

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 2-136-286-208
)	
Petitioner.)	DECISION
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(Petitioner) protested the Notice of Deficiency Determination (Notice) issued by the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission). The Notice proposed use tax, penalty, and interest for the audit period October 1, 2021, through July 31, 2022, in the amount of \$22,023. The Commission hereby upholds the Notice for the reasons detailed below.

Background and Audit Findings

Petitioner, a Wyoming LLC, owns and operates a 2006 Columbia aircraft model LC41-550FG, tail number serial number (Aircraft). Information available to the Bureau showed the aircraft was used in Idaho for more than 90 days between the period October 1, 2021 through July 31, 2022. Therefore, the Bureau sent Petitioner a request for information letter in November 2022 asking for evidence of tax paid and the purchase documentation for the Aircraft. Petitioner did not respond.

On January 10, 2023, the Bureau sent Petitioner a Billing letter proposing use tax of \$20,400, plus penalty and interest. The use tax was based on an “average retail value” of \$340,000 assigned to the Aircraft using the Winter 2022 Aircraft Blue Book Price Digest. Petitioner responded to the billing letter, with an explanation of why \$140,000 is closer to the Aircraft’s true value, including copies of cost estimates for “needed” repairs, and a check for \$9,883, but no documentation of the Aircraft's purchase price.

Unable to obtain the documents requested, the Bureau issued the Notice using the average retail value from the Winter 2022 Aircraft Blue Book Price Digest.

Petitioner protested the Notice, and the matter was forwarded to the Commission's Appeals Unit (Appeals) for administrative review. Appeals sent Petitioner a letter outlining the options for redetermining a Notice. Petitioner responded, requesting an informal hearing which was held November 14, 2023. Petitioner continued to disagree with the value of the Aircraft used to calculate Idaho use tax but did not provide any additional documentation for the Commission's consideration. Therefore, the Commission hereby issues its decision based on the information presently available.

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 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, a nonresident 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 does not dispute it stored and used the Aircraft in Idaho for more than 90 days during the 10-month review period. Therefore, the question for this case is not whether the Aircraft is subject to Idaho use tax but, what value should be used to calculate the use tax.

Petitioner claims the average retail value used by the Bureau to calculate the use tax is drastically overstated and does not take into consideration the Aircraft's mechanical and equipment issues. Petitioner provided estimates for an engine replacement and radar installation, and argues that with these needed repairs, the value of the Aircraft is an "optimistic \$140,000". The Commission asked Petitioner to provide copies of invoices to show these major repairs were completed, but nothing has been provided.

IDAPA 35.01.02.073 explains that equipment and other tangible personal property is subject to use tax on its fair market value when it is first used in Idaho. As previously stated, the Bureau used the average retail price from the Winter 2022 Aircraft Blue Book Price Index to calculate use tax, as Petitioner's Aircraft exceeded the 90-day threshold in July 2022.

Petitioner disagrees with the fair market value of \$340,000 used to calculate the use tax due as reflected on the Notice but has not provided any documentation to validate its claims of a lower value.

Conclusion

A Notice of Deficiency Determination issued by the Commission is presumed to be accurate. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The burden is on the taxpayer to show the deficiency is erroneous. *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The Commission requires Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, Petitioner did not provide adequate evidence. As a result, the Commission will uphold the Notice.

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

Interest has been updated accordingly. Interest is calculated through December 31, 2023, and will continue to accrue at the rate set forth in Idaho Code section 63-3045 until paid.

THEREFORE, the Notice of Deficiency Determination dated March 15, 2023, is hereby 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>	
\$20,400	\$1,020	\$426(3/28/2023)	\$21,846	
		Less Payment	<u>(\$9,883)</u>	
			\$11,963	Remaining Balance
		\$482 (12/31/2023)		
		Total Due	\$12,445	

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.
