

In the Matter of the Protest of )  
 )  
 [Redacted] ) DOCKET NO. 24978  
 )  
 Petitioner. ) DECISION  
 )

The Commission wrote to Petitioner on several occasions between September 2012 and November 14, 2016. Petitioner replied to the Commission's correspondence, but did not request an informal hearing. For the reasons that follow, the Commission upholds the modified audit findings.

## **Protest**

Petitioner contends the imported airplanes were purchased for a business managed by Petitioner. According to Petitioner, the airplanes were supplied by the manufacturer to the business for assembly. Once the airplanes were assembled, they were delivered to customers for use outside of Idaho; therefore, they are not subject to Idaho sales or use tax. The Commission did not receive any documents in support of Petitioner's assertion.

### **Relevant Tax Code for the Asserted Tax Liability**

Idaho Code § 63-3621 imposes use tax on all tangible property brought into Idaho unless an exemption applies. There is an exemption from tax for purchases when the buyer intends to hold the goods in question for resale, Idaho Code § 63-3609. If the seller of goods fails to, or cannot, charge sales tax and no exemption applies, the buyer is obligated to pay a use tax directly to the state, Idaho Code § 63-3621. Idaho Code § 63-3622GG provides that the sale, lease or purchase of aircraft for use outside of Idaho by nonresidents is exempt from sales and use tax only if the aircraft is taken from the point of delivery to a point outside the state, and the aircraft will not be used in Idaho more than 90 days in any 12-month period.

### **Analysis and Conclusion**

No evidence was presented to show that Petitioner either paid sales tax on his imported goods, or paid use tax to the state of Idaho thereafter. The U.S. Customs report used as a basis for the Bureau's audit does not contain any identifying information for the imported airplanes. The Commission continued to seek information regarding the imported airplanes to see if it could substantiate Petitioner's claims. In its research, the Commission found the Federal Aviation Administration (FAA) registers imported aircraft on a priority basis. To register an imported aircraft, one must provide a statement indicating if the aircraft was ever registered in

the country of export, evidence of ownership, and an application for registration. In lieu of this information, Petitioner could provide other documentation in support of his claim that he was merely a manager of the company importing the airplanes and that the airplanes were imported for resale. Competent evidence would include a contract between Petitioner and the owner(s) of the airplanes, payments received by Petitioner for labor, FAA registration numbers of the airplanes in question, or documents related to the acquisition, assembly, or disposal of each airplane. The Commission was unable to confirm Petitioner's statements without this additional documentation.

Absent information to the contrary, the Commission finds the deficiency prepared by the Bureau to be a reasonably accurate representation of Petitioner's use tax liability for the periods August 2007, January 2008, and March 2009.

The Bureau added interest and penalty to the use tax deficiency. The Commission reviewed those additions, found both to be appropriate per Idaho Code §§ 63-3045 and 63-3046, and has updated interest accordingly. Interest is calculated through April 30, 2017, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

THEREFORE, the modified Notice of Deficiency Determination dated May 23, 2012, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

IT IS ORDERED that Petitioner pay the following use tax, penalty and interest:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$11,326	\$2,836	\$5,557	\$19,719

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

An explanation of Petitioner's right to appeal this decision is included with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

IDAHO STATE TAX COMMISSION

---

COMMISSIONER

### **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2017 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.

---