

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15725
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On June 13, 2001, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] ([Redacted]), proposing use tax, penalty, and interest for the period July 2000 in the total amount of \$1,476.[Redacted] On July 16, 2001, a timely protest and petition for redetermination was filed by [Redacted]. An informal hearing was not requested. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the deficiency determination.

[Redacted] purchased a 1949 Cessna N9108A on May 19, 2000, for \$22,000. This aircraft was registered with the FAA using an Idaho address of [Redacted]. Aircraft registered in Idaho are presumed to be present in Idaho.

On December 13, 2000, TDB sent [Redacted] an inquiry letter to help determine if his purchase of the aircraft in question was subject to Idaho sales or use tax. [Redacted] completed the inquiry letter and returned it to the Commission on January 11, 2001. No exemption from the Idaho sales or use tax was indicated. [Redacted] also provided the purchase information on this aircraft.

Correspondence was mailed to [Redacted] on January 12, 2001, and March 13, 2001, requesting payment of \$1,100 for Idaho use tax on the purchase amount he provided.

The Commission's records indicate that [Redacted] holds a current Idaho driver license. At least two vehicles owned by [Redacted] are currently licensed/registered in Idaho at his residence in [Redacted]. [Redacted] filed Idaho income tax returns as a full-year resident from 1994 through 1996 using the same [Redacted] address. An extension to file income tax returns was filed for 1997 with a payment of \$500 and a tentative payment of \$800 was filed for 1998.

[Redacted] disagreed that Idaho use tax is due because his current aircraft was purchased with funds that he had received from the sale of another aircraft. He stated that he has already paid federal and state income taxes on those funds.

[Redacted] dated January 7, 2001, it appears he sold his previous airplane in January of 2000. He did not purchase the airplane in question until May of 2000. Clearly, these are two distinct transactions the latter of which is subject to Idaho use tax.

Idaho Code § 63-3621 states that use tax is imposed on the storage, use, or other consumption in this state of tangible personal property. The definition for "storage" can be found in Idaho Code § 63-3615 which states in pertinent part:

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. . . .

On January 28, 2002, during a telephone conversation between the Tax Policy Specialist (specialist) and [Redacted] stated that he was not able to pay the use tax due on the airplane because of his current financial status.

On February 20, 2002, the specialist included with a letter to [Redacted] a Financial Statement form for him to complete. The Commission must have the completed Financial Statement form to determine whether extreme financial hardship may be used as a basis for compromising the amount of the use tax deficiency. [Redacted] did not return this form.

[Redacted] storage and use of his aircraft in Idaho requires the payment of use taxes on the aircraft to this state.

WHEREFORE, the Notice of Deficiency Determination dated June 13, 2001, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that [Redacted] pay the following tax, penalty, and interest:

<u>PERIOD</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
7/2000	\$1,100	\$275	\$204	\$1,579

Interest in this decision has been computed through December 12, 2002.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2002, 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:

[Redacted]

ADMINISTRATIVE ASSISTANT 1