

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 1-144-562-688
)	
)	
Petitioner.)	DECISION
_____)	

(Petitioner) protested the Notice of Deficiency Determination dated June 12, 2023. Petitioner disagrees that use tax is due while their aircraft was in Idaho temporarily having repairs done. The Tax Commission reviewed Petitioner’s case and hereby modifies the Notice of Deficiency Determination, for the reasons stated below.

BACKGROUND

Petitioner is a Washington LLC with its principal place of business in Washington. The _____ also own _____ located at the same address in _____ Washington. The _____ business activity appears to be transportation. Petitioner owns a 1963 Cessna aircraft, model 172E, tail number _____ and serial number _____. On January 25, 2023, the Tax Discovery Bureau (Bureau) sent a letter requesting information asking for flight logs, evidence of sales or use tax paid to another state, or documentation supporting a valid Idaho exemption. When Petitioner did not respond the Bureau sent a billing letter seeking \$4,775.00 in tax, penalty, and interest.

Petitioner responded to the billing letter stating the aircraft is permanently stored in Washington state but was temporarily in Idaho for electrical repairs and because of renovations to the hanger in Washington. When Petitioner did not provide any of the documentation requested to show they did not owe the tax, the Bureau issued a Notice of Deficiency Determination. Petitioner protested the Notice of Deficiency Determination, but again they did not provide any

documentation, so the Bureau forwarded the case to the Tax Commission's Appeals unit for review.

Appeals reviewed the case and sent Petitioner a letter that discussed the methods for redetermining a Notice of Deficiency Determination. Petitioner requested a telephone hearing which was held December 18, 2023. Attending the hearing for Petitioner was

(Representative) and hearing the case for the Tax Commission were Commissioner

Deputy Attorney General

Tax Appeals Manager

and Tax Appeals

Specialist

Representative acknowledged the aircraft being in Idaho for nine months for repairs. The flights taken during the time there were short flights around the Coeur d' Alene airport to test the repairs being made. Representative stated the aircraft was registered in Washington and he assumed sales tax was paid to Washington. The Commissioner questioned Representative if he had received requests for information from the auditor. Representative did not recall. The requests were in the letter audit sent to Petitioner and were asked for again when they protested the audit. At the conclusion of the hearing Representative stated he would send the requested documentation showing Washington tax paid, invoices for the repairs to the aircraft, and documentation for the repairs to the Washington hangar the next day. Representative never provided any of the requested documentation that may have reduced or eliminated the use tax proposed by the Bureau, so the Tax Commission decided the matter based on the information available.

LAW AND ANALYSIS

The issue in this case is whether the aircraft brought into Idaho and stored from July 20, 2022 to May 24, 2023 is a taxable event. Idaho Code section 63-3621 imposes use tax on all tangible property brought into Idaho unless an exemption applies.

Idaho Code Section 63-3622GG(3) states:

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...

Petitioner acknowledged the aircraft was in Idaho more than 90 days. The Bureau verified the aircraft was in Idaho through FlightAware. There is no disagreement that the aircraft was in Idaho. Petitioner stated the aircraft was in Idaho temporarily for repairs while their home hangar in Washington was under construction.

The Bureau requested documentation when they first contacted Petitioner, when they protested, and the Appeals Specialist asked for the same documentation during the informal hearing with the Tax Commission. The documentation requested was the original invoice showing the aircraft was taxed, invoices for when the aircraft was repaired, and the invoices for the Washington hangar construction. No documentation was provided.

CONCLUSION

Petitioner stored an aircraft in Idaho for much longer than 90 days. The Bureau started with an information request, then a billing letter, and finally a Notice of Deficiency Determination. During the review, Petitioner stated they intended to provide or agreed to provide the necessary documentation to show use tax was not due. Yet no documentation was ever supplied.

The Tax Commission considered all the information available and finds that since the aircraft was in Idaho for more than 90 days, Idaho use tax is owed. The Tax Commission requires adequate evidence to establish that the amount asserted in the Notice of Deficiency Determination is incorrect. Petitioner did not provide adequate information.

The Bureau added penalty and interest to the use tax deficiency. The Tax Commission reviewed the additions and found the interest to be appropriate per Idaho Code section 63-3045. Interest has been updated accordingly and is calculated through December 31, 2023.

As for the penalty, the Bureau initially assessed a 5 percent penalty on the original Billing Letter; however, when the Notice of Deficiency Determination was issued, the penalty was raised to 25 percent. The escalation of the penalty had no apparent justification. Therefore, the Tax Commission finding no justification for the increase in the penalty reduces the penalty back to 5 percent.

THEREFORE, the Notice of Deficiency Determination dated June 12, 2023, 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, penalty, and interest:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$4,500	\$225	\$229	\$4,954

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 _____ 2024.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2024,
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.
