

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23788
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On November 4, 2010, the Tax Discovery 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 \$8,942 for taxable period July 2009. The taxpayer filed a timely appeal and petition for redetermination on December 31, 2010, and requested an informal conference, which was held on September 7, 2011.

The Commission, having reviewed the audit file and considered the information and documentation obtained at the hearing, upholds the audit findings for the reasons detailed below with an adjustment based on sales documentation presented by the taxpayer.

On July 16, 2009, the taxpayer registered and titled a 2006 [Redacted] (vehicle) with a county assessor’s office in Idaho. The vehicle was titled in the taxpayer’s name as well as an assumed business name, [Redacted]. The taxpayer had operated a [Redacted] for a period of time under that business name, though the dealership was no longer in operation by the time of the vehicle’s registration.

At the time of registration, the taxpayer claimed an exemption from sales or use tax because the vehicle was intended for resale. To justify the claim, the taxpayer presented a valid seller’s permit number obtained years previously for the dealership. The permit number was

active on the date of registration and remains active to the present date. Consequently, the taxpayer was allowed to title and register the vehicle in Idaho without payment of use tax.

As is common practice with tax exemption claims on motor vehicles, the Bureau received the taxpayer's information in September 2010 to review the validity of the claim. After reviewing the claim and corresponding with the taxpayer, the Bureau concluded that the use of the vehicle was subject to use tax in Idaho. Though there are circumstances under which a motor vehicle can be titled in Idaho without owing a use tax, the Bureau asserted that the use of the vehicle in Idaho was subject to tax at the time of registration regardless of the intent to resell the vehicle. The Bureau did not have any sales documentation, so the Bureau asserted tax on an industry standard estimated retail value.

The taxpayer protested the imposition of tax because he claimed the vehicle was part of a resale inventory. Though the dealership no longer existed, the taxpayer occasionally sold motor vehicles as an individual. He presented documentation that showed the vehicle was later resold. The vehicle was driven approximately 3,000 miles between the acquisition and eventual sale, all of which the taxpayer claimed were incurred in the demonstration of the vehicle to potential buyers. The taxpayer also presented documentation showing that the sales price of the vehicle was lower than the amount asserted by the Bureau in the Notice.

Idaho imposes a sales tax on all retail sales which excludes sales of goods that will be resold by the purchaser (Idaho Code § 63-3609). In this case, the vehicle was purchased exempt from sales tax in [Redacted] and later brought to Idaho. In cases where sales tax is not paid on a purchase of tangible personal property, Idaho imposes a use tax on any use of the property in Idaho unless an exemption applies (Idaho Code § 63-3621).

The Commission does not disagree with the taxpayer that he intended to resell the vehicle at the time of purchase nor does the Commission conclude that the taxpayer's use of the vehicle constituted anything besides demonstration as he claims. However, the Commission agrees with the Bureau that the registration of the vehicle in Idaho triggered a use tax liability. Intent is irrelevant in this case and does not require further discussion.

Motor vehicles have unique laws and regulations that must be taken into consideration. The sales tax code imposes an evidentiary requirement on the taxpayer at the time of motor vehicle registration:

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. (Idaho Code § 63-3623(m))

This statute implies that registration of a motor vehicle in Idaho requires that sales or use tax has been properly paid. This implication is supported by the fact that a system of special license plates has been created that allows a dealership to operate motor vehicles on the road without registering them (Idaho Code §§ 49-1627 & 49-1628). This system would be unnecessary if a dealership could register any motor vehicle without tax consequences.

In addition, a sales tax rule explicitly states that motor vehicle registration creates a use tax liability, even in the case of a dealership:

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).

For the above stated reasons, the Commission concludes that the vehicle was not part of a resale inventory after registration in Idaho regardless of the taxpayer's intent. Therefore, the Commission upholds the Bureau's assertion that the use of the vehicle is subject to tax as of the

date of registration. However, the Commission agrees with the taxpayer that the sales price subject to tax should be reduced based on the sales documentation presented.

Finally, the Commission approves of the Bureau's imposition of interest as appropriate per Idaho Code § 63-3045(6). The Bureau also imposed penalties per Idaho Code § 63-3046(c) and (g), which the Commission hereby adjusts according to the authority of Idaho Code § 63-3047. The adjustment is reflected in the figures below.

THEREFORE, the NODD dated November 4, 2010, and directed to [Redacted] is AFFIRMED as MODIFIED by this decision.

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

<u>USE TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$4,800	\$0	\$599	\$5,399

Interest is calculated through May 31, 2012, 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 _____ 2012.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2012, 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.
