

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 1-911-194-624
)	
Petitioner.)	DECISION
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On June 16, 2022, the staff of the Sales/Fuels Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Refund Denial (Notice) for a Sales Tax Refund Claim (TCR) from _____ (Petitioner) asking for a refund of use tax paid on February 03, 2022, in the amount of \$3,347.33.

On June 22, 2022, Petitioner filed a timely appeal and petition for redetermination of the Notice. The Commission sent a hearing rights letter to Petitioner on August 18, 2022. An informal hearing was scheduled and held on September 08, 2022. During the informal hearing, Petitioner explained why they believed the denial of the TCR should be reversed.

The Commission, after reviewing the TCR and hearing Petitioner’s reasoning, hereby upholds the Bureau’s findings for the reasons detailed below.

Background and Audit Findings

On January 19, 2022, Petitioner purchased a _____ travel trailer (Trailer) from _____ in Pendleton, Or. Petitioner registered the Trailer with the Idaho Transportation Department, Department of Motor Vehicles (DMV) on February 03, 2022, and paid use tax in the amount of \$3067.50 along with various other county fees for a total amount of \$3,347.33. Petitioner decided they did not wish to keep the Trailer after registering it with the DMV. When Petitioner contacted _____ they were informed that they could no longer return the Trailer for a refund but could give it to them on consignment for resale. On March 4,

2022, Petitioner returned the Trailer to _____ and put it on consignment with the dealer to resell.

On March 14, 2022, the Commission received a TCR from Petitioner asking for a refund of the full amount of the registration fees of \$3,347.33. The TCR was forwarded to the refund desk of the Bureau for review. After verifying the facts of the case, the Bureau determined that a refund was not warranted for the use tax paid to the DMV.

Petitioner's Protest

Petitioner filed a timely appeal of the refund denial by written correspondence on June 22, 2022. They claimed that the decision to return the Trailer happened almost immediately upon bringing it to their home in Idaho. They were not able to return the trailer though due to circumstances beyond their control. This caused them to miss the 3-day grace period to reverse the purchase with the dealership.

Relevant Tax Code and Analysis

At the informal hearing Petitioner explained that the reason for returning the Trailer was sentimental value of the old trailer to the family. Unfortunately, this occurred after the Trailer had been brought to Idaho and registered with the DMV. When Petitioner contacted the vendor, they were informed it was too late to reverse the transaction. Instead, _____ agreed to take the trailer on consignment and sell it for them at a price they agreed upon. Petitioner never relinquished ownership of the Trailer at any time during the consignment sale.

Idaho Code section 63-3626 gives an allowance to claim a refund for amounts due under chapter 36 that have been overpaid. Petitioner must show the use tax paid to Idaho was not due at the time of registration or the purchase of the Trailer has been reversed or rescinded. Petitioner took physical possession of the Trailer in Oregon and proceeded to bring it back to his residence

located in Idaho. Petitioner registered the Trailer with the DMV once it was physically located in Idaho. Idaho Code § 63-3615(a) Storage – Use, States:

63-3615. STORAGE — USE. (a) The term "storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer.

Petitioner stored and maintained the Trailer at their residence in Boise for their own personal use. Idaho Code section 63-3621(2) states that every person who stores or uses tangible personal property is liable for use tax. This liability can be overcome with a receipt showing sales tax properly paid to the vendor.

63-3621. IMPOSITION AND RATE OF THE USE TAX — EXEMPTIONS. (1) An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after October 1, 2006, for storage, use, or other consumption in this state at the rate of six percent (6%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.

(2) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers. A retailer shall not be considered to have stored, used, or consumed wireless telecommunications equipment by virtue of giving, selling, or otherwise transferring such equipment at a discount as an inducement to a consumer to commence or continue a contract for telecommunications service.

is not an Idaho registered retailer, and as such did not collect Idaho sales tax on the purchase of the Trailer. Petitioner did pick up the Trailer from located in Pendleton, OR. Oregon does not have state sales tax that could have offset Petitioner's use tax requirement.

The tax paid to the DMV was correctly paid by Petitioner. The only other means of gaining a refund would have been a reversed or rescinded sale. IDAPA 35.01.02.045.01 defines a rescinded sale as:

A Rescinded Sale. A transaction in which the seller and buyer place each other in the same positions they were in prior to entering into any taxable transaction; and a transaction which meets the rules of the Uniform Commercial Code for revoking acceptance in whole or in part. See Section 28-2-608, Idaho Code.

Petitioner was not able to return the Trailer to _____ Instead, offered to hold the Trailer on consignment and sell it for them. This does not meet the definition of a rescinded sale. Petitioner and _____ did not place themselves in the same position they were prior to the sale.

Looking at the information provided by Petitioner and considering the applicable law and rules, the Commission does not find reasonable grounds to reverse the Bureau's decision.

Conclusion

A Notice of Refund Denial issued by the 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 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.

Absent information to the contrary, the Commission finds the Notice prepared by the Bureau to be an accurate representation of Petitioner's use tax liability paid on February 03, 2022.

THEREFORE, the Notice of Refund Denial dated June 16, 2022, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

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

DATED this _____ day of _____ 2022.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2022,
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.
