

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of

[Redacted]

Petitioner.

)
) DOCKET NO. 0-106-690-560
)
)
) DECISION
)

On May 15, 2019, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to [Redacted] (Petitioner), for the period of March 1, 2018, through March 31, 2018, proposing use tax, penalty, and interest in the total amount of \$4,645.

On June 27, 2019, Petitioner filed a timely appeal and petition for redetermination of the Notice. The Commission sent Petitioner hearing rights letters dated September 16, 2019, and November 14, 2019. However, Petitioner has not requested a hearing or provided additional documentation for the Commission's consideration.

The Commission reviewed the audit file and upholds the Notice for the following reasons.

Background and Audit Findings

Petitioner is licensed with the Idaho Transportation Department (ITD), Division of Motor Vehicles as a vehicle and vessel dealer, in [Redacted], Idaho.

On April 18, 2018, the Bureau sent Petitioner an inquiry letter regarding its purchase of a 1966 Cessna U206A aircraft, serial number [Redacted], Federal Aviation Administration (FAA) registration number [Redacted]. After sending the initial inquiry letter, the Bureau continued to request documentation from Petitioner over the course of a year to determine the taxability of [Redacted]. The Bureau's requests for documentation included: purchase documents and payment information for [Redacted], aircraft dealer's license certificate, aircraft decal, invoices or receipts advertising the aircraft for resale, flight logs, and insurance policy. Petitioner provided no response.

Since no documentation was provided, the Bureau based the value of [Redacted] on the aircraft bluebook, average retail price.

Protest

Petitioner claims aircraft are included in the definition of “vessel”. As a vessel dealer, Petitioner believes [Redacted] is exempt from sales and use tax.

Relevant Tax Code and Analysis

A. Definitions

The term “vessel” is defined in Idaho Code § 67-7003(22) to mean every description of watercraft, including a seaplane on the water, used or capable of being used as a means of transportation on water, but does not include float houses, diver’s aids operated and designed primarily to propel a diver below the surface of the water, and nonmotorized devices not designed or modified to be used as a means of transportation on the water, such as inflatable air mattresses, single inner tubes, and beach and water toys.

"Personal watercraft" means a small vessel which uses an outboard motor, or an inboard motor powering a water jet pump as its primary source of power and is designed to be operated by a person sitting, standing or kneeling on, rather than in the conventional manner of sitting or standing inside the vessel. *See* Idaho Code § 67-7003(17).

"Aircraft" is defined in Idaho Code, § 21-101(b) to mean any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air for the carriage of pilots or passengers.

B. Registration Requirements

It is illegal for any person to carry on or conduct the business of buying, selling, or dealing in aircraft unless it registers with ITD as a manufacturer or dealer. The registration certificate must

be kept at the main office of the manufacturer or dealer and an identifying decal must be placed upon the left side of every aircraft that the manufacturer or dealer may have an interest in which is held for sale. *See* Idaho Code, § 21-114(2). In this case, Petitioner did not register as an aircraft dealer with the ITD, Division of Aeronautics.

Aircraft dealers are also required to complete a Dealer's Aircraft Registration Certificate Application with the FAA. In Petitioner's case, it registered [Redacted] with the FAA, identifying itself as the sole owner of the aircraft and not an aircraft dealer.

C. Sales and Use Tax

In Idaho, sales tax is imposed on the retail sale of tangible personal property, and use tax is imposed on the storage, use, or consumption of tangible personal property, unless an exemption applies. *See* Idaho Code §§ 63-3619 and 3621. "Retail sale" is defined to mean a lease or rental of property in the regular course of business or a sale for any purpose other than resale. *See* Idaho Code § 63-3609.

In this case, Petitioner did not register as an aircraft dealer or provide documentation showing it purchased [Redacted] for resale. The Commission determined that Petitioner registered [Redacted] for its own use in Idaho. Therefore, the Commission finds the Bureau properly imposed use tax on [Redacted].

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 upholds the Notice.

Absent information to the contrary, the Commission finds the Notice prepared by the Bureau to be an accurate representation of Petitioner's use tax for the period of March 1, 2018, through March 31, 2018.

The Bureau added penalty and interest to the use tax deficiency. The Commission reviewed these additions and finds they are appropriate per Idaho Code §§ 63-3045 and 3046. The interest was updated accordingly. Interest is calculated through February 29, 2020, and will continue to accrue at the rate set forth in § 63-3045(6), Idaho Code until paid.

THEREFORE, the Notice, dated May 15, 2019, 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>
\$4,200	\$210	\$359	\$4,769

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 _____, 2020.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2020 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]
[Redacted]
[Redacted]

Receipt No.
