

a letter requesting information regarding the purchase of the aircraft. Petitioner responded on January 27, 2017, stating the aircraft was purchased for \$87,000 and first entered Idaho at the end of 2016. The Bureau determined Petitioner's aircraft was subject to use tax upon first use in Idaho, as Petitioner is an Idaho resident and no exemption from sales tax or use tax applied.

Petitioner's Protest

In her letter dated April 1, 2017, Petitioner states she purchased the aircraft on May 26, 2015. According to Petitioner, her mechanic then flew the aircraft to California for repairs. Petitioner states that after repairs were completed in May 2016, the aircraft was flown to Oregon, where it remained in a hangar until Petitioner brought the aircraft to Idaho at the end of 2016. According to Petitioner, she is a commercial pilot who travels extensively throughout the western United States and owns property in California, Oregon, and Idaho. Petitioner contends her decision to file income taxes as an Idaho resident was arbitrary, and should not subject her to Idaho sales tax or use tax on the aircraft.

Petitioner then submitted another letter on May 5, 2017. In this letter, Petitioner contends the aircraft should not be subject to Idaho use tax because "This aircraft has had very little use in the state of Idaho." Petitioner also states that during the first 18 months she owned the aircraft, the aircraft was undergoing extensive repairs at a total cost of \$20,900, and therefore the aircraft was not worth the \$87,000 Petitioner paid.

Relevant Tax Code and Analysis

Idaho Code § 63-3621 imposes use tax on all tangible property brought into Idaho unless an exemption applies. The use tax is complementary to the sales tax, which imposes tax on the retail sale of tangible personal property within Idaho. 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.

Sales of aircraft are taxable unless an exemption applies. IDAPA 35.01.02.037.02. Idaho Code §63-3622GG provides the sale, lease or purchase of aircraft for use outside of Idaho by nonresidents is exempt from sales tax 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. IDAPA 35.01.02.037.01.d and IDAPA 35.01.02.037.02.c.i specify that for the purposes of this exemption, a “nonresident individual” means any individual who is not a resident or part-year resident of Idaho.

Petitioner is currently an Idaho resident. Petitioner was also a resident of Idaho at the time the aircraft was purchased in 2015, and when the aircraft was first used in Idaho in 2016. Petitioner has filed Idaho resident income tax returns since 2013 and has maintained an Idaho driver’s license since August 2011. Petitioner has claimed Idaho residency since October 2010 on Idaho Department of Fish and Game licenses. Petitioner brought several vehicles into Idaho from Oregon in 2012 and 2013, and claimed the new resident exemption from use tax on each occasion. Petitioner owns a residence in California, but does not claim a homeowner’s exemption on the property. Petitioner has not submitted any documentation indicating she was a resident of a state other than Idaho when the aircraft was purchased in 2015, or when Petitioner first brought the aircraft into Idaho in 2016.

Petitioner’s protest indicates she owns property in Idaho, Oregon, and California, and her employment causes her to travel throughout these and other states. Prior to Petitioner’s purchase of the aircraft, it was registered to an individual in Idaho, but it is not clear to the Commission where Petitioner’s purchase of the aircraft occurred. Petitioner did not submit any documentation

to indicate that the aircraft was taxed or registered in any other state since Petitioner's purchase was completed. The Commission found that the aircraft is registered with the Idaho Department of Transportation to Petitioner for use in Idaho, and that Petitioner has a lease at the [Redacted]

Airport in Idaho for hangar space sufficient to store the aircraft. The Commission conducted research with the appropriate agencies in both California and Oregon, but did not find any evidence the aircraft is registered in either state or that Petitioner paid sales tax, use tax, or personal property taxes on the aircraft to any jurisdiction.

In her protest, Petitioner contends major repairs were necessary to the aircraft immediately after her purchase, and therefore the purchase price of \$87,000 did not accurately reflect the aircraft's value. A recent sales price shall be presumptive evidence of the value of the property. Idaho Code § 63-3621. The Commission notes that according to the timeline provided by Petitioner, the majority of the repairs were completed before the aircraft's first use in Idaho. Even if the value of the aircraft was less than \$87,000 at the time of purchase due to undiscovered items needing repair, Petitioner did not submit any evidence to establish the value of the aircraft was lower than \$87,000 when the aircraft was first brought into Idaho. Without any documentation available regarding the value of the aircraft, the Commission finds \$87,000 purchase price to be a reasonable value for the aircraft.

Based upon Petitioner's Idaho residency and the absence of taxes paid to any other jurisdiction, the Commission concludes that Petitioner's aircraft was subject to Idaho use tax upon first use in this state.

Conclusion

On appeal, a deficiency determination issued by the Commission "is presumed to be correct, and the burden is on the taxpayer to show that the Commission's decision is erroneous."

Parker v. Idaho State Tax Comm'n, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (citing *Albertson's Inc. v. State Dep't of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). The Commission requires Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, Petitioner did not provide adequate evidence. As a result, the Commission will uphold the Notice.

Absent information to the contrary, the Commission finds the Notice prepared by the Bureau to be a reasonably accurate representation of Petitioner's use tax liability for the period December 1, 2016, through December 31, 2016.

The Bureau added interest and penalty to the sales tax and 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 March 31, 2018, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

THEREFORE, the Notice of Deficiency Determination dated February 17, 2017, 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 tax, penalty and interest:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$5,220	\$522	\$204	<u>\$5,946</u>

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 _____, 2018.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2018 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.
