

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of

██████████ dba ██████████  
██████████, ]

Petitioner.

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DOCKET NO. 0-504-281-088

DECISION

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On December 13, 2017, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to ██████████ dba ██████████ (Petitioner), proposing sales tax, use tax, and interest for the period January 1, 2016, through December 31, 2016, in the total amount of \$3,853.

On February 14, 2018, the Commission received Petitioner’s appeal and petition for redetermination of the Notice. The Commission sent Petitioner hearing rights letters dated January 23, 2019 and March 4, 2019. However, Petitioner has not requested a hearing or provided additional documentation for the Commission’s consideration.

The Commission reviewed the audit file and upholds the Notice for the reasons that follow.

**Background and Audit Findings**

Petitioner provides a performance and event venue in ██████████, Idaho. The Bureau researched Petitioner’s business activities and determined the rental of Petitioner’s venue or facility for recreational purposes was taxable, requiring Petitioner to have a sales tax permit for collecting and remitting tax. However, the Bureau was unable to locate a sales tax permit for Petitioner.

The Bureau sent Petitioner a letter on August 25, 2017, informing Petitioner that a permit is required for retail sales, sales of tangible personal property, the rental of tangible personal property, and admissions to events. The letter also instructed Petitioner to provide answers for the

following topics: business information, contact information, Idaho permit information, and additional information. The Bureau received no response to this inquiry.

Since Petitioner did not file sales tax and use tax returns, the Bureau computed the sales tax and use tax liability using the gross receipts and purchases filed by Petitioner on its 2016 Schedule C Forms. The Bureau multiplied the gross receipts by the 6% sales tax rate and the purchases by the 6% use tax rate. The Bureau then issued the Notice for the sales tax and use tax liability.

After receiving the Notice, Petitioner protested this liability, and provided event receipts and purchase invoices. However, the Bureau concluded the receipts did not provide the detail necessary to make an adjustment to the initial sales tax calculation, and the purchase invoices showed no sales tax was paid to vendors.

#### **Petitioner's Protest**

Petitioner protests the sales tax and use tax liability, claiming it had a discussion with the Bureau concerning the taxability of weddings, baptisms, and birthdays, in which the Bureau identified these type of events as non-taxable.

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

Idaho sales tax is imposed on the use or privilege to use tangible personal property or facilities for recreation. *See sections 63-3612(2)(f), Idaho Code.*

The Commission reviewed the receipts and invoices provided by Petitioner. The receipts showed Petitioner rented his venue for events such as weddings, baptisms and quinceaneras and purchased tangible personal property such as decorations. Wedding ceremonies, baptisms, and a religious mass that is part of quinceaneras are not recreational activities. However, a reception after a wedding, a party after a baptism, or a party after a religious mass are recreational

activities. Since the Petitioner was unable to separately state the non-taxable from the taxable charges, the entire amounts are taxable. *See section 63-3612(2)(f), Idaho Code.* As such, the rental of his venue or facility was subject to sales tax. The Commission also reviewed Petitioner's invoices which showed no tax was paid. Since Petitioner did not provide additional documentation to show the events and decorations were not taxable, the Commission finds the Bureau properly held the gross receipts and purchases, as filed by Petitioner, subject to sales tax and use tax.

### **Conclusion**

On appeal, a deficiency determination issued by the Commission "is presumed to be correct, and the burden is on the taxpayer to show that the Commission's decision is erroneous." *Parker v. Idaho State Tax Comm'n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (citing *Albertson's Inc. v. State Dep't 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 upholds the Notice.

Absent information to the contrary, the Commission finds the Notice prepared by the Bureau to be an accurate representation of Petitioner's sales tax and use tax liability for the period January 1, 2016, through December 31, 2016.

The Bureau added interest and penalty to the sales tax and use tax deficiency. The Commission reviewed those additions, found both to be appropriate per sections 63-3045 and 3046, Idaho Code, and has updated interest accordingly. Interest is calculated through August 31, 2019 and will continue to accrue at the rate set forth in section 63-3045(6), Idaho Code until paid.

THEREFORE, the Notice, dated December 13, 2017, is hereby APPROVED, 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>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$3,000	\$750	\$308	\$4,058

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of Petitioner's right to appeal this decision is included with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2019, 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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██████████