

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21524
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On August 5, 2008, the staff of the Sales Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination Refund Denial (NOD) to [Redacted] (taxpayer) denying a refund of use tax for the period of July 5, 2007, through August 5, 2008, in the total amount of \$3,560.18.

On September 3, 2008, the taxpayer filed a timely appeal and petition for redetermination. The Commission sent two letters to the taxpayer explaining her right to a hearing before the Commission. The taxpayer did not respond to either letter.

On July 5, 2007, the taxpayer applied for a title and registration for a [Redacted]. The registration did not name the make and model of the [Redacted]. The taxpayer paid \$3,560.18 in use tax at the time she applied for the title and registration. The Idaho Division of Motor Vehicles later rescinded the title and registration because [Redacted] could not be driven on public highways in Idaho. The taxpayer then applied for a refund of the tax.

Idaho Code § 63-3621 imposes a use tax on the storage, use, or other consumption of tangible personal property in Idaho. The use tax is complementary to the sales tax. The rate is the same as sales tax. Every state that imposes a sales tax also imposes a complementary use tax.

Purchases of tangible personal property in Idaho are subject to use tax when the seller does not collect sales tax. The Idaho Sales Tax Act does not provide an exemption for

unregistered motor vehicles. Even though [Redacted] could not be registered, the use in Idaho is still subject to use tax.

The taxpayer has not provided the Commission with information showing that tax is not due on [Redacted] in Idaho. As a result, the Commission will uphold the NOD. A determination of the State Tax Commission is presumed to be correct. *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The burden is on the petitioner to show that the deficiency is erroneous. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986).

WHEREFORE, the Notice of Deficiency Determination Refund Denial dated August 5, 2008, is APPROVED, AFFIRMED, and MADE FINAL.

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

DATED this _____ day of _____, 2009.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2009, 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.