

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20873
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On June 22, 2007, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] [Redacted] proposing use tax, penalty, and interest for June 2006 in the total amount of \$1,256.

A timely protest and petition for redetermination was filed by the petitioner [Redacted]. A hearing was not requested by the petitioner. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

On April 3, 2005, the petitioner purchased a 2004 Ford Escape (motor vehicle) from an Oregon dealership. The petitioner brought the motor vehicle to Idaho on June 10, 2005.

The petitioner was employed [Redacted] from mid June 2005 through 2006 and part of 2007. The petitioner was also a student [Redacted] from August 2005 through December 2005. The petitioner resided at [Redacted], Idaho.

The petitioner applied for an Idaho title and registration for her motor vehicle on March 3, 2006. An Idaho temporary registration for the petitioner's motor vehicle was issued on March 3, 2006, and expired on April 2, 2006. A second temporary registration was issued for the petitioner's motor vehicle on March 31, 2006, and expired on April 30, 2006. When the petitioner registered her motor vehicle, [Redacted] personnel informed her that Idaho use tax must be paid before an Idaho title could be issued.

The petitioner completed a Form ST-102 Three-Month Exemption Claim. On the form, the

petitioner wrote April 3, 2005, as the date she purchased the motor vehicle and June 10, 2005, as the date she moved to Idaho.

On May 3, 2006, [Redacted] faxed the petitioner's exemption form to the Idaho State Tax Commission for review. The Commission's tax enforcement specialist (TES) reviewed the form because the dates on the form clearly did not meet the three month requirement. It was determined that the petitioner did not qualify for the exemption claimed, and she was notified by letter on May 3, 2006, to pay the tax or explain what exemption applied to this transaction.

On June 23, 2006, the petitioner obtained an Idaho title and Idaho registration for the motor vehicle and again provided an ST-102 new resident exemption form to the [Redacted] Department of Motor Vehicles.

The petitioner was notified by letter again by the TES on October 20, 2006, to pay the tax or explain what exemption applied to this transaction.

The petitioner did not respond to the letters from the TES, so a request for address information was sent to the postmaster on December 13, 2006, and was returned to the Commission on December 26, 2006, indicating mail was delivered to the petitioner at the Idaho address used on the letters.

An NOD was issued to the petitioner on June 22, 2007, and was delivered to her by certified mail on July 2, 2007, [Redacted]. The value of the motor vehicle subject to tax was determined per the NADA Official Used Car Guide average retail. The calculation of the tax due was based on the value of the motor vehicle at the time it was titled and registered in Idaho or approximately June 2006. The NADA value of the motor vehicle as of June 2006 was \$16,575.

In the petitioner's protest letter received August 22, 2007, she stated that she had owned the vehicle three months prior to becoming an Idaho resident because she was a student [Redacted] from June 2005 through December 2005. The petitioner contended that as such, she retained her [Redacted] resident status and did not become an Idaho resident until after December 2005.

The TES sent a letter to the petitioner on August 23, 2007, that identified that the Commission's initial determination of tax due was based on the dates she provided on her exemption form, work records, and her Idaho individual income tax return that she filed for tax year 2005. The TES requested that the petitioner provide a copy of her 2005 [Redacted] income tax return and the purchase documents for the motor vehicle.

The petitioner responded to the letter from the TES in which the petitioner stated she had filed her Idaho income tax return incorrectly. The petitioner stated she did not actually move to Idaho until after December 2005 when she ceased being a student at [REDACTED]. The petitioner provided a copy of her 2005 [Redacted] income tax return and her purchase documents for the motor vehicle. The purchase documents showed that the petitioner paid \$13,132 for the motor vehicle after trade-in. The petitioner also provided a copy of her automobile insurance billing statement for July 1, 2005, through January 1, 2006, from [Redacted] an Idaho insurance agent. The address listed on the billing statement was [Redacted] Idaho.

Idaho imposes a tax on storage, use, or other consumption of tangible personal property brought into the state, and a recent sales price shall be presumptive evidence of the value of the property. Idaho Code § 63-3621. The use tax is complementary to the sales tax, which imposes tax on the retail sale of tangible personal property within Idaho. It is uncontroverted that the motor vehicle was brought into Idaho and, absent an exemption, the petitioner owed a use tax. There are only two exemptions from use tax for motor vehicles brought into Idaho.

Idaho Code § 63-3621(l) provides:

The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned motor vehicles by a resident of this state, if such articles were acquired by such person in another state while a resident of that state and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial. For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code. (Emphasis added.)

The petitioner purchased the motor vehicle on April 3, 2005, and moved to Idaho on June 10, 2005. It is clear that that the petitioner did not meet the three-month requirement to qualify for the new resident exemption. Even if the petitioner became an Idaho resident on July 1, 2005, the date the petitioner's lease expired on her apartment [Redacted], the time period was two days shy of meeting the three-month requirement because the motor vehicle was purchased on April 3, 2005.

Idaho Code § 63-3621(k) provides:

The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than a cumulative period of time totaling ninety (90) days in any consecutive twelve (12) months, and which is not required to be registered or licensed under the laws of this state.

If we accept the petitioner's argument that she did not become an Idaho resident until after December 2005, the purchase of the motor vehicle is subject to Idaho use tax because it was used by a nonresident in Idaho in excess of 90 days during a consecutive 12-month period. The calculation of use tax should be based on the motor vehicle's market value at the time that it exceeded 90 days use in Idaho or approximately September 2005. The NADA value of the motor vehicle as of September 2005 was \$17,725. Since the petitioner provided purchase

documentation, the value of the motor vehicle subject to use tax should be the purchase price less the amount of trade-in or \$13,132.

Based on all the facts cited previously in this decision, the petitioner did not qualify for any exemption from use tax on the motor vehicle that she brought into Idaho and is required to pay use tax on that motor vehicle.

WHEREFORE, the Notice of Deficiency Determination dated June 22, 2007, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

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

<u>PERIOD</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
9/2005	\$657	\$164	\$239	\$1,060

Interest is computed through February 11, 2009.

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

An explanation of the petitioner'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
