

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	
[Redacted])	DOCKET NO. 23422
,)	
)	
Petitioners.)	DECISION
_____)	

On July 9, 2010, the staff of the Sales, Use and Miscellaneous Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to **[Redacted]** (Petitioners), proposing use tax, penalty, and interest for the period April 1, 2009, through April 30, 2009, in the total amount of \$1,755.

On August 3, 2010, Petitioners filed a timely appeal and petition for redetermination of the Notice. The initial hearing rights letter sent by the Commission on November 18, 2011, was returned as undeliverable by the U.S. Postal Service. Petitioners did not respond to either of the hearing rights letters sent by the Commission to Petitioners' forwarding address, as provided by the U.S. Postal Service, on December 6, 2011, and January 18, 2012. One additional hearing rights letter was mailed on October 7, 2016, but was returned as undeliverable. Petitioners have ceased communications and provided nothing further for the Commission to consider. The Commission, having reviewed the audit file, hereby upholds the audit findings for the reasons detailed below.

Background and Audit Findings

Petitioners purchased a new vehicle in Oregon on October 7, 2005. At the time of purchase, Petitioners claimed Oregon residency. Oregon does not have a sales tax; therefore, no tax was paid on the purchase of the vehicle. On April 14, 2009, Petitioners titled the vehicle in Idaho. No sales or use tax was paid on the vehicle at the time it was titled in Idaho.

The Bureau reviewed Petitioners' Idaho registration and determined Petitioners should have paid use tax at the time of registration, as no exemption was available to Petitioners. Petitioners did not respond to the Bureau's request for additional information. The Bureau held the value of the motor vehicle, based upon the National Automobile Dealers Association (NADA) Official Used Car Guide average retail price, subject to use tax.

Petitioners' Protest

Petitioners protested the Notice, asserting they had lived in Oregon for over six years, including the date when the vehicle was purchased. According to Petitioners, they were in Idaho for only a short time before moving to [Redacted] Colorado. During the move, Petitioners stated they "had to leave the truck with friends in Idaho," and Petitioners obtained an Idaho title and registration for the vehicle because the Oregon registration was set to expire. Petitioners claimed that as of the date of the protest, the vehicle was in Colorado.

Relevant Tax Code and Analysis

Idaho imposes a tax on storage, use, or other consumption of tangible personal property brought into the state, unless an exemption applies, 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.

There are only two exemptions from use tax for motor vehicles brought into Idaho. The new resident exemption allows a resident of Idaho to register a motor vehicle in Idaho without paying a use tax if the vehicle was acquired while a resident of another state; the acquisition must occur at least three months prior to moving to Idaho, Idaho Code § 63-3621(l). At one time, Petitioners were residents of Idaho; their last Idaho resident income tax return was filed for 2001, well before the purchase of the vehicle in question. In their protest letter, Petitioners

concur they were not residents of Idaho at the time the vehicle was purchased or when the vehicle was registered in Idaho. Therefore, the exemption provided to new Idaho residents does not apply.

An exemption for non-residents provides that use tax shall not apply to a motor vehicle used in Idaho fewer than 90 days in any 12 month period, provided the motor vehicle is not required to be registered or licensed under Idaho law and is registered under the laws of the owner's state of residence, Idaho Code § 63-3621(k). Since Petitioners registered the vehicle in Idaho, the non-resident exemption is invalid. Even a single day of use would trigger a use tax liability and the protest letter indicates that Petitioners used the vehicle after registering it in Idaho. It should be noted that Petitioners renewed the Idaho registration on the vehicle in 2011 for an additional two years, which indicates Petitioners may have continued to use the vehicle in Idaho after the Notice was issued despite their assertions to the contrary.

Conclusion

On appeal, a deficiency determination issued by the Tax Commission "is presumed to be correct, and the burden is on the taxpayer to show that the Commission's decision is erroneous." *Parker v. Idaho State Tax Comm'n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010); *Albertson's Inc. v. State Dep't of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The Tax Commission requires Petitioners to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, Petitioners did not provide adequate evidence. As a result, the Commission will uphold the Notice.

Absent information to the contrary, the Commission finds the Notice prepared by the Bureau to be a reasonably accurate representation of Petitioners' use tax liability for the period April 1, 2009, through April 30, 2009.

The Bureau added interest and penalty to the use tax deficiency. The Commission reviewed those additions, found both to be appropriate per Idaho Code §§ 63-3045 and 63-3046, and has updated interest accordingly. Interest is calculated through May 31, 2017, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

THEREFORE, the Notice of Deficiency Determination dated July 9, 2010, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

IT IS ORDERED that Petitioners pay the following use tax, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$1,329	\$332	\$437	<u>\$2,098</u>

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

An explanation of Petitioners' right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2017.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2017 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.
