

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21034
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On March 3, 2008, the staff of the Sales Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing use tax, penalty, and interest in the total amount of \$2,033. On March 14, 2008, the taxpayer filed a timely appeal and petition for redetermination. The Commission held an informal hearing with the taxpayer on June 17, 2008.

At issue in this case is the imposition of use tax on the purchase of an airplane that the taxpayer brought to Idaho in June of 2007. The taxpayer stated that he purchased an [Redacted] from [Redacted] while he was a resident of California. The taxpayer then lived in Oregon for six months, where he assembled the airplane. The taxpayer registered the [Redacted] in February of 2007. He moved to Idaho in June of 2007. In October of 2007, he changed the registration to show an Idaho address.

Idaho Code § 63-3621 imposes a use tax on the storage, use, or other consumption of tangible personal property within the state. The use tax is the same rate as the sales tax and is complementary to it. Payment of sales tax to the seller extinguishes liability of the use tax. Every state with a sales tax also has a complementary use tax. One purpose of the use tax is to prevent people from avoiding the sales tax by purchasing goods from out-of-state sellers who are not registered to collect Idaho sales tax.

The taxpayer argues that Idaho Code § 63-3621(1) exempts his use of the [Redacted] in Idaho. That statute states:

(1) The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned motor vehicles by a resident of this state, if such articles were acquired by such person in another state while a resident of that state and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial. For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code. (Emphasis added.)

The taxpayer argues that the airplane is either a household good or a personal effect.

The term “household goods” is generally defined as property that is used in or around a household. For instance, the regulations of the U.S. Department of Transportation provide the following definition: “household goods” as used in connection with transportation, means the personal effects or property used, or to be used, in a dwelling, when part of the equipment or supplies of the dwelling. 49 CFR § 375.103. The [Redacted] could not, therefore, be classified as a household good.

The term “personal effects” is even more limited. Personal effects can generally be defined as tangible personal property that normally is worn or carried by an individual or that is used by an individual in personal or recreational activities.

The Supreme Court of Tennessee found that [Redacted] is not a personal effect in a case that involved a substantially similar statute. In that case, the purchaser bought [Redacted] in Virginia in 1961. When he moved to Tennessee in 1975 he was required to pay use tax. The Tennessee statute, T.C.A. § 67-3005, exempted from use tax “the personal automobile, the personal effects, or the household furniture to be used in the residence of a person, who, having been a bona fide resident of another state, has moved to and become a resident of Tennessee....”

In construing this statute, the court stated:

Following the guidelines for statutory construction of taxation statutes, *supra*, one must assume that the Legislature intended to exclude only automobiles and furniture, expressly exempted, and other personal effects having an intimate relation to the person.; See Black's Law Dictionary, Revised, 4th Edition.; *To construe the term 'personal effects' to include an airplane would be a forced construction clearly not intended.*

This Court is thus of the opinion that the term 'personal effects' as used in Section 67-3005, T.C.A., was not intended by the Legislature and does not include an airplane. Weaver v. Woods 594 S.W.2d 693 (1980). (Emphasis added.)

The taxpayer also argued that Idaho Code § 21-114 prohibited the Commission from imposing use tax. That statute states, in relevant part:

(b) Aircraft Registration -- Fees.

(1) Private Aircraft. Subject to the limitations of subsections (c) and (d) of this section, every aircraft operating within this state and/or holding a currently valid airworthiness certificate and a currently valid annual inspection or progressive inspection system issued by the appropriate federal agency, shall be registered with the department prior to or during each annual registration year in which the aircraft is operated within this state. The annual registration year shall commence on the date provided by regulation, and the holding of a currently valid airworthiness certificate and a currently valid annual inspection or progressive inspection system issued by the appropriate federal agency shall be considered *prima facie* evidence that the aircraft is operating within this state. The department shall charge for each such registration, and for each annual renewal thereof, the fees at the rate of one cent (1¢) per pound of gross weight authorized in the aircraft listing, aircraft specification or type certificate data sheet of said aircraft issued by the federal aviation agency, and in no case to exceed two hundred dollars (\$200) upon any one (1) aircraft, provided that such fee shall be in lieu of all personal property taxes on such aircraft.

The taxpayer is relying on the statement that payment of the registration fee is “in lieu of all personal property taxes on such aircraft.” This statement refers to property tax on personal

property, governed by Chapter 2, Title 64, Idaho Code, and not to sales and use tax, governed by Chapter 36, Title 63, Idaho Code.

Furthermore, the Commission notes that the Idaho Sales Tax Act provides exemptions for purchases of equipment by businesses devoted to farming, mining, manufacturing (Idaho Code § 63-3622D), logging (Idaho Code § 63-3622JJ), and free distribution newspapers (Idaho Code § 63-3622T). All of these exemptions exclude aircraft. If the taxpayer's contention was correct, there would be no need for the statutory exclusions. It is not to be presumed that the legislature performed an idle act of enacting a superfluous statute, *Richardson v. State Tax Commission*, 100 Idaho 705, 604 P.2d 719 (1979); *Walker v. Nationwide Financial Corp.*, 102 Idaho 266, 629 P.2d 662 (1981).

Finally, the taxpayer argues that several people told him that he would not owe use tax when he brought the plane to Idaho, including an employee at the airport in [Redacted], Idaho, and employees of [Redacted] County and the Department of Transportation. Although he was advised to contact the Tax Commission, he failed to do so. The Commission regrets that the taxpayer received incorrect information. Nevertheless, this does not relieve the taxpayer of liability. One of the most often repeated common law maxims is that ignorance of the law is no excuse. Courts have gone so far as to state: "We need no citation to reaffirm that ignorance of tax laws is not a valid defense for non-compliance." *Cotten v. Collector of Revenue*, 579 So.2d 499 (1991). The United States Supreme Court has summarized the reasons why ignorance is not a defense:

It is a common maxim, familiar to all minds, that ignorance of the law will not excuse any person, either civilly or criminally; and it results from the extreme difficulty of ascertaining what is, *bonâ fide*, the interpretation of the party; and the extreme danger of allowing such excuses to be set up for illegal acts, to the detriment of the public. There is scarcely any law, which does not admit of

some ingenious doubt; and there would be perpetual temptations to violations of the laws, if men were not put upon extreme vigilance to avoid them... The safety of the revenue, so vital to the government, is essentially dependent upon upholding it. *Barlow v. United States*, 32 U.S. 404 (1833).

Finally, the Notice of Deficiency imposed a penalty of \$388. The Commission has decided to waive the penalty in this case.

WHEREFORE, the Notice of Deficiency Determination dated March 3, 2008, is MODIFIED, and as MODIFIED, APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax and interest:

TAX	INTEREST	TOTAL
\$1,552	\$110	\$1,662

Interest is calculated through July 18, 2008, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

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.

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, 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]

Receipt No.
