

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

[Redacted], )  
 ) DOCKET NO. 23395  
 )  
 ) Petitioner. ) DECISION  
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On January 12, 2010, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] [Redacted] proposing use tax, penalty, and interest for the period January 2008 in the total amount of \$2,020.

A timely protest and petition for redetermination was filed by the petitioner [Redacted] A hearing was requested by the petitioner and held by telephone on March 2, 2011. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

The Commission reviews all vehicle transactions when an exemption to sales/use tax has been claimed. The petitioner’s transaction was reviewed, and it showed that he claimed the new resident exemption on his [Redacted] vehicle [Redacted].

The tax enforcement specialist (TES) of the TDB sent the petitioner a letter dated February 1, 2010, requesting information to assist the Commission in identifying whether Idaho sales/use tax was due on the [Redacted] in Idaho.

The petitioner was sent a tax due letter using the NADA value of \$24,950 on February 22, 2010, because there was no response to the first letter.

On March 11, 2010, the TES received a purchase document showing the [Redacted] was purchased on July 20, 2007. The petitioner’s Idaho income tax return showed him moving to Idaho in August 2007. The TES sent another tax due letter on April 5, 2010, explaining the three-month

exemption did not apply and tax was due.

An NOD dated April 30, 2010, was issued to the petitioner because it appeared based on the documents the petitioner provided that the [Redacted] did not qualify for any exemptions from sales/use tax or sales/use tax had not been paid. The tax, penalty, and interest in the NOD were calculated using the NADA value of \$24,950.

In the petitioner's protest letter received on May 17, 2010, he stated in part:

[Redacted]

The TES sent a letter to the petitioner on May 19, 2010, stating that based on Idaho Sales Tax Administrative Rule 107.04, the petitioner did not qualify for the new resident exemption and use tax was due on the [Redacted].

On October 8, 2010, the Tax Policy Specialist (policy specialist) sent the petitioner a letter to inform him of the alternatives for redetermining a protested NOD. A follow-up letter was sent to the petitioner on December 1, 2010.

The petitioner called the Commission on December 28, 2010, and requested a telephone hearing be scheduled. The hearing was held on March 2, 2011. The petitioner did not provide any new information during the hearing but reiterated that he had paid fees to the state of [Redacted] for registration because his temporary registration had expired. The petitioner was informed that the state of Idaho allows a credit for sales/use taxes paid to other jurisdictions when that jurisdiction has a general sales tax, Idaho Code section 63-3621(j). The state of [Redacted] does not have a general sales tax, and no credit can be given for the fees paid to [Redacted].

Idaho imposes a tax on storage, use, or other consumption of tangible personal property brought into the state, and a recent sales price shall be presumptive evidence of the value of the property. Idaho Code § 63-3621. The use tax is complementary to the sales tax, which imposes tax

on the retail sale of tangible personal property within Idaho. It is uncontroverted that the [Redacted] was brought into Idaho and, absent an exemption or the prior payment of tax to another jurisdiction, the petitioner owed a use tax. There are only two exemptions from use tax for a vehicle brought into Idaho.

Idaho Code § 63-3621(k) provides:

(k) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or 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 (12) months, and which is not required to be registered or licensed under the laws of this state.

The petitioner does not qualify for the nonresident exemption because he moved to Idaho and became an Idaho resident.

Idaho Code § 63-3621(l) provides:

(l) The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned motor vehicles by a resident of this state, if such articles were acquired by such person in another state while a resident of that state and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial. For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code.

The petitioner does not qualify for the new resident exemption because he purchased the [Redacted] less than three months before moving to Idaho.

Finally, the Commission has agreed to waive the 25 percent non-filer penalty in this case exercising its authority stated in Idaho Code § 63-3046(d)(7).

Based on all the facts cited previously in this decision, the petitioner did not qualify for any exemption from use tax on the [Redacted] he brought to Idaho and has not paid a general sales tax to another jurisdiction.

THEREFORE, the Notice of Deficiency Determination dated January 12, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$1,497	\$229	\$1,726

Interest is computed through September 22, 2011.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's 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  
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