

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	DOCKET NO. 24402
)	
[Redacted])	DECISION
)	
)	
)	

On June 28, 2011, the Sales, Use, and Miscellaneous Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) [Redacted] (petitioner). The Notice proposed use tax, penalty, and interest for the taxable period of March 1, 2009, through March 31, 2009, in the total amount of \$2,459.

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

The petitioner owns a [Redacted] truck and [Redacted] (vehicles) that he registered under the International Registration Plan (IRP).

The petitioner's IFTA mileage reports were reviewed, and the out-of-state miles were found to be less than the 10 percent required for the IRP exemption allowed for sales tax. The petitioner was contacted and was going to submit appraisals on the vehicles. The petitioner failed to submit the documentation, so an NOD was issued based on the vehicles' value in Black Book. The petitioner subsequently sent in an appraisal on the vehicles, which was treated as a timely protest. Due to the fact that the values were significantly lower, the auditor verified the appraised values. [Redacted]. The audit figures were adjusted to the appraised values, and the adjusted figures were sent to the petitioner with a request to respond by August 11, 2011. No response was received, so the file was forwarded to the Legal and Tax Policy Division for further review.

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.

The vehicles registered under the IRP are only exempt from use tax as long as the owner meets the requirements of Idaho Code § 63-3622R which states in part:

Motor vehicles, used manufactured homes, vessels, all-terrain vehicles, trailers, off-road motorcycles and snowmobiles. -- There are exempted from the taxes imposed by this chapter: . . .

(c) Sale or lease of motor vehicles with a maximum gross registered weight over twenty-six thousand (26,000) pounds, which shall be immediately registered under the international registration plan or similar proportional or pro rata registration system, whether or not base plated in Idaho, and the sale or lease of trailers which are part of a fleet of vehicles registered under such proportional or pro rata registration system when such vehicles and trailers are substantially used in interstate commerce. If such a motor vehicle or trailer is not substantially used in interstate commerce during any annual registration period under the international registration plan, it shall be deemed used in Idaho and subject to the use tax under section 63-3621, Idaho Code. For the purpose of this subsection, "substantially used in interstate commerce" means that the vehicles or trailers will be part of a fleet with a minimum of ten percent (10%) of the miles operated by the fleet accrued outside of Idaho in any annual registration period under the international registration plan.

The taxable moment in this case did not arise until the end of the IRP registration period when the vehicles ceased to meet the mileage requirements of Idaho Code § 63-3622R.

Since the petitioner's IRP fleet for the 2009 registration period operated less than 10 percent of its miles out of Idaho, use tax would be due on any vehicle in the IRP fleet upon which no sales or use tax had previously been paid.

WHEREFORE, the Notice of Deficiency Determination dated June 28, 2011, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$960	\$48	\$124	\$1,132

Interest is computed through February 2, 2012.

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 with this decision.

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.