

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23043
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On March 26, 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] (taxpayers) proposing use tax, penalty, and interest for the period of May 1, 2009, through June 30, 2009, in the total amount of \$24,081.

On May 26, 2010, the taxpayer filed a timely appeal and petition for redetermination. The Commission held an informal hearing with the taxpayers on December 3, 2010.

At issue in this case is the imposition of use tax on the purchase of two motor vehicles, a [Redacted].

Idaho Code § 63-3621 imposes a use tax on the storage, use, or other consumption of tangible personal property in Idaho. Payment of sales tax to a vendor extinguishes the use tax liability. Therefore, purchases subject to use tax are only taxable when the purchaser buys goods without paying tax to the seller at the time of sale. The use tax rate is the same as the sales tax rate and is due on the fair market value of the property. A recent sales price is presumptive evidence of the market value.

Idaho Code § 63-3621(l) provides an exemption for the use of personally owned motor vehicles of new residents if they were purchased more than ninety days before moving to Idaho, in another state, while a resident of that state. Idaho Code § 63-3621(k) provides an exemption for the use by a nonresident of a motor vehicle which is 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 month period.

The taxpayers purchased the [Redacted] from a dealer in Utah. The sales price of the car was \$227,215, but since they traded in a motor vehicle at the same time, the amount subject to tax if they had purchased the car from an Idaho dealer would have been \$79,694. The taxpayers purchased the [Redacted] from an individual and took possession of it in Idaho. The purchase price was \$65,000. The taxpayers registered both vehicles in Oregon where they own a business.

In 2009, the taxpayers registered the vehicles in Idaho, claiming the new resident exemption. At all relevant times, the taxpayers have owned a residence in [Redacted], Idaho. The Commission reviewed the registration and imposed use tax on the book value of the vehicles at the time they were registered. The book values of the [Redacted] were \$261,200 and \$47,550 respectively.

The taxpayer argues that they were domiciled in [Redacted] when they registered the vehicles in Idaho. Although they considered themselves domiciled in [Redacted], they were residents of Idaho as well by virtue of their [Redacted], Idaho, property. Also, they did not register the vehicles in the state of their residence, as required by Idaho Code § 63-3621(1). Therefore, the new resident exemption does not apply to them. Moreover, since the vehicles were in Idaho more than ninety (90) days during a consecutive twelve month period, the nonresident exemption does not apply.

Nevertheless, the amount of the Notice must be modified to reflect the actual sales price of the vehicles. A state cannot impose tax on an out-of-state sale at an amount higher than it would on a sale made within the state. Equal treatment for in state and out-of-state taxpayers similarly situated is condition precedent for valid use tax on goods imported from outside the

state. Halliburton Oil Well Cementing v. Reilly, 373 U.S. 64, 83 S.Ct. 1201, (1963). In this case, the sales price subject to tax on the [Redacted] would have been \$79,694 if the taxpayers had purchased it from an Idaho dealer. On the other hand, the actual sales price of the [Redacted] was \$65,000. This is the amount that should be subject to use tax, not \$47,550. Using these amounts to calculate the tax due, less penalty and interest, should have been \$8,682, not \$18,525. This decision reflects the aforementioned changes in the liability.

WHEREFORE, the Notice of Deficiency Determination dated March 26, 2010, is MODIFIED, and as modified, APPROVED, AFFIRMED, and MADE FINAL.

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

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$8,682	\$2,171	\$794	\$11,647

Interest is calculated through March 31, 2011, 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 taxpayers' right to appeal this decision is enclosed.

DATED this _____ day of _____ 2011.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2011, 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.
