

CALIFORNIA STATE BOARD OF EQUALIZATION
APPEALS DIVISION SUMMARY FOR BOARD HEARING

In the Matter of the Petition for Redetermination)
Under the Sales and Use Tax Law of:)
I2 GROUP, LLC) Account Number: SP H UT 84-097520
Petitioner) Case ID 448503
Westlake Village, Los Angeles County

Type of Transaction: Purchase of Aircraft

Purchase date: 08/30/06

<u>Item</u>	<u>Disputed Amount</u>
Aircraft purchase	\$478,640
Tax as determined and protested:	\$39,487.00
Proposed tax redetermination	\$39,487.00
Interest through 12/31/08 (tax paid in full on 12/30/08)	<u>7,041.80</u>
Total tax and interest	\$46,528.80
Payments	<u>39,487.00</u>
Balance Due	<u>\$ 7,041.80</u>

A Notice of Appeals Conference was mailed to petitioner’s address of record, and the notice was not returned by the Post Office. Petitioner did not respond to the notice or appear at the appeals conference, which was held as scheduled. We thereafter sent petitioner a letter offering it the opportunity to provide any additional arguments and evidence in writing it wished us to consider, but it did not respond.

UNRESOLVED ISSUE

Issue: Whether petitioner purchased the aircraft with tail number 314A for use in California. We conclude that petitioner purchased the aircraft for use in California.

Petitioner purchased the aircraft from John Iffland, an individual not required to hold a seller’s permit in California (and a member of petitioner). Thus, the applicable tax, if any, is use tax. On a use tax return dated July 25, 2007, petitioner listed a purchase price of \$478,640 and identified the location of the aircraft as Virginia Beach, Virginia. It also claimed the transaction was not subject to tax because the aircraft was not purchased for use in California. However, petitioner did not reply to a request from the Sales and Use Tax Department (Department) for documentation to support that claim.

1 Therefore, the Department concluded the purchase was subject to use tax and issued the Notice of
2 Determination at issue.

3 Petitioner contends that the purchase of the aircraft was not subject to use tax because: 1) there
4 was no consideration paid for the transfer of the aircraft from Mr. Iffland to petitioner, and therefore
5 the transaction was not a sale or purchase for use tax purposes; 2) petitioner did not acquire the aircraft
6 for use in California; and 3) petitioner acquired the aircraft for use in interstate commerce.

7 With regard to petitioner's contention that the transfer of the aircraft was not a sale or purchase,
8 we note that the purchase and security documents indicate that, upon title transfer on August 30, 2006,
9 petitioner assumed the liability Mr. Iffland owed to MBNA America. On May 29, 2008, Mr. Iffland
10 stated, under penalty of perjury, that the transfer was consummated without consideration, but he has
11 presented no supporting evidence. Since Mr. Iffland's statements were written after the Notice of
12 Determination was issued to petitioner, and they conflict with the documents prepared at the time of
13 sale, we conclude they are not correct and that petitioner assumed Mr. Iffland's liability as
14 consideration for the transfer. That is, we find that the transfer of aircraft to petitioner was a sale and
15 purchase.

16 Regarding petitioner's contention that it did not purchase the aircraft for use in California, we
17 note that petitioner, a California entity, listed a California address on the aircraft sale and registration
18 documents. In addition, the San Diego County Assessor Aircraft Property Statement establishes the
19 aircraft was located in California in July 2007, which is within 12 months from the date of purchase.
20 Therefore, it is presumed that petitioner acquired the aircraft for storage, use, or other consumption in
21 California. (Rev. & Tax. Code, § 6248; Cal. Code Regs., tit. 18, § 1620, subd. (b)(5).) Since
22 petitioner not submitted any documentation to rebut that presumption, we find that use tax applies to
23 the transaction, absent an applicable exemption or exclusion.

24 Petitioner claims the aircraft was acquired for use in interstate commerce. There is an
25 exemption (Cal. Code Regs., tit. 18, § 1620, subd. (b)(2)(B)(1)) and an exclusion (Cal. Code Regs.,
26 tit. 18, § 1620, subd. (b)(5)(C)(3)) for qualifying use of an aircraft in interstate commerce, but
27 petitioner has provided no documentary evidence at all regarding the nature of its use of the aircraft
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1 during the six-month period following the aircraft's entry into this state. Accordingly, we find that no
2 exemption or exclusion applies.

3 **OTHER DEVELOPMENTS**

4 None.

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7 Summary prepared by Deborah A. Cumins, Business Taxes Specialist III
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