

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 23274
[Redacted],	)	
	)	
Petitioners.	)	DECISION
_____	)	

On June 3, 2010, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to [Redacted] (taxpayers). The Notice proposed additional use tax, penalty, and interest in the total amount of \$694 for taxable period June 2009. The taxpayers filed a timely appeal and petition for redetermination on July 30, 2010, and requested an informal conference, which was held on November 4, 2010. The Commission, having reviewed the audit file and considered the information obtained at the informal conference, hereby upholds the audit findings for the following reasons.

On June 9, 2009, the taxpayers registered a motor vehicle with the Idaho Transportation Department (ITD). At the time of registration, the taxpayers completed Form ST-102, New Resident Exemption Claim. Typically, if a taxpayer acquires a vehicle without paying sales tax and then uses or stores it in Idaho, it is subject to a use tax at the same rate as the sales tax (Idaho Code § 63-3621). The new resident exemption allows a resident of Idaho to register a motor vehicle in Idaho without paying a use tax if the vehicle was acquired while a resident of another state; the acquisition must occur at least three months prior to moving to Idaho (Idaho Code § 63-3621(1)). In filling out the ST-102, the taxpayers asserted that they had purchased the vehicle in the fall of 2006 and had moved to Idaho on February 14, 2008. By completing the form and claiming to meet the proper requirements, the taxpayers registered the vehicle without paying use

tax. The Bureau received the taxpayers' information from the county assessor and reviewed their exemption claim in April 2010.

The Bureau concluded that the taxpayers did not qualify for the claimed exemption as they were residents at both the time of purchase and registration with the state of Idaho. The Bureau based this conclusion on the fact that the taxpayers filed Idaho resident income tax returns between 1995 and 2007 and a part-year resident income tax return for 2008, in which they claimed to be residents of Idaho for 10 months of the year.

The taxpayers did not respond to an inquiry, so the Bureau issued the Notice as detailed above. The taxpayers answered by submitting a newly completed Form ST-102. On this version, the taxpayers asserted a different timeline than the original one. The new Form ST-102 showed a purchase date of March 2007 and a move date of 2009. The revised ST-102 was accepted as a perfected protest, and the file was submitted for administrative review.

According to the taxpayers, they purchased the vehicle from [Redacted], a dealership located in [Redacted], Idaho, without paying sales tax. Though the taxpayers provided two different purchase dates, the discrepancy is irrelevant because at least one of the purchasers was an Idaho resident at both times.

The Commission reasonably presumes that the taxpayers claimed the exemption available to nonresidents purchasing a motor vehicle who will take the vehicle to another state for registration (hereafter, the "nonresident exemption") (Idaho Code § 63-3622R(a)(1)). Since the taxpayers provided two purchase dates, the Commission examined the exemption claim for each possible date.

If the taxpayers purchased the vehicle in the fall of 2006, the nonresident exemption was inapplicable. According to the taxpayers, they were both Idaho residents until February 2007 at the earliest. Therefore, the purchase of a vehicle during this period was subject to tax.

Alternatively, if the taxpayers purchased the vehicle in March 2007, the nonresident exemption would not apply because one of the taxpayers maintained residency. By this time, the wife had begun or perhaps even finished a move to [Redacted], Oregon, where she had accepted a new job. According to the taxpayers, the vehicle was for the sole use of the wife in her new home in Oregon, but the taxpayers presented documentation showing the car was titled in Oregon in March 2007 in both names.

The title denotes ownership, and both taxpayers were listed on the title. According to them, the husband remained an Idaho resident until at least June 2007. Consequently, the vehicle purchase was subject to sales tax on the purchase date.

Since the Bureau held the vehicle subject to tax at the June 2009 fair market value, the tax asserted is likely less than the proper amount owed on the March 2007 purchase price. Since the hearing date has passed, however, the tax deficiency cannot be increased beyond the original Notice amount (Idaho Code § 63-3631(2)).

The Commission approves of the Bureau's imposition of interest and penalty as appropriate per Idaho Code §§ 63-3045(6) and 63-3046(c) and (g). Interest continues to accrue until the full tax liability is paid.

WHEREFORE, the Notice of Deficiency Determination dated June 3, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest (calculated through April 29, 2011):

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$530	\$133	\$49	\$712

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.