

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
[Redacted]) DOCKET NO. 21725
)
Petitioner.) DECISION
)
)
_____)

On November 20, 2008, the staff of the Sales Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted], [Redacted] dba [Redacted] (taxpayer) proposing sales and use tax, and interest for the period of January 1, 2003, through December 31, 2005, in the total amount of \$40,936.

On January 22, 2009, the taxpayer filed a timely appeal and petition for redetermination. The Commission held an informal hearing with the taxpayer on July 15, 2009.

The taxpayer is in the business of leasing motor vehicles and trailers. The taxpayer raised three issues.

First, the taxpayer did not remit sales tax on money received on judgments in small claims court. The taxpayer argues that a Commission employee told him such recoveries were not taxable. It is not clear, however, that the employee understood the taxpayer’s question. The judgments represent lease payments and are taxable under IDAPA 35.01.02.063.

Second, the taxpayer reduced the price of a leased vehicle by \$1,828 as a result of a dispute over an optional maintenance agreement. The taxpayer did not explain, however, why it stopped collecting and remitting tax on the final twenty-one lease payments. The sale of the maintenance agreement, moreover, was not taxable under IDAPA 35.01.02.049.05. Therefore, there should have been no adjustment to the amount of tax that was due.

Finally, the auditor held that some of the leases were actually conditional sales because the residual buyout at the end of the lease term was so low. IDAPA 35.01.02.012.a. states:

a. Lease-purchase agreements include transfers which are called leases by the parties but are really installment, conditional, or similar sales. *Where ownership passes to the transferee at the end of the stated terms of the lease contract with no additional consideration from the transferee, or where the additional consideration does not represent the fair market value of the property, the transaction is a sale and tax on the entire sales price is collected on the date the property is delivered.* (Emphasis added.)

The taxpayer treated several conditional sale agreements as true leases, even though the residual amount at the end of the lease term was substantially less than the fair market value of the vehicle. The vehicles were traded-in before the end of the lease term, so the taxpayer collected and remitted less tax than it would have if the sales had been taxed correctly. The auditor held taxable the amount of tax that would have been due on the entire sales price of the vehicle less the amount of tax paid on the monthly lease payments.

The taxpayer argued that estimated values for used vehicles vary greatly between guides published by the [Redacted]. The Commission notes, however, that the residual values of the vehicle sales held taxable ranged from as little as \$100 to \$1,200. In those cases, the residual value was substantially less than the actual market value of the vehicle. The Commission is deleting one such sale where the residual value was \$6,000.

WHEREFORE, the Notice of Deficiency Determination dated November 20, 2008, is MODIFIED, and as MODIFIED, APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEARS</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003 through 2005	\$28,404	\$1,420	\$9,551	\$39,375

Interest is calculated through December 31, 2009, and will continue to accrue at the rate set forth in Idaho Code § 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 _____ 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.