BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-705-647-616
[redacted]	)	
	)	
Petitioner.	)	DECISION
	)	

[redacted] (Petitioner) protested the Notice of Deficiency Determination (Notice) issued by the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Tax Commission). The Notice proposed use tax, penalty, and interest for the audit period of April 1, 2023, through March 31, 2024, in the total amount of $15,002. After administrative review, the Tax Commission hereby upholds the Notice for the reasons set forth below.

BACKGROUND

Petitioner, a limited liability company registered in Montana, purchased a 1978 Cessna 182Q aircraft with registration number [redacted] and serial number [redacted] on April 1, 2023. Petitioner registered the aircraft with the Federal Aviation Administration (FAA) to a Montana address on June 12, 2023. The aircraft first entered Idaho on April 29, 2023, and has been physically located in Idaho since that date.

The Bureau sent Petitioner a letter requesting documentation of the aircraft purchase, flight logs, and evidence of tax paid at the time of purchase. Petitioner did not respond.

On June 16, 2025, the Bureau issued a Notice based on the aircraft's registration date, estimating the value of the aircraft using average retail prices of comparable models listed on Trade-A Plane.[1]

Petitioner protested the Notice, providing flight logs, the purchase agreement, and a Form ST-134NR Sales Tax Exemption Certificate Aircraft – Nonresidents, to support its position that the aircraft qualified for the nonresident exemption. Petitioner explained that the delay in responding to the Bureau's initial information request was due to difficulty locating the original bill of sale. Petitioner stated that the aircraft was purchased with the intent of operating a flight school in Montana, but the individual intended to serve as the flight instructor is still pursuing a flight instructor certificate. Petitioner acknowledged that the aircraft has been in Idaho but asserted it has been used fewer than 90 times in a 12-month period, therefore qualified for the nonresident sales/use tax exemption.

The Bureau acknowledged Petitioner's protest and requested additional information regarding the entity [redacted] Petitioner explained that [redacted] currently without an EIN, has not commenced business operations because neither the owner nor his son has obtained a commercial pilot license and instructor rating. The entity was formed to operate a flight school out of Montana, which is not required to register with the Idaho Secretary of State.

Petitioner cited Idaho Code section 63-3622GG (3)(b) *"The aircraft will not be used in this state more than ninety (90) days in any twelve (12) month period",* and argued that the statute does

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

not state that storage counts toward the 90-day threshold. Because the aircraft has not been flown for more than 90 days in any 12-month period, Petitioner contended the exemption applied.

The Bureau reviewed Petitioner's documentation and confirmed that the purchase agreement was signed on April 1, 2023, and the purchase price was $180,000. The aircraft was paid for and picked up on April 28, 2023, and first entered Idaho on April 29, 2023. The Bureau reiterated that the 90-day calculation includes not only actual flight time but also any period the aircraft was stored in Idaho, citing Idaho Code section 63-3621 for reference.

On November 3, 2025, the Bureau cancelled the original Notice and issued a revised Notice to update the audit period and corresponding tax assessment, advising Petitioner that the protest remained valid. Petitioner continued to disagree with the revised 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.

In response, Petitioner restated that the aircraft remained in Idaho for an extended period because it was disassembled and without an engine at [redacted] from May 3, 2024, through November 24, 2024. Petitioner's owner also expressed concern that he was unaware of the Idaho use tax until receiving the original Notice on June 16, 2023, and that he did not have an opportunity to protest the tax before penalty and interest were imposed. Appeals addressed Petitioner's concerns and provided a detailed explanation. Petitioner subsequently confirmed that no additional information would be submitted and elected to proceed without an informal hearing.

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

LAW & ANALYSIS

The primary issues are whether Petitioner qualified for the nonresident aircraft sales/use tax exemption, and whether the purchase of the aircraft is subject to Idaho use tax.

NONRESIDENT AIRCRAFT EXEMPTION

Idaho Code section 63-3622GG (3)(b) addresses the nonresident aircraft sales/use tax exemption requirement:

> 63-3622GG.AIRCRAFT. There is exempted from the taxes imposed by this chapter:
> (3) The sale, lease or purchase of aircraft for use outside this state by nonresidents, even though delivery be made within this state, but only when:
> (a) The aircraft will be taken from the point of delivery to a point outside this state;
> (b) The aircraft will not be used in this state more than ninety (90) days in any twelve (12) month period.

Although the statute text itself includes the word "used," the Tax Commission Sales/Use Tax Guidance – Aircraft, published on the Tax Commission's official website, expressly interprets the 90-day threshold to include time in storage:

> Tax Commission Sales/Use Tax Guidance – Aircraft
>
> There are some cases in which the sale of an aircraft may be exempt:
>
> Aircraft sold to nonresidents — even if delivery is taken in Idaho — if the buyer certifies that the aircraft:
> - Will be taken directly out of Idaho and immediately registered in another state or nation, and
> - Won't be required to be registered under Idaho laws, and
> - Won't be used or stored in Idaho more than 90 days in any 12-month period.

Additionally, Idaho Form ST-134NR Sales Tax Exemption Certificate Aircraft – Nonresidents, which carries the weight of regulatory certification, explicitly includes the word "storage" in clarifying the 90-day limit:

> By signing this form, I certify that the statements I made on this form are true and correct. I know that submitting false information can result in criminal and civil

penalties. I understand that the aircraft will be taxable in Idaho if the storage or use of the aircraft in Idaho exceeds 90 days in a 12-month period.

Moreover, Idaho Administrative Rule 037.01.g defines "day" as follows:

037. AIRCRAFT AND FLYING SERVICES

01. Definitions. For the purposes of this rule, the following terms have the following meanings:

g. Day. For the purpose of this rule any part of a day is a day.

This provision - "any part of a day is a day", makes clear that any day the aircraft is physically present in Idaho, whether flying or stationary on the ground, counts toward the 90-day limit.

In this case, Petitioner's interpretation – that only actual flight time counts toward the 90-day threshold, is incomplete and inconsistent with the Tax Commission's published guidance, certification form language, and administrative rule. Based on Petitioner's flight logs and the fact that the aircraft has been physically present in Idaho since April 29, 2023, the aircraft was used and stored in Idaho for more than 90 days during the audit period of April 1, 2023, through March 31, 2024. Accordingly, the aircraft does not qualify for the Idaho nonresident aircraft sales/use tax exemption.

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.

Under Idaho Code section 63-3621, a use tax applies to all tangible property brought into Idaho for storage, use, or other consumption 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 has remained in the state since that time. Petitioner provided no evidence that the sales or use tax was paid to another jurisdiction at the time of purchase. Therefore, Petitioner's storage and use of the aircraft in Idaho constitute a taxable event under Idaho law.

PENALTY AND INTEREST

Idaho Code section 63-3046 (c) (d) & (g) imposes penalty to nonfilers:

> PENALTIES AND ADDITIONS TO THE TAX IN CASE OF DEFICIENCY. (c) (1) In the event the return required by this chapter is not filed on or before the due date (including extensions) of the return, there may be collected a penalty of five percent (5%) of the tax due on such returns for each month elapsing after the due date (including extensions) of such returns until the return is filed.
> (d) (1) If there is a substantial understatement of tax for any taxable year, there shall be added to the tax an amount equal to ten percent (10%) of the amount of any underpayment attributable to such understatement.
> (2) For purposes of this subsection, there is a substantial understatement of tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of:
> (i) Ten percent (10%) of the tax required to be shown on the return for the taxable year, or
> (ii) Five thousand dollars ($5,000).
> (g) Total penalties imposed under subsections (a), (c) and (d) of this section and under section 63-3033, Idaho Code, shall not exceed twenty-five percent (25%) of the tax due on the return.

Petitioner did not report or pay Idaho sales/use tax on the aircraft. As a nonfiler with a substantial understatement exceeding the statutory threshold, the Bureau properly applied a 25% penalty permitted under Idaho law.

Idaho Code section 63-3045(7)(a) and (b) address the accrual of interest on unpaid tax:

(7)(a) Interest **shall** apply to deficiencies in tax and refunds of tax…
(b) Interest upon any deficiency shall be assessed at the same time as the deficiency, shall be due and payable upon notice and demand from the state tax commission and shall be collected as a part of the tax at the rate per annum determined under the provisions of paragraph (c) of this subsection from the date prescribed for the payment of the tax…

Interest is a statutory requirement. Once a deficiency is determined, interest must be assessed, calculated, and collected. The Tax Commission therefore upholds the addition of interest to the deficiency.

CONCLUSION

The Tax Commission finds that Petitioner's purchase and use of the aircraft in Idaho is subject to Idaho use tax. The aircraft was used and stored in Idaho for more than 90 days during the relevant 12-month audit period. Accordingly, the purchase of the aircraft does not qualify for the Idaho nonresident aircraft sales/use tax exemption.

The Bureau's Notice accurately reflects the purchase price and adds 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 Notice of Deficiency Determination dated November 3, 2025, is hereby AFFIRMED and MADE FINAL.

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

YEAR	TAX	PENALTY	INTEREST	TOTAL
4/1/2023-3/31/24	$10,800	$2,700	$1,664	$15,164

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 ___________________ 2026.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this ________ day of ________________________________ 2026, 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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