



BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16929
[REDACTED])	
Petitioner.)	DECISION
)	
)	

On September 13, 2002, the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), for the period 2001, proposing Idaho use tax, penalty and interest in the total amount of \$14,457.

A timely protest and petition for redetermination was filed on October 8, 2002. The Tax Commission, having reviewed the entire file, hereby issues its decision.

In a letter dated October 4, 2002, from [Redacted], representative for [Redacted], he stated in pertinent part:

[Redacted]. is a corporation organized under the laws of the state of Oregon. . . . One of the assets of the corporation was a 1980 Cessna P-210 airplane (the airplane). The airplane has always been registered and hangared in Ontario, Oregon. In 2001 a single member LLC was established to take title to the airplane. [Redacted] (the LLC) was organized under the laws of the state of Idaho. It was then qualified to do business in Oregon. The airplane was transferred to the LLC in a tax free transaction in exchange for a 100% ownership interest. . .

The LLC does not have property or employees in the state of Idaho. It continues to have only one asset, the airplane. As in the past, the airplane is registered and hangared in Oregon. . . .The airplane is occasionally flown into Idaho, but never for more than 90 days in a twelve month period.

Idaho Sales Tax Administrative Rule 037.01.h. defines a nonresident business as:

A business with no property located in Idaho, or employees working in Idaho.

Idaho Sales Tax Administrative Rule 037.03 states in pertinent part:

Sales or use tax does not apply to the sale, lease, purchase, or use of an aircraft: . . . c. By nonresidents for use outside this state, when the aircraft is upon delivery taken outside this state, but only if the aircraft registration will be immediately changed to show the new owner and the aircraft will not be used in this state more than 90 days in any twelve (12) month period.

The information submitted by [Redacted] in support of the taxpayer's protest has been reviewed, and it appears that the deficiency should be canceled.

THEREFORE, IT IS HEREBY ORDERED and THIS DOES ORDER that the Notice of Deficiency Determination dated September 13, 2002 is hereby CANCELED.

Dated this ____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2003, 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]
