

CALIFORNIA STATE BOARD OF EQUALIZATION
APPEALS DIVISION SUMMARY FOR BOARD HEARING

In the Matter of the Petition for Redetermination)
Under the Sales and Use Tax Law of:)
PEDOTTI LIVESTOCK) Account Number: SA U UT 84-119390
) Case ID 484288
)
) Alturas, Modoc County
Petitioner)

Nature of Transaction: Purchase of vehicle

Date of Purchase: 3/13/07

Item Disputed Amount

Purchase of vehicle \$28,545

	<u>Tax</u>	<u>Penalty</u>
As determined	\$2,069.00	\$206.90
Adjustment: Appeals Division		<u>-206.90</u>
Proposed redetermination, protested	<u>\$2,069.00</u>	<u>\$0.00</u>
Proposed tax redetermination	\$2,069.00	
Interest through 9/30/10	<u>586.22</u>	
Total tax and interest	<u>\$2,655.22</u>	
Monthly interest beginning 10/1/10	<u>\$12.07</u>	

UNRESOLVED ISSUE

Issue 1: Whether petitioner purchased the vehicle for use in California. We find that he did.

On March 12, 2007, petitioner contracted with Best Deal Trucks (dealer) of Fontana, California, to purchase the vehicle and completed and signed form BOE-447 (Statement Pursuant to Section 6247 of the California Sales and Use Tax Law), certifying that the vehicle was purchased for use outside California. On the same day, the vehicle was delivered to petitioner in Nevada, as documented by a completed form BOE-448 (Statement of Delivery Outside California), certifying that delivery occurred outside California. On March 27, 2007, the dealer registered the vehicle with the California Department of Motor Vehicles under petitioner's name. Petitioner then drove the vehicle empty into California, apparently for repairs. The vehicle stayed in California until petitioner picked up the vehicle's first load in Williams, California, on April 18, 2007, and delivered this load to Bly,

1 Oregon. Since the sale and purchase occurred outside California upon the seller’s delivery of the
2 vehicle to petitioner in Nevada, any tax that is due is use tax owed by petitioner.

3 A vehicle purchased outside California that is brought into California is regarded as having
4 been purchased for use in this state if the first functional use of the vehicle was in California. (Cal.
5 Code Regs., tit. 18, § 1620, subd. (b)(5)(A).) “Functional use” means use for which the property was
6 designed. (Cal. Code Regs., tit. 18, § 1620, subd. (b)(3).) In this case, the vehicle is a Peterbilt truck
7 designed to haul cargo, and the vehicle is thus functionally used when it hauls cargo or when
8 dispatched to pick up a specific load of cargo (since the use of the vehicle for carrying that cargo is
9 regarded as having begun when the vehicle is dispatched for that specific purpose).

10 There is no dispute that this vehicle was delivered outside California and that the purchase
11 occurred out of state. There is also no dispute that shortly thereafter the vehicle returned to California
12 for repairs and stayed in California until it picked up its first load, in California, on April 18, 2007, for
13 delivery of the load out of state. Thus, the first functional use of the vehicle occurred when the vehicle
14 was dispatched to pick up that load in Williams, California. Accordingly, the vehicle was purchased
15 for use in California, and such use is taxable. Petitioner’s other arguments alleging that the vehicle
16 was first used in interstate commerce and then continuously in interstate commerce are irrelevant
17 because the first functional use of the vehicle occurred in this state.

18 **RESOLVED ISSUE**

19 Petitioner submitted a statement signed under penalty of perjury requesting relief from the
20 failure-to-file penalty, asserting that it believed no tax was due because the vehicle was used
21 exclusively in interstate commerce. The Department accepts this as an adequate explanation, and
22 based on the Department’s concurrence, we recommend this penalty be relieved.

23 **OTHER DEVELOPMENTS**

24 None.

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26 Summary prepared by Rey Obligacion, Retired Annuitant
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