

**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: )  
JASON R. PRIDMORE ) Account Number: SA UT 84-100101  
Petitioner ) Case ID 421508  
Ventura, Ventura County

Type of transaction: Purchase of recreational vehicle

Date of purchase: 03/02/05

<u>Item</u>	<u>Disputed Amount</u>
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Purchase price of RV	\$330,901
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Tax, as determined:	\$23,412.00
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Adjustment - Sales and Use Tax Department	<u>+ 579.00</u>
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Proposed redetermination, protested	<u>\$23,991.00</u>
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Proposed tax redetermination	\$23,991.00
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Interest through 6/30/10	<u>10,995.98</u>
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Total tax and interest	<u>\$34,986.98</u>
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Monthly interest beginning 7/1/10	<u>\$ 139.95</u>
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A Notice of Appeals Conference was mailed to petitioner's address of record on July 14, 2008, and petitioner responded with a request that the conference be held at a different district office. That request was granted, and a second Notice of Appeals Conference was sent to petitioner at the same address. That notice was not returned by the Post Office, but petitioner did not respond to the second notice or appear at the appeals conference, which was held as scheduled. We thereafter sent petitioner a letter offering him the opportunity to provide any additional arguments and evidence in writing he wished us to consider. Petitioner requested an extension of time to present documentation, which was granted, but petitioner has not submitted any additional evidence.

**UNRESOLVED ISSUE**

**Issue:** Whether petitioner purchased a recreational vehicle (RV) for use in this state. We conclude that petitioner did purchase the RV for use in this state, and that he owes use tax on that use.

Petitioner purchased an RV from a California dealer, who delivered the RV to petitioner in Arizona on March 2, 2005, as documented by a BOE-448 form that petitioner signed. Petitioner also

1 signed a BOE-447 form indicating that the RV was purchased for use outside of California. When the  
2 Sales and Use Tax Department (Department) received the two forms from the dealer, the Department  
3 requested documentation from petitioner showing that the RV had not been purchased for use in this  
4 state. The Department did not receive a response, and it determined from a search of public records  
5 that petitioner was a California resident. The Department also learned that the RV had been registered  
6 in California at the time of purchase (the dealer registered the RV with the California Department of  
7 Motor Vehicles under petitioner's name and signature on March 2, 2005, and there is no indication that  
8 use tax was paid at that time). As a result of these findings, the Department concluded the RV was  
9 acquired for storage, use, or other consumption in California, and that the purchase was subject to use  
10 tax. The Department issued a Notice of Determination for tax of \$23,412 based on a purchase price of  
11 \$322,921. After the determination was issued, the Department found that the actual purchase price  
12 was \$330,901, and it mailed a notice of increase in the determination to petitioner.

13         Petitioner contends that his use of the RV is not subject to use tax because he purchased it for  
14 use outside California, and that its only entry into this state during the 12-month test period was for  
15 warranty repair work that lasted less than 30 days. According to petitioner, he is a professional  
16 motorcycle racer, and he purchased the RV for use on the East Coast where 80 percent of his races  
17 occur. Petitioner states that he never intended to bring the RV back to California because there are  
18 only three races in California during the racing season, and, since he resides in California, he can travel  
19 to those races by automobile. Petitioner asserts the following chronology. At the time he purchased  
20 the RV, he was under contract with the Jordan Motorsports team based in Mukwonago, Wisconsin.  
21 Following delivery of the RV on March 2, 2005, petitioner drove it to Florida for the first of the races  
22 scheduled for the 2005 season. The RV was then stored in Gulfport, Mississippi from March 15, 2005,  
23 through April 18, 2005. Then, petitioner was hospitalized from an April 24, 2005 accident and flew  
24 home to California to recover, leaving the RV in Birmingham, Alabama. As a result of his injuries,  
25 petitioner was unable to participate in the California races held for the 2005 season. The RV was  
26 subsequently relocated to the Jordan Motorsports headquarters in Wisconsin and remained there from  
27 June 6, 2005, through July 17, 2005. On July 17, 2005, the RV was driven to Ohio for a race, then to  
28 Virginia, and then to Atlanta. At the conclusion of the race season on September 4, 2005, petitioner

1 returned the RV to Mississippi, where it was stored until the second week of March 2006, when  
2 petitioner began the 2006 racing season.

3 At the time of petitioner's purchase, the law and regulations established a 12-month test for  
4 determining whether an RV had been purchased for use in California. If a vehicle was purchased and  
5 first functionally used outside of California and was brought into California within 12 months from the  
6 date of purchase, it is rebuttably presumed that the vehicle was acquired for storage, use, or other  
7 consumption in California, and is subject to use tax, if the vehicle was subject to registration during the  
8 first 12 months of ownership *or* if the vehicle was purchased by a California resident. (Rev. & Tax.  
9 Code § 6248, subd. (a).) Here, it is undisputed that the RV was purchased and first functionally used  
10 outside of California. It is also undisputed that petitioner was a California resident at the time of  
11 purchase, that the RV was registered in California by the dealer, and, two months after purchase,  
12 petitioner brought the RV into California for warranty work. Thus, it is presumed that the RV was  
13 purchased for use in this state because it entered California within 12 months of purchase, was  
14 registered in California during the first 12 months of ownership, and was purchased by a California  
15 resident.

16 Regarding petitioner's assertion that the entry into California for warranty work should not be  
17 "counted," petitioner relies on subdivision (f) of section 6248, which provides that the presumption of  
18 taxability may be controverted by documentary evidence that the vehicle was brought into this state for  
19 the exclusive purpose of warranty or repair service and remained in California for that purpose for a  
20 period of 30 days or less. However, subdivision (f) did not become operative until September 20,  
21 2006, and it is not applicable to petitioner's repair service, which occurred in May 2005. Petitioner has  
22 provided limited documentation regarding the RV's use outside California during the 12-month test  
23 period. The documentation, which is described more fully in the D&R, may establish dates when  
24 petitioner was racing, but it does not establish that petitioner was using the RV on those dates or that  
25 he intended to use the RV solely outside this state during the first 12 months of ownership, particularly  
26 in light of petitioner's California residence. Further, we note that petitioner was scheduled to  
27 participate in three California races during the 2005 season, and we are not convinced that he did not  
28 intend to use the RV in California at those races.

