

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of

████████████████████

Petitioner.

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DOCKET NO. 1-752-147-968

DECISION

On December 14, 2018, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to ██████████ (Petitioner), proposing use tax and interest for the period June 1, 2018, through June 30, 2018, in the total amount of \$953. ACTE
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On December 31, 2018, Petitioner filed a timely appeal and petition for redetermination of the Notice. At Petitioner’s request, the Commission held an informal hearing on June 18, 2019. The Commission, having reviewed the audit file, Petitioner’s protest, and information obtained at the hearing, upholds the Notice for the reasons that follow.

Background and Audit Findings

On June 30, 2018, Petitioner and her granddaughter, ██████████, purchased a used vehicle from an Idaho dealership. Both names appear on the Retail Purchase Agreement, and the Agreement is signed by both parties. Petitioner is listed as a joint owner on the Oregon DMV Application for Title and Registration, but did not sign the Application. ██████████ completed and signed form ST-104-MV, stating the transaction was exempt from sales tax because she is an Oregon resident and would be titling and registering the vehicle in Oregon. The dealer obtained copies of Petitioner’s Idaho driver’s license and ██████████ Oregon driver’s license during the transaction.

████████████████████

The Bureau reviewed the documents collected by the dealer, and mailed a billing letter to Petitioner on August 2, 2018, indicating sales tax was due on the vehicle purchase. Petitioner responded on August 13, 2018, and stated the vehicle belonged to [REDACTED]. The Bureau had several subsequent discussions with Petitioner, during which Petitioner indicated she was only a co-signer on the vehicle loan and did not intend to have any ownership interest in the vehicle. The Bureau and Petitioner were unable to reach an agreement regarding the taxability of the vehicle; therefore, the Bureau issued a Notice on December 14, 2018, for the tax due plus interest as required by statute.

Petitioner's Protest

Petitioner contends she is merely a co-signer on the note to purchase the vehicle, and that the dealership erred when it included Petitioner on the Oregon application for title and registration. Petitioner believes she should not be responsible for sales tax on the vehicle, as the vehicle was owned and operated by [REDACTED] in Oregon.

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 use tax on all tangible property used, stored, or otherwise consumed within Idaho unless an exemption applies. The use tax is complementary to the sales tax, which imposes tax on the retail sale of tangible personal property within Idaho. If the seller of goods fails to, or cannot, charge sales tax and no exemption applies, the buyer is obligated to pay a use tax directly to the state. Idaho Code § 63-3621.

A dealer of new or used motor vehicles selling any motor vehicle for delivery in Idaho must collect sales tax or use tax at the rate in effect on the date the motor vehicle is delivered to the buyer, unless an exemption applies. IDAPA 35.01.02.106.03.

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). Such an exemption is claimed on form ST-104-MV, *Sales Tax Exemption Certificate – Vehicle/Vessel*, which is completed and signed by the taxpayer claiming the exemption.

Only [REDACTED] personal information is shown on the ST-104-MV, and Petitioner did not sign the exemption form. However, Petitioner signed the sales contract for the vehicle, was listed as an owner on the application for vehicle title and registration, and has been an Idaho resident for the entire period of ownership; therefore, the exemption available to nonresidents of Idaho pursuant to Idaho Code § 63-3621(k) does not apply, and the purchase of the vehicle is subject to Idaho use tax. The circumstances in this case are not unique; the Commission has resolved several protests with similar sets of facts. One such case (Docket 2-041-663-488/Appeal No. 18-B-1560) was heard by the Board of Tax Appeals, which found in favor of the Commission.

Conclusion

The Commission finds the Notice prepared by the Bureau to be a reasonably accurate representation of Petitioner's use tax liability for the period June 1, 2018, through June 30, 2018. The Bureau added interest to the use tax deficiency. The Commission reviewed this addition, found it to be appropriate per Idaho Code § 63-3045, and has updated interest accordingly. Interest

is calculated through November 15, 2019, 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 December 14, 2018, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

IT IS ORDERED that Petitioner pay the following tax and interest:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$930	\$0	\$58	<u>\$988</u>

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

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

DATED this _____ day of _____, 2019.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2019 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:

Receipt No.

Copy to

