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서 울 행 정 법 원

제 4 부

판 결

사 건 2017구합80684 취득세 부과처분 취소청구 등

원 고 [redacted] 주식회사

피 고 [redacted]구청장

변 론 종 결 2018. 4. 6.

판 결 선 고 2018. 4. 20.

주 문

1. 이 사건 소를 각하한다.

2. 소송비용은 피고가 부담한다.

청 구 취 지

피고가 2017. 7. 10. 원고에게 한 별지 '취득세 납세고지 내역' 기재 취득세 및 가산세 합계 1,338,892,980원의 부과처분을 취소한다.

이 유

행정처분이 취소되면 그 처분은 효력을 상실하여 더 이상 존재하지 않는 것이고, 존

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재하지 않는 행정처분을 대상으로 한 취소소송은 소의 이익이 없어 부적법하다(대법원 2010. 4. 29. 선고 2009두16879 판결 등 참조).

피고가 이 사건 소 제기 후인 2017. 12. 12. 원고에 대한 청구취지 기재 취득세 및 가산세 부과처분을 취소한 사실은 당사자 사이에 다툼이 없으므로, 이 사건 소는 더 이상 존재하지 않는 처분의 취소를 구하는 것으로서 소의 이익이 없어 부적법하다.

따라서 이 사건 소를 각하하고, 소송비용은 행정소송법 제32조에 따라 피고가 부담하기로 하여 주문과 같이 판결한다.

재판장 판사 조미연

판사 이광열

판사 이지희

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취득세 납세고지 내역

(단위:원)

처분일	차량번호	과세표준	산출세액	가산세	고지세액
20170710	A	84,000,000	5,880,000	4,360,020	10,240,020
20170710	B	59,909,091	4,193,630	3,109,570	7,303,200
20170710	C	59,909,091	4,193,630	3,109,570	7,303,200
20170710	D	62,545,455	4,378,180	3,246,410	7,624,590
20170710	E	60,909,091	4,263,630	3,161,470	7,425,100
20170710	F	70,181,818	4,912,720	3,642,770	8,555,490
20170710	G	72,000,000	5,040,000	3,737,160	8,777,160
20170710	H	62,193,636	4,353,550	3,228,150	7,581,700
20170710	I	96,454,545	6,751,810	5,000,380	11,752,190
20170710	J	48,818,182	3,417,270	2,530,820	5,948,090
20170710	K	39,072,727	2,735,090	2,025,590	4,760,680
20170710	L	59,272,727	4,149,090	3,072,800	7,221,890
20170710	M	59,272,727	4,149,090	3,072,800	7,221,890
20170710	N	55,815,455	3,907,080	2,893,570	6,800,650
20170710	O	62,545,455	4,378,180	3,242,470	7,620,650
20170710	P	62,545,455	4,378,180	3,242,470	7,620,650
20170710	Q	129,545,455	9,068,180	6,715,880	15,784,060
20170710	R	48,818,182	3,417,270	2,529,800	5,947,070
20170710	S	48,104,545	3,367,310	2,492,810	5,860,120

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20170710	T	36,336,364	2,543,540	1,882,970	4,426,510
20170710	U	71,545,455	5,008,180	3,707,540	8,715,720
20170710	V	59,272,727	4,149,090	3,069,070	7,218,160
20170710	W	136,909,091	9,583,630	7,089,000	16,672,630
20170710	X	47,090,910	3,296,360	2,438,310	5,734,670
20170710	Y	46,909,091	3,283,630	2,428,890	5,712,520
20170710	Z	38,545,455	2,698,180	1,995,020	4,693,200
20170710	AA	45,363,636	3,175,450	2,347,920	5,523,370
20170710	AB	92,150,000	6,450,500	4,769,490	11,219,990
20170710	AC	174,272,727	12,199,090	9,009,010	21,208,100
20170710	AD	27,181,818	1,902,720	1,405,150	3,307,870
20170710	AE	83,000,000	5,810,000	4,288,940	10,098,940
20170710	AF	26,272,727	1,839,090	1,357,600	3,196,690
20170710	AG	54,906,364	3,843,440	2,836,060	6,679,500
20170710	AH	62,545,455	4,378,180	3,230,650	7,608,830
20170710	AI	94,818,182	6,637,270	4,897,630	11,534,900
20170710	AJ	34,272,727	999,090	737,220	1,736,310
20170710	AK	31,258,182	2,188,070	1,614,570	3,802,640
20170710	AL	55,386,364	3,877,040	2,859,690	6,736,730
20170710	AM	87,454,545	6,121,810	4,515,440	10,637,250
20170710	AN	69,818,182	4,887,270	3,604,840	8,492,110
20170710	AO	61,363,636	4,295,450	3,168,320	7,463,770

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20170710	AP	58,363,636	4,085,450	3,012,200	7,097,650
20170710	AQ	62,545,455	4,378,180	3,228,020	7,606,200
20170710	AR	91,181,818	6,382,720	4,705,970	11,088,690
20170710	AS	29,272,727	649,090	478,560	1,127,650
20170710	AT	51,000,000	3,570,000	2,632,160	6,202,160
20170710	AU	44,363,636	3,105,450	2,286,850	5,392,300
20170710	AV	139,818,182	9,787,270	7,207,340	16,994,610
20170710	AW	37,000,000	2,590,000	1,907,270	4,497,270
20170710	AX	60,375,455	4,226,280	3,110,950	7,337,230
20170710	AY	56,363,636	3,945,450	2,903,060	6,848,510
20170710	AZ	151,000,000	10,570,000	7,777,400	18,347,400
20170710	BA	47,272,727	3,309,090	2,434,820	5,743,910
20170710	BB	40,909,091	2,863,630	2,106,190	4,969,820
20170710	BC	61,363,636	4,295,450	3,159,300	7,454,750
20170710	BD	59,418,182	4,159,270	3,059,130	7,218,400
20170710	BE	69,959,091	4,897,130	3,601,830	8,498,960
20170710	BF	71,727,273	5,020,900	3,692,870	8,713,770
20170710	BG	67,909,091	4,753,630	3,494,860	8,248,490
20170710	BH	72,636,364	5,084,540	3,738,140	8,822,680
20170710	BI	48,090,909	3,366,360	2,474,940	5,841,300
20170710	BJ	50,090,909	3,506,360	2,577,870	6,084,230
20170710	BK	49,345,455	3,454,180	2,539,500	5,993,680

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20170710	BL	55,545,455	3,888,180	2,855,080	6,743,260
20170710	BM	17,418,181	1,219,270	895,300	2,114,570
20170710	BN	54,909,091	3,843,630	2,822,370	6,666,000
20170710	BO	62,545,455	4,378,180	3,214,890	7,593,070
20170710	BP	96,358,182	6,745,070	4,952,900	11,697,970
20170710	BQ	62,545,455	4,378,180	3,214,890	7,593,070
20170710	BR	96,358,182	6,745,070	4,950,870	11,695,940
20170710	BS	52,454,545	3,671,810	2,695,100	6,366,910
20170710	BT	71,636,364	5,014,540	3,680,660	8,695,200
20170710	BU	75,181,818	5,262,720	3,862,830	9,125,550
20170710	BV	58,000,000	4,060,000	2,978,820	7,038,820
20170710	BW	94,818,182	6,637,270	4,869,760	11,507,030
20170710	BX	87,181,818	6,102,720	4,477,560	10,580,280
20170710	BY	54,272,727	3,799,090	2,787,380	6,586,470
20170710	BZ	51,363,636	3,595,450	2,637,980	6,233,430
20170710	CA	49,545,455	3,468,180	2,543,550	6,011,730
20170710	CB	48,090,909	3,366,360	2,468,880	5,835,240
20170710	CC	49,818,182	3,487,270	2,557,550	6,044,820
20170710	CD	53,272,727	3,729,090	2,733,780	6,462,870
20170710	CE	53,545,455	3,748,180	2,747,780	6,495,960
20170710	CF	58,363,636	4,085,450	2,995,040	7,080,490
20170710	CG	53,750,000	3,762,500	2,758,280	6,520,780

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20170710	CH	54,909,091	3,843,630	2,817,750	6,661,380
20170710	CI	48,818,182	3,417,270	2,505,190	5,922,460
20170710	CJ	38,636,364	2,704,540	1,982,690	4,687,230
20170710	CK	53,545,455	3,748,180	2,747,780	6,495,960
20170710	CL	95,909,091	6,713,630	4,921,750	11,635,380
20170710	CM	59,000,000	4,130,000	3,027,700	7,157,700
20170710	CN	14,094,218	986,590	722,370	1,708,960
20170710	CO	48,090,909	3,366,360	2,464,840	5,831,200
20170710	CP	58,000,000	4,060,000	2,972,730	7,032,730
20170710	CQ	84,000,000	5,880,000	4,303,570	10,183,570
20170710	CR	56,090,909	3,926,360	2,873,700	6,800,060
20170710	CS	43,181,818	3,022,720	2,212,320	5,235,040
20170710	CT	48,090,909	3,366,360	2,462,820	5,829,180
20170710	CU	58,363,636	4,085,450	2,988,910	7,074,360
20170710	CV	54,909,091	3,843,630	2,811,990	6,655,620
20170710	CW	59,363,636	4,155,450	3,038,880	7,194,330
20170710	CX	59,727,273	4,180,900	3,057,490	7,238,390
20170710	CY	72,636,364	5,084,540	3,716,790	8,801,330
20170710	CZ	47,636,364	3,334,540	2,437,540	5,772,080
20170710	DA	62,545,455	4,378,180	3,200,440	7,578,620
20170710	DB	62,545,455	4,378,180	3,200,440	7,578,620
20170710	DC	61,522,727	4,306,590	3,148,100	7,454,690

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20170710	DD	20,140,000	1,409,800	1,030,560	2,440,360
20170710	DE	53,272,727	3,729,090	2,725,950	6,455,040
20170710	DF	40,272,727	2,819,090	2,058,200	4,877,290
20170710	DG	82,727,273	5,790,900	4,227,930	10,018,830
20170710	DH	57,909,091	4,053,630	2,959,540	7,013,170
20170710	DI	58,090,909	4,066,360	2,967,620	7,033,980
20170710	DJ	48,090,909	3,366,360	2,456,760	5,823,120
20170710	DK	54,909,091	3,843,630	2,803,920	6,647,550
20170710	DL	54,181,818	3,792,720	2,766,780	6,559,500
20170710	DM	51,590,909	3,611,360	2,633,400	6,244,760
20170710	DN	62,545,455	4,378,180	3,192,560	7,570,740
20170710	DO	57,181,818	4,002,720	2,918,770	6,921,490
20170710	DP	95,363,636	6,675,450	4,867,730	11,543,180
20170710	DQ	47,636,364	3,334,540	2,430,530	5,765,070
20170710	DR	49,434,546	3,460,410	2,522,290	5,982,700
20170710	DS	59,727,273	4,180,900	3,043,690	7,224,590
20170710	DT	62,545,455	4,378,180	3,187,300	7,565,480
20170710	DU	95,363,636	6,675,450	4,859,720	11,535,170
20170710	DV	94,818,182	6,637,270	4,829,930	11,467,200
20170710	DW	63,636,000	4,454,520	3,241,550	7,696,070
20170710	DX	53,818,182	3,767,270	2,741,430	6,508,700
20170710	DY	59,818,182	4,187,270	3,045,810	7,233,080

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20170710	DZ	86,454,545	6,051,810	4,402,080	10,453,890
20170710	EA	61,186,364	4,283,040	3,115,470	7,398,510
20170710	EB	59,818,182	4,187,270	3,044,560	7,231,830
20170710	EC	92,727,273	6,490,900	4,719,530	11,210,430
20170710	ED	77,818,182	5,447,270	3,960,700	9,407,970
20170710	EE	78,000,000	5,460,000	3,969,960	9,429,960
20170710	EF	52,909,091	3,703,630	2,692,900	6,396,530
20170710	EG	42,000,000	2,940,000	2,136,790	5,076,790
20170710	EH	52,454,545	3,671,810	2,668,660	6,340,470
20170710	EI	59,727,273	4,180,900	3,038,670	7,219,570
20170710	EJ	67,985,455	4,758,980	3,458,820	8,217,800
20170710	EK	57,181,818	4,002,720	2,905,570	6,908,290
20170710	EL	48,090,909	3,366,360	2,443,630	5,809,990
20170710	EM	94,363,636	6,605,450	4,792,910	11,398,360
20170710	EN	87,936,364	6,155,540	4,464,600	10,620,140
20170710	EO	42,957,272	3,007,000	2,180,970	5,187,970
20170710	EP	114,454,545	8,011,810	5,808,560	13,820,370
20170710	EQ	63,090,909	4,416,360	3,201,850	7,618,210
20170710	ER	59,727,727	4,180,940	3,031,170	7,212,110
20170710	ES	41,363,637	2,895,450	2,095,720	4,991,170
20170710	ET	38,636,364	2,704,540	1,956,720	4,661,260
20170710	EU	32,454,545	2,271,810	1,643,650	3,915,460

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20170710	EV	99,454,545	6,961,810	5,036,860	11,998,670
20170710	EW	63,818,000	4,467,260	3,232,060	7,699,320
20170710	EX	33,469,091	2,342,830	1,695,030	4,037,860
20170710	EY	78,090,909	5,466,360	3,954,900	9,421,260
20170710	EZ	18,522,727	1,296,590	937,290	2,233,880
20170710	FA	13,740,910	961,860	695,320	1,657,180
20170710	FB	32,454,545	2,271,810	1,638,880	3,910,690
20170710	FC	53,818,182	3,767,270	2,715,440	6,482,710
20170710	FD	22,377,273	1,566,400	1,125,300	2,691,700
20170710	FE	71,272,000	4,989,040	3,578,130	8,567,170
20170710	FF	50,636,364	3,544,540	2,540,000	6,084,540
20170710	FG	119,090,909	8,336,360	5,963,820	14,300,180
20170710	FH	49,554,545	3,468,810	2,465,970	5,934,780
20170710	FI	36,600,000	2,562,000	1,819,780	4,381,780
20170710	FJ	61,818,182	4,327,270	3,072,350	7,399,620
20170710	FK	32,472,727	2,273,090	1,611,840	3,884,930
20170710	FL	67,636,364	4,734,540	3,345,890	8,080,430
20170710	FM	36,319,091	2,542,330	1,795,890	4,338,220
20170710	FN	135,272,727	9,469,090	6,683,270	16,152,360
20170710	FO	106,545,455	7,458,180	5,208,040	12,666,220
20170710	FP	101,545,455	7,108,180	4,957,230	12,065,410
20170710	FQ	54,818,182	3,837,270	2,654,230	6,491,500

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20170710	FR	53,454,545	3,741,810	2,585,960	6,327,770
20170710	FS	32,790,000	2,295,300	1,476,100	3,771,400
20170710	FT	59,200,000	4,144,000	2,658,790	6,802,790
20170710	FU	30,636,364	2,144,540	1,357,910	3,502,450
20170710	FV	58,545,455	4,098,180	2,591,270	6,689,450
20170710	FW	37,818,182	2,647,270	1,673,860	4,321,130
20170710	FX	25,382,182	1,776,750	1,114,370	2,891,120
20170710	FY	38,090,909	2,666,360	1,669,130	4,335,490
합계		_	**774,678,500**	**564,214,480**	**1,338,892,980**