

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21050
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On January 3, 2008, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing use tax, penalty, and interest for a purchase made on June 21, 2006, in the total amount of \$4,435.00.

On February 1, 2008, the taxpayer filed a timely appeal and petition for redetermination. The Commission held an informal hearing with the taxpayer on May 13, 2008.

At issue in this case is the imposition of Idaho use tax on the purchase of a [Redacted]. 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. Its purpose is to prevent people from avoiding the sales tax by purchasing goods from sellers who are not registered to collect Idaho sales tax.

The taxpayer stated that when he purchased the [Redacted] he intended to use it on his farm. The taxpayer was the fourth owner of the [Redacted]. The [Redacted] was originally sold in kit form. One of the previous owners had started to assemble the [Redacted] but did not complete it. The taxpayer completed the construction and registered the [Redacted] with the

[Redacted]. None of the previous owners had registered the [Redacted], presumably because they did not complete its construction.

The taxpayer's primary argument is that the use of the [Redacted] was exempt under Idaho Code § 63-3622D, commonly known as the production exemption. This exemption applies to the sale, purchase, and use of tangible personal property primarily and directly used in farming, mining, and manufacturing. Subsection 63-3622D(f)(7), however, states that "without regard to the use of such property, this section does not exempt ... motor vehicles and aircraft."

The taxpayer stated that the [Redacted] is not an [Redacted] because he was the manufacturer and the [Redacted] classifies it as [Redacted] Idaho sales tax rule 010.02 (IDAPA 35.01.02.010.02), however, defines [Redacted] as "any contrivance now known or hereafter invented, used, or designed, for [Redacted]." Clearly, the [Redacted] is [Redacted] [Redacted] under this definition.

The taxpayer also argued that his use of the [Redacted] was not taxable because he built it himself, that no previous state had taxed it, and that the [Redacted] was classified as experimental. These arguments are without merit.

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

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

TAX	PENALTY	INTEREST	TOTAL
\$3,250	\$813	\$665	\$4,728

Interest is calculated through June 20, 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 petitioner'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.
