

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-384-096-256
)	
Petitioner.)	DECISION
<hr style="width: 50%; margin-left: 0;"/>)	

(Petitioner) protested the Notice of Deficiency Determination (Notice), issued March 12, 2021 by the Tax Discovery Bureau (Bureau). Petitioner disagreed with the taxation of the use of a # - (Aircraft) in Idaho. The Idaho State Tax Commission (Commission) reviewed the matter and hereby affirms the Notice.

Background

The Bureau received information from the Federal Aviation Administration about Petitioner, a Montana LLC, purchasing the Aircraft on October 17, 2017. The Bureau researched the Aircraft’s registration number through FlightAware.com. According to FlightAware.com, the Aircraft landed in Idaho for 96 days from March 1, 2019 through February 29, 2020.

The Bureau sent letters in November 2020 and December 2020 explaining that when an aircraft is used or stored in Idaho for more than 90 days in a twelve-month period by a nonresident, that aircraft becomes subject to Idaho use tax. The Bureau requested copies of the Aircraft’s flight logs and fuel receipts. Petitioner did not provide these. However, Petitioner did provide an invoice showing maintenance conducted on the Aircraft in Idaho. Taking maintenance days into consideration, this reduced the days of usage of the Aircraft in Idaho to 92 days. The Bureau inquired whether there were additional maintenance days to be taken into consideration, but Petitioner did not respond to that inquiry, nor provide the Aircraft’s maintenance logbook.

On March 12, 2021, the Bureau issued the Notice. On May 11, 2021, Petitioner lodged their protest of the Notice with the Commission. The protest sets forth that Petitioner disagrees with the Bureau's reliance on FlightAware.com in determining the number of days the Aircraft was in Idaho.

In August 2021, the Bureau informed Petitioner that without further evidentiary support to show the Aircraft was in Idaho less than 90 days, the case would be transferred to the Appeals Unit (Appeals). Appeals made several attempts to contact Petitioner. No additional information was provided by Petitioner. Petitioner was informed that unless further information was received by November 21, 2022, a decision would be issued upholding the Notice.

Relevant Tax Code and Analysis

Idaho Code section 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 section 63-3622GG grants an exemption for the purchase of an aircraft for use outside this state by nonresidents, even though delivery be made within this state, but only when the aircraft will be taken from the point of delivery to a point outside this state and the aircraft will not be used in this state more than ninety days in any twelve month period.

In the present matter, Petitioner brought tangible personal property, the Aircraft, into Idaho. Multiple requests were made for documentation verifying the whereabouts of the Aircraft. Petitioner did not provide sufficient evidence to show the use of the Aircraft in Idaho was 90 days or less. Idaho Code Section 63-3042 states:

EXAMINATION OF BOOKS AND WITNESSES. For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any tax payable under this act or the liability at law or in equity of any person in respect to any tax provided in this act or collecting any such liability, the state commission or its duly authorized deputy is authorized-

- (a) To examine any books, papers, records, or other data which may be relevant or material to such inquiry;

The Commission relied on the information it could verify through FlightAware.com to determine the Aircraft was used in Idaho more than 90 days. FlightAware.com uses information transmitted by the equipment on an aircraft that shows arrivals and departures at different airports. In addition to FlightAware.com, the Commission would have considered any information Petitioner has to dispute that the Aircraft was used in Idaho more than 90 days, including Aircraft's flight logs, fuel receipts and/or a copy of the Aircraft's maintenance logbook.

Overall, Petitioner was unable to show the Aircraft qualified for the exemption set forth in Idaho Code section 63-3622GG. More specifically, Petitioner did not provide records requested to support its protest argument that the data from FlightAware.com could not be relied upon. Therefore, the Commission finds Petitioner's use of the Aircraft is subject to use tax. In this case, the amount subject to tax is based on the "average retail" value using the Spring 2020 Aircraft Blue Book Price Digest for similar makes and models, which values the Aircraft at \$1,400,000.

Conclusion

The Commission requires Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. 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 of February 1, 2020 through February 29, 2020.

The Bureau added interest and penalty to the use tax deficiency. The Commission reviewed those additions, found both to be appropriate per Idaho Code sections 63-3045 and 63-3046, and

has updated interest accordingly. Interest is calculated through May 30, 2023 and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

THEREFORE, the Notice of Deficiency Determination dated March 12, 2021, 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>
\$84,000	\$21,000	\$8,561	\$113,561

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 _____ 2023.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2023,
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:

Receipt No.
