

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 23397
)
)
Petitioners.) DECISION
)
_____)

On September 14, 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 and interest for the December 2007 tax period in the total amount of \$3,276. In a letter dated September 8, 2010, the taxpayers filed a timely appeal and petition for redetermination. The Commission held an informal hearing at the husband’s request on November 2, 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 Bureau’s research and information gathered during and after the hearing, the taxpayers jointly purchased a 2007 GMC truck tax-exempt from an Idaho dealership on July 6, 2007, and later that month titled and registered the vehicle in Oregon under both names. In December 2007, the husband titled and registered the vehicle in Idaho claiming a new resident exemption. The Three Month Exemption Claim Form (ST-102) he filled out states the vehicle was purchased June 31, 2007¹, and that the claimant moved to Idaho on July 15, 2007.

Mrs. [Redacted] does not dispute long-standing Idaho residency. A Fish and Game license application filed in 2007 shows her as a resident since 1974. The taxpayers jointly filed a 2007 part-year residency Idaho individual income tax return indicating that Mrs. [Redacted] was

¹ This was an inadvertent and immaterial mistake of fact, as the vehicle purchase date was July 6, 2007.

a full-time resident in taxable year 2007 working for a school district the entire year. The husband claims he was a resident of Idaho for five months of taxable year 2007. In separate information, he states that he was a resident of Oregon at the time he purchased the vehicle. The Notice of Deficiency Determination cites Mrs. [Redacted] Idaho residency status at the time the vehicle was brought to Idaho as the reason for imposing a tax liability.

APPLICABLE TAX LAW

In Idaho, the sale of tangible personal property is subject to sales tax in the absence of any applicable statutory exemption (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. Further, tax paid rightly to another state in an amount equal to or in excess of the tax due in Idaho will extinguish the taxpayer's use tax liability (Idaho Code § 63-3621(j)).

Tax does not apply to the use of a personally owned vehicle by a new resident of this state if the vehicle was acquired in another state while a resident of that state (Idaho Code § 63-3621(l)), subject to these limitations:

The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned vehicles or personally owned aircraft 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 (Idaho Code § 63-3621(l) emphasis added).

PROTEST ISSUES AND ANALYSIS

Mr. [Redacted] states that he was an Oregon resident at the time of purchase, and he provided a copy of the sales invoice as well as his Oregon license. He indicates that he both lived and worked in [Redacted] and registered the vehicle in Oregon in compliance with that state's law.

The taxpayers were exceptionally forthcoming with pertinent facts. The vehicle was purchased on July 6, 2007, as evidenced by a sales invoice from an Idaho vehicle dealer. It was purchased to replace a vehicle which was damaged beyond repair in May 2007. By Mr. [Redacted] admission, he left employment in Oregon on June 22, 2007, and knew at that time that he had future employment in Idaho beginning August 1, 2007. Therefore, he knew that he would be using the vehicle primarily in Idaho as an Idaho resident. Under these circumstances, he would not qualify for the three-month exemption claim he filled out when he subsequently titled and registered the vehicle in Idaho.

Mr. [Redacted] does not agree that his wife's Idaho residency should be a factor in determining that tax is due. Further, both believe that the Commission should have pursued their case earlier and, had the agency done so, little or no interest would have accrued. They admit no liability, but voluntarily paid the tax, a fact that does not prejudice their protest.

The Commission concludes that the taxpayers jointly purchased a vehicle in Idaho and did not qualify as non-residents at the time. There is no indication that the vehicle was only owned by the husband. Further, as the facts indicate that the vehicle was purchased with the knowledge that Mr. [Redacted] would return to Idaho within a few weeks time to both work and live, the vehicle's use would not qualify for a new resident exemption.

With respect to the taxpayers' objection to the accrual of interest, the Commission notes that Idaho Code § 63-3045(6)(a) requires an accrual of interest to all tax liabilities. The Commission also notes that the total of tax and interest calculated for the Notice is in error. This decision revises that amount in favor of the taxpayer, credits the taxpayers for the pre-payment of tax, and modifies the interest accrual accordingly.

WHEREFORE, the Notice of Deficiency Determination dated September 14, 2010, is AFFIRMED, and as AFFIRMED, is MADE FINAL.

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

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$2,687	\$455	\$3,142
	Less tax paid 9/9/2010	(2,687)
	Less excess interest	<u>(25)</u>
		<u>\$ 430</u>

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 _____ 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.
