company would not drive the buses in any other state. Because of this, the Department of Motor Vehicles informed him that it would be less expensive to pay the full registration fee to Idaho rather than register under the IRP. He stated that he did not realize this would cause him to owe use tax.

The Commission understands that the taxpayer was unaware of the tax consequences when it changed the registration. Nonetheless, the taxpayer stated that it intended to use the buses only in Idaho during the 2003-2004 registration period. For this reason, the use of the buses would have become taxable even if they had been registered under the IRP. Idaho Code § 63-3622RI clearly states that the use of vehicles become taxable once they cease to be used in interstate commerce.

The addition of interest to the taxpayer's liability is imposed pursuant to Idaho Code § 63-3045 and is updated to July 22, 2005.

WHEREFORE, the Notice of Deficiency Determination dated August 11, 2004, is hereby APPROVED, AFFIRMED and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax and interest:

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$2,700	\$201	\$2,901

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

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 2005.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2005, 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]

Receipt No.