

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 22704
)
)
Petitioner.) DECISION
)
_____)

On February 19, 2010, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to [Redacted] (taxpayer) proposing use tax, penalty, and interest for the 2009 taxable period in the total amount of \$3,845. In a letter dated March 16, 2010, the taxpayer filed a timely appeal and petition for redetermination. The Commission held an informal hearing with the taxpayer on July 21, 2010. The Commission, having reviewed the file, and with an understanding of the facts and the applicable tax law, upholds the audit findings for the following reasons.

BACKGROUND

According to the auditor’s records, on January 15, 2009, the taxpayer applied to register two motor vehicles in this state. When he was told by an employee of his county assessor’s office that he would need to provide the vehicles for an inspection and verification of the identification numbers, and that he would owe tax, he cancelled the applications. Notified of this, and following additional fact finding, the Bureau’s auditor imposed tax on the use of the two motor vehicles in this state.

According to the taxpayer’s protest letter, he uses the vehicles, which are registered and titled in [Redacted], on his farm in that state. He drives the vehicles into Idaho for business and personal purposes. The [Redacted] is operated as a sole proprietorship.

The taxpayer has filed Idaho resident returns since 1995 and has an Idaho driver's license dating back to 1992. He has a homeowner's exemption on a residence in [Redacted] County.

APPLICABLE TAX LAW

In Idaho, the sale of tangible personal property is subject to sales tax in the absence of any applicable exemption that exists by statute (Idaho Code § 63-3601 *et. seq.*). If sales tax is not paid to the vendor, the buyer owes a use tax directly to the state. The payment of use tax extinguishes the requirement that sales tax be paid (Idaho Code § 63-3621(a)). All states with a sales tax have a complementary use tax. A county assessor's office will collect tax on newly registered vehicles unless evidence is shown that sales tax was paid to the vendor or some exemption applies.

Tax does not apply to the use of personally owned vehicles by a new resident of this state, if the vehicles were acquired in another state while a resident of that state (Idaho Code § 63-3621(l)). Further, tax paid rightly to another state in an amount equal to or in excess of the tax due in Idaho would extinguish the taxpayer's use tax liability (Idaho Code § 63-3621(j)).

PROTEST ISSUES AND ANALYSIS

In his protest letter and during the hearing, the taxpayer cited two factors that he believes justify his not having paid Idaho tax on the use of his vehicles. First, the taxpayer relates that his insurance company in Idaho determined it could no longer insure vehicles which were registered in [Redacted]. This prompted the taxpayer to apply for registration in Idaho.

Additionally, the taxpayer notes that, while he does use the vehicles in Idaho, he does so to a lesser degree because his business interests are in [Redacted]. He adds that he has other vehicles which are titled and registered in Idaho.

The taxpayer's defenses are not supported by the sales and use tax statutes. In the determination of tax, there is no provision that accounts for the degree to which a vehicle is used in Idaho by a resident. Further, the insurance matter brought the liability to light and has no other bearing on the imposition of tax.

The taxpayer has not raised a defense that he was not a resident of this state during the applicable time period, and he does not deny that he bought the vehicles when he was a resident. As an Idaho resident who purchased vehicles while a resident of this state, the taxpayer does not qualify for a new resident exemption.

Finally, the taxpayer has not claimed that he rightly paid tax to another state. Since the vehicles were registered in [Redacted], which has no sales and use tax, the likelihood of tax paid correctly to another jurisdiction is improbable.

WHEREFORE, the Notice of Deficiency Determination dated February 19, 2010, is AFFIRMED, and as AFFIRMED, is 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>
\$2,926	\$732	\$264	\$3,922

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 _____ 2010.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2010, 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.
