

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20501
[REDACTED],)	
)	DECISION
Taxpayer.)	
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On June 12, 2007, the staff of the Sales Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing sales and use tax, penalty, and interest for the period of June 1, 2006, through June 30, 2006, in the total amount of \$6,309.

On August 25, 2007, the taxpayer filed a timely appeal and petition for redetermination. The Commission held an informal hearing with the taxpayer [Redacted] on November 8, 2007.

In June of 2006, the taxpayer purchased a 2001 Donzi Daytona fiberglass boat used for recreation. The only issue is the imposition of use tax on the purchase price of this boat.

[Redacted]. The taxpayer filled out and gave to the seller a [Redacted] sales tax exemption certificate for boats delivered outside the state. The certificate included an affidavit signed by the seller's employee stating that the boat was delivered to [Redacted], Idaho.

Idaho Code § 63-3621 imposes a use tax on the storage, use, or consumption of tangible personal property in Idaho. The use tax is a complementary tax to the sales tax. Use tax is due from the purchaser unless he pays sales tax to the seller at the time of purchase. Every state that imposes a sales tax also imposes a complementary use tax.

The boat in question is large enough to be a documented vessel registered with the United States Coast Guard. It is, therefore, exempt from state registration requirements under Idaho Code § 67-7009.

The taxpayer informed the Commission that [Redacted] is a co-owner of the boat. [Redacted] participated in the informal hearing, as permitted under Idaho Code § 63-3045. [Redacted] is not a party to this proceeding, however, because the seller did not include his name on the sales invoice and he is not included in documentation filed with the Coast Guard. If the taxpayer [Redacted] have an agreement to share the boat, they apparently did not record it.

The taxpayer stated that there was some delay in delivering the boat, and it was ultimately delivered [Redacted], contradictory to the sworn affidavit provided by the seller. The taxpayer stated that he did not register the boat [Redacted] because he did not believe it was required; however, [Redacted] Revised Statutes § 306.016 requires both registration and payment of a documented vessel tax.

The taxpayer stated that he did not use the boat in Idaho because it is too loud under Idaho's noise statute, Idaho Code § 67-7038. The taxpayer stated that since he has not used the boat in Idaho he should not have to pay Idaho tax. On the other hand, [Redacted] stated that he was stopped by law enforcement officers while using the boat [Redacted] because the boat was making too much noise. He was escorted back to a mooring place, as provided for by Idaho Code § 67-7038(9). Although [Redacted] stated he was driving the boat in question, the taxpayer stated that it was a different boat. The taxpayer stated that the boat is currently [Redacted] where [Redacted] resides. He also stated that the Coast Guard documentation shows a hailing port [Redacted]. According to the Coast Guard's database, however, the boat's hailing port [Redacted].

The taxpayer does not dispute that the boat has been present in Idaho. A Commission employee observed the boat on a trailer parked in the taxpayer's driveway on September 7, 2007. The taxpayer admitted that the boat had been present in Idaho, but it was generally used in other locations, [Redacted]. The taxpayer stated that he had not paid use tax to any state where the boat had been used. The taxpayer admitted that he purchased the boat to use in Idaho but was unaware of the noise law.

In this case, there is reliable evidence showing that the boat was delivered to Idaho. The taxpayer purchased the boat for use in Idaho, and it is undisputed that it has been stored in Idaho. Although the boat may have been used in other states, the taxpayer is an Idaho resident. It is unlikely that any other state would have the ability to impose tax on his use of the boat. The taxpayer, therefore, owes Idaho use tax under Idaho Code § 63-3621.

WHEREFORE, the Notice of Deficiency Determination dated June 12, 2007, is APPROVED, AFFIRMED and MADE FINAL.

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

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$4,750	\$1,188	\$461	\$6,399

Interest is calculated through December 31, 2007, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

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.

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, 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.
