

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 23829
[Redacted],)
) DECISION
Petitioner.)
_____)

On November 15, 2010, the Income Tax Audit Division (ITA) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (Petitioner) proposing additional sales/use tax, penalty, and interest for taxable year 2009 in the total amount of \$519.

A timely protest and petition for redetermination was filed by Petitioner. Petitioner has not requested a hearing. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NODD.

The ITA sent a letter to Petitioner on August 11, 2010, and September 23, 2010, inquiring about the exemption from sales and use tax claimed by Petitioner when her vehicle was titled and registered in Idaho. Documentation, including purchase documents, documents of sales tax paid on the vehicle in any state, or documentation showing the transaction is exempt was requested, but no response was given. Due to the lack of response the ITA issued an NODD to Petitioner.

Petitioner filed a timely protest, asking for a redetermination on January 18, 2011. In her letter, Petitioner provided some additional facts relevant to this issue. The vehicle in question was purchased [Redacted], and no sales tax was paid on the vehicle. On July 14, 2008, Petitioner registered the vehicle [Redacted], the state where she held a driver's license at the time. Shortly thereafter, Petitioner claims she moved back to Idaho after her employment

[Redacted] ended, and the vehicle was registered in Idaho on July 2, 2009. At this time, a tax exemption was claimed on the application for title.

The specific issue raised by Petitioner is that no sales/use tax is due because she had a [Redacted] driver's license when she purchased the vehicle and because the vehicle was registered [Redacted] for more than one year before being registered in Idaho.

The relevant Idaho Sales & Use Tax Administrative Rules in this situation are Rules 106 and 107. The outcome of this case hinges upon whether Petitioner was an Idaho resident or a [Redacted] resident at the time in question. If Petitioner was an Idaho resident at the time of purchase, under Rule 106.04, Petitioner would legally owe Idaho use tax. Because no sales tax was paid to another state, Petitioner is not entitled to the credit for taxes paid, meaning the purchase of the vehicle would be taxable in full at Idaho's rate.

If Petitioner was not an Idaho resident at the time of purchase, then under Rule 107.03, use tax is owed if the vehicle was used more than ninety (90) days in any consecutive twelve (12) months in Idaho and if the vehicle is required to be registered or licensed under Idaho law.

If Petitioner was not an Idaho resident at the time of purchase, but subsequently became an Idaho resident, she does not owe a use tax on the vehicle, per Rule 107.04, only if the vehicle was acquired in another state and used primarily outside Idaho. If Petitioner obtained registration or title from another state more than three (3) months before moving to Idaho, this is sufficient proof that the vehicle was primarily for use outside Idaho. If, however, the vehicle was acquired less than three (3) months before the petitioner moved to Idaho, it is presumed that it was acquired for use in Idaho.

In determining Petitioners residency, the decision of the auditor will be presumed correct unless Petitioner provides documentation to indicate otherwise. In 2008, the year the vehicle was purchased, Petitioner filed an Idaho resident income tax return, which listed income from Idaho only, not [Redacted]. Then again in 2009, Petitioner filed an Idaho resident income tax return with earnings from Idaho in all four quarters of 2009 and some earnings, \$1,048.00, from [Redacted]. Further, Petitioner obtained Idaho resident Fish and Game licenses in 2008 and 2009. Although residency status for income tax returns and Fish and Game licenses does not conclusively prove residency, it is persuasive in indicating that Petitioner was indeed an Idaho resident in 2008 and 2009.

The only evidence to indicate Petitioner was not an Idaho resident in those years was the fact that Petitioner had a [Redacted] driver's license. While this evidence may be relevant, the determination of Idaho residency by the auditor will be presumed correct unless Petitioner comes forward with some evidence to overcome that presumption. In this case, Petitioner has not provided any information to overcome her burden. We have no documentation of when she lived in [Redacted] or how long she worked in [Redacted] or any other documents that indicate she established residency in [Redacted].

THEREFORE, the Notice of Deficiency Determination dated November 15, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL DUE</u>
2009	\$461.00	\$23.00	\$48.40	\$532.40

Interest is calculated through September 30, 2011, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

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.
