

**CALIFORNIA STATE BOARD OF EQUALIZATION**  
**APPEALS DIVISION PETITION FOR REHEARING SUMMARY**

In the Matter of the Petition for Redetermination )  
Under the Sales and Use Tax Law of: )  
VICTOR S. BAGLIO, JR. ) Account Number: SA U UT 84-117510  
Petitioner ) Case ID 473489  
Tahoe City, Placer County

Type of Business: Purchaser of a motor home

Date of purchase: 9/22/07

<u>Item</u>	<u>Disputed Amount</u>
2008 Fleetwood Revolution motor home	\$243,263
Tax determined and protested	\$17,632.00
Interest through 2/25/11	<u>4,540.23</u>
Total tax and interest	\$22,172.23
Payments	<u>-17,632.00</u>
Balance Due	<u>\$ 4,540.23</u>

This matter was scheduled for decision on the Board’s July 27, 2011 consent calendar, but was removed from the calendar by Board Member Runner.

**UNRESOLVED ISSUE**

**Issue:** Whether the petition for rehearing should be granted. We recommend that it be denied.

Petitioner took delivery of the motor home outside this state, and brought it into California within 90 days of its purchase, and the evidence establishes that the motor home was not used or stored outside of California for one-half or more of the time during the six months immediately following its entry.<sup>1</sup> Therefore, petitioner was presumed to have purchased the motor home for use in California. The Board heard this matter on January 26, 2011, and upheld the liability asserted against petitioner.

Ms. Linda Baglio, on behalf of her deceased husband, filed a timely petition for rehearing (PFR), arguing that the Board was not previously aware of certain evidence showing that, at the time he purchased the motor home, petitioner had significant ties to Nevada and was planning to sell his residence and relocate outside of California. Ms. Baglio asserts that this was evidence that petitioner

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<sup>1</sup> The “old” 90-day test was applicable to this purchase.

1 never intended to use the motor home in California. Ms. Baglio submitted copies of: petitioner's  
2 Nevada driver's license; a Nevada vehicle registration in petitioner's name for another vehicle; checks,  
3 statements, and correspondence from a Nevada bank showing that petitioner had personal and business  
4 bank accounts in Nevada; a Nevada Secretary of State filing showing that petitioner was associated  
5 with a Nevada business; and a lease agreement for real property in Nevada. Ms. Baglio also submitted  
6 a default notice issued by the mortgage company in December 2008 for the loan on her house, in  
7 support of petitioner's alleged intent to sell their home.

8 A PFR must identify newly-discovered, relevant evidence which the party requesting the  
9 rehearing could not have reasonably discovered and provided prior to the Board's decision. The new  
10 evidence must overcome the evidence used by the Board in its prior decision. In order to rebut the  
11 presumption of taxability based upon an alleged change in circumstance, Ms. Baglio must show that, at  
12 the time the motor home was purchased, petitioner had no intent to use the property in California *at all*.

13 Petitioner's primary residence at the time he purchased the motor home was located in Tahoe  
14 City, California, and the motor home was registered in California. In August 2008, Ms. Baglio stated  
15 that the motor home was purchased to travel to and stay in other states during the winter months, and  
16 that during the summer petitioner planned on living in Tahoe City. Ms. Baglio also confirmed in the  
17 PFR that petitioner knew the motor home would have to return to the California dealer for warranty  
18 service. Thus, despite petitioner's ties to Nevada, the evidence shows that, at the time of purchase,  
19 petitioner did not intend to keep the motor home exclusively outside California. We also find that the  
20 default notice on petitioner's primary residence that was issued after petitioner had passed away does  
21 not support the allegation that petitioner intended to move out of California when he purchased the  
22 motor home.

23 We find that Ms. Baglio has not submitted any newly-discovered, relevant evidence which  
24 could not have been reasonably discovered before the Board's decision, and in any event, we also find  
25 that the new evidence that has been submitted is not evidence of the type that would support a different  
26 conclusion by the Board. Accordingly, we recommend that the PFR be denied.

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28 Summary prepared by Pete Lee, Business Taxes Specialist II