

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of )  
 ) DOCKET NO. 16521  
[REDACTED], )  
 ) DECISION  
 )  
Petitioner. )  
\_\_\_\_\_ )

On September 13, 2001, the Tax Discovery Bureau (TDB) of the State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing Idaho tax, penalty, and interest in the total amount of \$1,967 for failure to remit use tax upon the purchase of an aircraft. A timely protest and petition for redetermination was filed on November 13, 2001. With his letter of protest the taxpayer included \$50, representing use tax on \$1,000, and a copy of a check made out for \$1,000, payable to the order of the seller.

The State Tax Commission (Commission) concludes that the taxpayer has an unpaid liability of tax, penalty, and interest in the amount of \$2,022 for the following reasons.

Background: An Aircraft Registry report for July 2000 indicated that the taxpayer purchased a 1951 Cessna 170A, [Redacted] (seller). There was no evidence that the taxpayer remitted use tax to the Commission on the purchase price, and TDB sent letters to the taxpayer requesting purchase information. No response was received to any of the letters sent on August 31, 2000, October 10, 2000, or January 26, 2001.

On November 30, 2000, a postal tracer was sent and the postmaster confirmed that the address used on these letters was correct. A Notice of Deficiency Determination for tax based on the aircraft Bluebook value of the Cessna, plus penalty and interest, was sent certified mail on September 13, 2001. The certified letter was returned as unclaimed on October 16, 2001, and a courtesy copy of the Notice of Deficiency Determination was mailed on October 25, 2001.

On November 8, 2001, the taxpayer called TDB and explained that the aircraft was purchased in Texas for use as parts and that he was unaware that a tax would be due. TDB instructed him to preserve his protest rights by responding in writing by November 15, 2001, and to provide documentation in support of the low purchase price of \$1,000. With the subsequent timely protest letter, the taxpayer included a \$50 use tax payment and a copy of a check to the seller for \$1,000 claiming that it represents the full purchase price.

No response was received from two additional letters sent on November 23, 2001, and March 4, 2002. The file was then transferred to the Commission's Policy section. On May 7, 2002, Policy sent a letter outlining the taxpayer's rights to a hearing. Absent a response, Policy sent another letter on June 24, 2002, asking that the taxpayer provide sufficient evidence to substantiate the \$1,000 claimed as a purchase price. Suggested were a sales receipt and notarized letter from the seller stating why the aircraft was sold for well below fair market value. No response was received from that final correspondence.

TDB, using information obtained from the Federal Aviation Administration (FAA), called a Boise-based aircraft mechanic on August 29, 2002, to confirm that he had repaired the Cessna on October 19, 2000, and that the craft was capable of flight on that date. Further, FAA documentation shows that on June 23, 2000, the taxpayer made an application for the craft's registration and that it was issued on June 29, 2000. This is contradictory to the protest letter written over one year later on November 19, 2001, in which the taxpayer states he, "purchase (sic) the Cessna 170 for parts for \$1,000 in Texas."

Response: Idaho Code §63-3621 states, in relevant part:

An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property. . . at the rate of five percent (5%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property . . .

In the absence of a sales receipt and in light of the independent information obtained about the condition of the aircraft and the registration of the craft subsequent to purchase, the Commission stands by its use of the fair market value as a presumptive price, subtracting from this the \$1,000 upon which use tax was remitted by the taxpayer. The Commission also finds the addition of interest and penalty to the taxpayer's liability appropriate per Idaho Code §§ 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated September 13, 2001, directed to [Redacted] is hereby MODIFIED, and as so modified is APPROVED, AFFIRMED, and MADE FINAL.

THEREFORE, IT IS HEREBY ORDERED and THIS DOES ORDER that taxpayer pay the following tax, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2000	\$1,450	\$363	\$259	\$2,072
			LESS PAYMENT	<u>\$ 50</u>
				<u>\$2,022</u>

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]

[Redacted]

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