

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 [Redacted]) DOCKET NO. 23701
)
 Petitioner.)
)
) DECISION
)
 _____)

On December 10, 2010, the Sales Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to [Redacted] (taxpayer). The Notice proposed additional use tax, penalty, and interest in the total amount of \$10,816 for taxable periods from July 1, 2007, through June 30, 2010. The Notice accounted for a payment received from the taxpayer, resulting in a remaining liability of \$1,682. The taxpayer filed a timely appeal and petition for redetermination of the remaining liability on December 15, 2010, and requested an informal conference, which was held on April 8, 2011.

The Commission, having reviewed the audit file and considered the information obtained at the informal conference, upholds the audit findings as explained below.

The taxpayer is a [Redacted], Idaho, selling both new and used motor vehicles. It is common for the taxpayer to accept used vehicles as payment or partial payment of the price of another vehicle. The taxpayer is allowed to reduce the taxable sales price of the vehicle by the value of the trade-in (IDAPA 35.01.02.044.02). This credit is allowed because the taxpayer, as a company in the business of selling motor vehicles, may obtain resale inventory without paying sales or use tax.

In addition to the dealership, the taxpayer runs a side business known as [Redacted]. Though it has a different name, it operates as a small segment of the taxpayer's company. [Redacted] acquires stock motor vehicles and significantly modifies them so as to increase their value. Since the business is staffed by the taxpayer's employees during down time, these projects can last for a lengthy period of time. These "[Redacted]" are then sold at retail and taxed appropriately at the time of sale.

On or around May 21, 2009, the taxpayer acquired a [Redacted] (vehicle) accepted as a trade-in from a customer. The vehicle was not operational at the time of acquisition. The taxpayer intended to repair and customize the vehicle as part of the [Redacted] business. The vehicle was titled and registered with an Idaho county assessor's office in both the taxpayer's name and an individual's name; [Redacted] (owner), an owner of the taxpayer.

According to the taxpayer, the vehicle was titled in his personal rather than business name for financing reasons. Though the taxpayer acquired the vehicle with no cash outlay, a loan was sought to finance the expense of customizing the vehicle. The taxpayer's primary bank for financing inventory acquisition refused the loan. An alternative bank provided financing with the stipulation that the owner guarantee the loan and place his personal name on the title in addition to the taxpayer. The bank apparently added the requirement because of the significant time required to modify the vehicle.

In the course of a comprehensive sales and use tax audit, the Bureau discovered the acquisition of the vehicle and held the value of the vehicle, as indicated by the trade-in allowance, subject to sales tax. The Bureau based the decision on the title and registration, both including the name of an individual who had no sales or use tax exemption.

In the protest letter, the taxpayer asserted that the vehicle was part of a resale inventory and, therefore, the purchase should not be subject to tax. The taxpayer admitted that the owner's name was on the title, but insisted that this was only done as required by the bank. The taxpayer explains that the vehicle was also registered in his personal name so as to acquire license plates for moving the vehicle around town. This was done for the sole purpose of testing, displaying, and moving the vehicle to another repair shop. The taxpayer denies ever using the vehicle for personal purposes.

A reseller of goods may purchase inventory exempt from tax because sales for resale are not retail sales subject to tax (Idaho Code § 63-3609). In this case, the title for the vehicle included the name of the owner as an individual. A title to property denotes ownership. The owner has at all times claimed that his company, the taxpayer, is the only owner of the vehicle, but the inclusion of his individual name on the title makes him an owner. Since the vehicle was acquired by an individual with no claim to a reseller exemption, the Commission agrees with the Bureau that the purchase was subject to sales tax.

Additionally, the vehicle was registered to drive in Idaho (emphasis added):

Idaho Code § 63-3623. Returns and payments.

...(m) The owner of a motor vehicle or trailer required to be registered by the laws of this state shall, upon demand, furnish to the officer issuing such registration, satisfactory evidence that any sales or use tax to which such motor vehicle or trailer is subject has been paid to this state before any such registration shall be issued.

Sales Tax Administrative Rule 108 further limits the registration of motor vehicles by dealers:

Idaho dealers may title motor vehicles held for resale in their dealer name to ensure clear title to the vehicle. However, the vehicle cannot be registered in the dealer's name. If the dealer applies for registration, tax applies (IDAPA 35.01.02.108.02.b).

It is not clear whether the owner or taxpayer registered the vehicle, but in either case, the registration would cause the purchase of the vehicle to be subject to sales tax.

Finally, the Commission approves of the Bureau's imposition of interest as appropriate per Idaho Code § 63-3045(6).

THEREFORE, the Notice of Deficiency Determination dated December 10, 2010, and directed to [Redacted], is AFFIRMED by this decision.

IT IS ORDERED that the taxpayer pay the following amount of tax, penalty, and interest:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$1,579	\$0	\$180	\$1,759

Interest is calculated through October 31, 2011, and will continue to accrue until the entire liability has been paid.

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

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.
