BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of [redacted] Petitioner.	DOCKET NO. 0-051-504-128 DECISION

[redacted] (Petitioner) protested the Notice of Deficiency Determination (Notice) issued by the staff of the Sales/Use Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Tax Commission). The Notice proposed use tax, penalty, and interest for the audit period of October 1, 2023, through October 31, 2023, in the total amount of $17,037. After administrative review, the Tax Commission hereby upholds the modified Notice for the reasons set forth below.

BACKGROUND

Petitioner, an Idaho resident, purchased a 1979 Cessna 182Q aircraft with registration number [redacted] and serial number [redacted] on October 13, 2023. Petitioner registered the aircraft with the Federal Aviation Administration (FAA) to an Idaho address on November 10, 2023. The aircraft was physically located in Idaho from October 27, 2023, through February 16, 2024.

The Bureau sent Petitioner a letter requesting the documentation of the aircraft purchase, but did not receive a response. The Bureau also asked Petitioner to provide evidence that the sales/use tax had been paid to any state at the time of purchase. Petitioner did not provide such documentation. A follow-up attempt to contact also went unanswered.

On May 30, 2024, the Bureau issued a Notice, estimating the value of the aircraft using average retail prices of comparable models listed on Trade-A Plane[1]. Petitioner protested the Notice asserting that no tax is due as the aircraft was purchased for resale and therefore qualified for the resale exemption. Petitioner also claimed that the aircraft was used for flight instruction, a nontaxable service under Idaho law.

The Bureau acknowledged Petitioner's protest and requested the following supporting documentation:

- A copy of an Idaho aircraft dealer license
- A valid Idaho seller's permit
- Invoices and receipts related to the purchase and resale
- Documentation of any advertisement listing the aircraft for sale

In response to the Bureau's request, Petitioner submitted his purchase closing statement, the sales agreement for the subsequent sale of the aircraft to an out-of-state buyer, and an affidavit from the broker who assisted with the transactions. The affidavit described a standard business relationship between Petitioner and the broker. However, Petitioner did not provide any advertisements or marketing materials to substantiate an intent to resell the aircraft. Petitioner failed to demonstrate that he regularly engaged in the business of reselling aircraft. Moreover, Petitioner acknowledged he does not hold either an Idaho aircraft dealer license or a seller's permit.

Petitioner did, however, provide the original purchase document showing the aircraft's actual purchase price of $220,000. The Bureau modified the Notice on September 24, 2024, using the actual purchase price, updating the penalty and interest and sending a copy to Petitioner.

[1] Since 1937, Trade-A-Plane has been the Aviation Online Marketplace for aircraft sales and aviation products.

Petitioner continued to disagree with the modified Notice. The Bureau then forwarded the file to the Tax Commission's Appeals Unit (Appeals) for administrative review. Appeals sent Petitioner a letter outlining the options for redetermining a protested Notice. Petitioner did not respond.

Therefore, the Tax Commission, having reviewed all available information, hereby issues its decision.

LAW & ANALYSIS

Petitioner's Notice involves sales/use tax issues. The primary issues are whether Petitioner's purchase of aircraft is subject to Idaho use tax, and if any exemption, such as the resale exemption, applies which would extinguish the sales tax.

USE TAX LIABILITY

Idaho Code section 63-3621 (1) and (2) imposes use tax on tangible property:

> (1) An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after October 1, 2006, for storage, use, or other consumption in this state at the rate of six percent (6%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.
>
> (2) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state, except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

According to Idaho Code section 63-3621, a use tax is imposed on all tangible property brought into Idaho, storage, use, or other consumption in Idaho when sales tax has not been paid at the time of purchase, unless a valid exemption applies.

Petitioner brought the aircraft into Idaho shortly after purchase and it remained in the state for nearly four months, satisfying the condition for use tax applicability. Petitioner submitted no evidence to show that he paid sales/use tax to another jurisdiction at the time of purchase. Therefore, Petitioner's activities involving the aircraft while in Idaho constitute a taxable event under Idaho law.

LICENSING AND PERMIT REQUIREMENT

Idaho Aeronautics Code section 21-114(1) and (2) provides the requisites for registration of aircraft:

> (1) Subject to the limitations of subsections (b) and (c) of this section, every aircraft operating within this state shall be registered with the department prior to or during each annual registration year in which the aircraft is operated within this state.
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> (2) Manufacturers and dealers license. It shall be unlawful for any person to carry on or conduct the business of buying, selling, or dealing in aircraft unless registered with the department, as such manufacturer or dealer. Any manufacturer or dealer in aircraft owning, having an interest in, or having in his possession an aircraft for the purpose of sale, shall upon the registration and payment of fees as in this chapter required, acquire one (1) registration certificate that shall bear the distinctive registration number issued to such manufacturer or dealer, and any number of identifying decals. The registration certificate shall be kept at the main office of the manufacturer or dealer and an identifying decal shall be placed upon the left side of every aircraft that the manufacturer or dealer may have an interest in which is held for sale, either upon the vertical stabilizer or upon a window nearest to the rear of the aircraft.

FAA records indicate that Petitioner registered the aircraft to an Idaho address on November 10, 2023, but he did not hold an Idaho aircraft dealer license. Pursuant to Idaho Code section 21-114, any person operating an aircraft in the state is required to register it. Additionally, any person registered with the Division of Aeronautics must obtain a dealer license before engaging in the business of buying, selling, or dealing in aircraft. Lacking an Idaho aircraft dealer license, it's unlawful for any person to carry on or conduct business involving the aircraft.

Idaho Code section 63-3620 (a) further requires the seller's permit:

> (a) Every retailer engaged in business in this state, before conducting business within this state, shall file with the state tax commission an application for a

> seller’s permit. Every application for a permit shall be made upon a form prescribed by the state tax commission and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the state tax commission may require. The applications, or any information contained thereon, may be made available by the tax commission to authorized representatives of state or federal agencies. The application shall be signed by the owner if he is a natural person or by an individual authorized by the seller to sign the application. Except as provided in subsection (f) of this section, permits shall be issued without charge.

Under Idaho Code section 63-3620 (a), a seller’s permit is required of every retailer engaged in business in this state, before conducting business within this state. Petitioner did not possess a seller’s permit at the time he purchased the aircraft, thereby failing to meet a key requirement for claiming resale exemption under the Idaho sales/use tax statutes.

<u>RESALE EXEMPTION</u>

Idaho Code section 63-3622 (b) and (c) addresses the resale exemption requirement:

> (b) An exemption certificate shall show the purchaser's name, business name, address, a federal employer identification number or driver's license number and state of issue, signature, date, and the reason for and nature of the claimed exemption.
>
> (c) A resale certificate shall be signed and dated by, and bear the name and address of, the purchaser or his agent, shall show the federal employer identification number or driver's license number and state of issue, shall indicate the number of the permit issued to the purchaser or that the purchaser is an out-of-state retailer, and shall indicate the general character of the tangible personal property sold or rented by the purchaser in the regular course of business. If a purchaser who gives a resale certificate makes any use of the property other than retention, demonstration or display while holding it for sale or rent in the regular course of business, the use shall be taxable to the purchaser as of the time the property is first used by him, and the sales price of the property to him shall be deemed the measure of the tax.

Petitioner argued that the aircraft purchase qualified for the resale exemption. To qualify for a resale exemption, a seller must hold a valid resale or exemption certification and hold an active seller’s permit. Petitioner failed to present either. Additionally, the documentation submitted did not demonstrate that the aircraft was held for resale in the ordinary course of business. The lack of advertising, commercial listings, or a history of aircraft sales undermines the claim of regular resale activity. A single isolated sale, particularly without a seller's permit, is insufficient to support the resale exemption.

Moreover, Idaho Code section 63-3622K(d) explicitly excludes aircraft from the occasional sale exemption:

> (d) The exemption provided by subsection (b)(1), (b)(4), (b)(6) or (b)(8) of this section shall not apply to the sale, purchase or use of aircraft, as defined in section 21-201, Idaho Code.

Thus, whether treated as regular resale or the occasional sale, Petitioner's resale exemption argument is not supported under Idaho law.

<u>AIRCRAFT FLYING INSTRUCTION USE</u>

Idaho Administrative Rule 37.08 provides the exemption of tax for the flying instructions or lessons:

> 08. Flying Instructions. Flying instructions or lessons which may include solo flights are a service and the fees are not taxable. (3-31-22) a. Aircraft purchased, rented, or leased to be used primarily for flying instruction are taxable. (3-31-22) b. When aircraft held for resale are used by the aircraft dealer for flying instructions or lessons, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service.

Petitioner contended that the aircraft, while in Idaho, was used to provide flight instruction, and fees collected were for non-taxable services. While Idaho Administrative Rule 37.08 a affirms that fees for flight instruction are not taxable, it does not exempt the aircraft used in delivering such services itself from use tax. Rule 37.08 b specifically provides that if an aircraft held for resale is used for flight instruction, a taxable use occurs, and use tax is due based on a reasonable rental value. In this case, Petitioner was not an aircraft dealer, nor was the aircraft held for resale. Therefore, the full purchase price of the aircraft remains subject to sales/use tax.

CONCLUSION

The Tax Commission finds that Petitioner's purchase and use of the aircraft in Idaho is subject to sales/use tax. Petitioner has failed to demonstrate eligibility to any exemption, did not pay tax at the time of purchase, and did not hold the required Idaho aircraft dealer license or seller's permit. The aircraft's use for flight instruction services does not alter the taxability of the purchase.

The Bureau's modified Notice accurately reflects the purchase price and added penalty and interest to the use tax deficiency. The Tax Commission reviewed the additions and found them to be appropriate per Idaho Code sections 63-3045 and 63-3046. Interest has been updated accordingly.

THEREFORE, the modified Notice of Deficiency Determination dated September 24, 2024, is hereby AFFIRMED and MADE FINAL.

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

YEAR	TAX	PENALTY	INTEREST	TOTAL
2023	$13,200	$3,300	$734	$17,234

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

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

DATED this _______ day of _________________ 2025.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this ________ day of ______________________________ 2025, 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.

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