

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23510
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On August 2, 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 a transaction that occurred in April 2010 in the total amount of \$757.00

On August 17, 2010, the taxpayer filed a timely appeal and petition for redetermination. The Commission sent a hearing rights letter to the taxpayer on December 10, 2010, and a follow-up letter on January 31, 2011. The taxpayer did not reply to either letter. The Commission, having reviewed the audit file, hereby upholds the findings for the following reasons.

Background, Applicable Tax Law, and Taxpayer Protest

On May 6, 2010, for the purpose of titling and registering a motor vehicle, the taxpayer presented documents to the Idaho Transportation Department (ITD) Vehicle Services stating that he purchased a [Redacted] from a private party for \$1,000.

In Idaho, sales tax is imposed on the purchase of tangible personal property (Idaho Code § 63-3612(1)). Idaho retailers collect the sales tax from the customer and remit it to the state (Idaho Code § 63-3619). When the sale of a vehicle is made by a private party who is not a retailer, no tax is collected. Use tax, the complementary tax to sales tax, is due in these circumstances (Idaho Code § 63-3621), and it is collected by the ITD or a county assessor when

the new owner makes an application for title and registers the vehicle for road use (IDAPA 35.01.02.106.05.a). The sales and use tax rates are identical, 6 percent of the purchase price (Idaho Code §§ 63-3619 and 63-3621).

The Bureau later questioned the purchase price, because the “clean retail price” for the motorcycle in question, based on the most recent National Automobile Dealers’ Association (NADA) official used car guide for similar makes and models with comparable options was listed as \$11,310. In a letter dated June 17, 2010, the Bureau asked the taxpayer to provide documents to support the lower purchase price.

When the Bureau received no reply, the Commission issued a Notice. The taxpayer replied in an email on July 28, 2010, stating that he did not receive the original letter requesting additional documentation regarding the condition of the vehicle upon purchase. For administrative reasons not relevant to the applicable tax law or substantive facts in this case, the Bureau withdrew the original Notice and issued a new one on August 2, 2010.

In an email dated August 17, 2010, the taxpayer indicated that he did not owe use tax, citing Idaho Code § 63-3621A as his reason. The Bureau replied by email on the next day, stating that the aforementioned code section did not apply and repeated its request for an appraisal of the vehicle by a licensed dealer attesting to the lower value an appraisal of the repairs needed or evidence of parts purchased. The Bureau accepted the August 17, 2010, email as a valid protest of the Notice. On October 12 and 14, 2010, the Bureau corresponded further by email asking the taxpayer’s intentions regarding the Notice. No further communication occurred.

Analysis and Conclusion

The Commission agrees with the Bureau that tax is due on the value of the motor vehicle for the reasons and statutes cited previously. The Commission further agrees that the true value of the vehicle was rightly questioned by the Bureau and that the taxpayer has failed to plausibly substantiate that the purchase price is an accurate reflection of the value.

Rather than defend the original claim that the vehicle's condition was such that it was worth only \$1,000, the taxpayer cited Idaho Code § 63-3621A as an explanation for not owing additional tax. The taxpayer's reference is to the imposition of use tax on transient equipment. As noted in that statute, transient equipment is tangible personal property which is subject to use tax in this state and is eligible for depreciation under the federal Internal Revenue Code (IRC) and actually depreciated on the owner's federal income tax return (Idaho Code § 63-3621A(a)(1) and (2)), among other requirements.

While the taxpayer is correct that his vehicle is not eligible for depreciation under the federal IRC, his reliance on this statute is misplaced. The transient equipment statute is intended to tax the fair market value of temporarily used equipment brought to Idaho by nonresident businesses from non-taxing states (e.g., Oregon and Montana). Further, it is not available for licensed motor vehicles. A motor vehicle licensed in a nonresident's home state and brought to Idaho for ninety days or less in any consecutive twelve months is not subject to Idaho use tax. (IDAPA 35.01.02.073.01, 03, and 04). Based on his July 28, 2010, email to the Bureau, the taxpayer was an Idaho resident and may have relied upon this statute because he was planning on leaving Idaho for Washington State in order to look for employment.

A determination of the State Tax Commission is presumed to be correct, Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 1984, and the burden is on the

taxpayer to show that the deficiency is erroneous Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 Ct. App. 1986.

Absent information to the contrary, the Commission finds the Notice prepared by the Bureau to be a reasonably accurate representation of the taxpayer's sales and use tax liability for April 2010.

The Bureau's imposition of interest and penalty are appropriate per Idaho Code §§ 63-3045(6) and 63-3046(c) and (g).

THEREFORE, the Notice of Deficiency Determination dated August 2, 2010, is hereby APPROVED, in accordance with the provisions of this decision and, as so APPROVED is AFFIRMED and MADE FINAL.

The Commission acknowledges receipt of the entire amount due:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$619	\$124	\$14	\$757
		Less Payment	<u>(757)</u>
		Balance Due	<u>\$ 0</u>

An explanation of the taxpayer'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 No.
