

In the Matter of the Protest of

Petitioner.

DECISION

On October 12, 2012, Petitioner filed a timely appeal and petition for redetermination of the Notice. Petitioner did not respond to hearing rights letters sent by the Commission on November 27, 2012, and December 3, 2014. Petitioner has ceased communications and provided nothing further for the Commission to consider. The Commission, having reviewed the audit file, hereby upholds the Bureau's findings for the reasons detailed below.

The Bureau reviewed the information submitted by Petitioner, and found the Form 0502 indicates the “Physical Address of Owner’s Current Legal Residence” is a location in Idaho. The

sale is not documented on the Form 0502 as being exempt from tax. The Bureau also obtained registration information for the vehicle, which indicated Petitioner registered the vehicle in Idaho two days after the sale, on July 18, 2012, using the same Idaho address shown on the Form 0502. Based upon this information, the Bureau held the dealer appropriately collected sales tax on the transaction, and denied Petitioner's refund claim.

Petitioner's Protest

Petitioner protested the Bureau's determination, stating he is a resident of Montana and temporarily stayed with a relative in Idaho at the time he purchased the vehicle. To document his Montana residency, Petitioner provided copies of billing notices and account statements mailed to an address in Montana. Petitioner also submitted insurance cards for the vehicle purchased in Idaho, which indicated the vehicle was insured under the laws of Montana beginning July 25, 2012.

Relevant Tax Code and Analysis

Purchases of tangible personal property in Idaho are subject to tax unless an exemption applies. Idaho Code § 63-3619. Idaho Code § 63-3621 imposes a use tax on the storage, use, or other consumption of tangible personal property in Idaho. Payment of sales tax to a vendor extinguishes the use tax liability.

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). Petitioner purchased the vehicle after he relocated to Idaho. Therefore, the exemption provided to new Idaho residents does not apply.

An exemption for nonresidents 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 Petitioner registered the vehicle in Idaho, the nonresident exemption is invalid. Even a single day of use would trigger a use tax liability and the protest letter indicates that Petitioner used the vehicle after registering it in Idaho.

The documents provided by Petitioner to substantiate his Montana residency are dated between December 19, 2011, and March 13, 2012, prior to his purchase of the vehicle in Idaho on July 16, 2012. There is no evidence to suggest Petitioner returned to a previous domicile in Montana or removed the vehicle from Idaho after the vehicle was purchased. Petitioner commenced filing income tax returns as an Idaho resident for the 2013 calendar year. The Commission notes that as of the date of its Decision, nearly five years after Petitioner filed a claim for refund of the sales tax paid, the vehicle remains titled and registered to Petitioner in Idaho. Given these circumstances, the Commission finds Petitioner properly paid sales tax at the time the vehicle was purchased, and no refund is warranted.

Conclusion

On appeal, a 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) (citing *Albertson’s Inc. v. State Dep’t of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). The Tax Commission requires Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, Petitioner did not provide adequate evidence. As a result, the Commission will uphold the Notice.

THEREFORE, the Notice of Taxpayer Initiated Refund Determination dated August 16, 2012, is hereby APPROVED, AFFIRMED, and MADE FINAL.

An explanation of Petitioner's 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.
