



Evidence of this intent can be verified by the 20-year lease signed in October of 2021 for the lot the hangar was built on.

### **Relevant Tax Code and Analysis**

Idaho Code Section 63-3621 imposes use tax on all tangible property brought into Idaho unless an exemption applies. 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(3) does offer an exemption for aircraft sold to nonresidents even if delivery is made within this state. To qualify for this exemption, Petitioner would have to:

- a) Immediately take the aircraft to a point outside this state, and
- b) The aircraft could not be used in the state of Idaho for more than 90 days during any 12-month period.

Petitioner did store and use his aircraft more than 90 days in a 12-month period. Petitioner hired an individual to conduct maintenance and test flights on the aircraft monthly while in Idaho. The aircraft was also used for personal travel by Petitioner during its time being hangered in

Idaho Code Section 63-3046 allows for a penalty to be applied if any part of the deficiency is due to negligence or disregard of rules without intent to defraud. The Bureau assessed a 25% non-filer penalty in accordance with Idaho Code section 63-3046(c)(1). Petitioner did not prove to be negligent during the proceedings nor did he disregard any rules for the state of Idaho. Petitioner showed what his intentions are in the near future. The construction of the hangar in                      took much longer than anticipated. They were not intending for the aircraft to be stored in Idaho for as

long as it was. Because of this, the Commission is removing the 25% non-filer penalty from the Notice.

### **Conclusion**

The Bureau correctly assessed use tax and interest on the Aircraft stored and used in Idaho by Petitioner during the period September 24, 2021 – May 27, 2022. The Commission does not believe the 25% non-filer penalty to be appropriate for this specific case after taking into consideration all available information and facts. As such, the Commission is modifying the Notice to remove the penalty.

The Bureau added interest to the use tax deficiency. The Commission reviewed this addition and found it to be appropriate per Idaho Code section 63-3045 and has updated interest accordingly. Interest is calculated through April 25, 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 June 16, 2022, is hereby MODIFIED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

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

<u>TAX</u>	INTEREST TO <u>08/18/22</u>	INTEREST TO <u>04/25/23</u>	<u>TOTAL</u>
\$13,140	\$300	\$361	\$13,801

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.

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