

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 17259
[Redacted],,	)	
	)	DECISION
Petitioner.	)	
	)	
	)	

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Taxpayer protests the Notice of Deficiency Determination dated January 24, 2003, assessing additional tax, penalty and interest totaling \$270,588 for the period April 1, 1999 through March 31, 2002. A timely protest was filed by letter dated March 13, 2003. A telephonic conference was held on May 15, 2003. After this conference, the State Tax Commission and the taxpayer entered into an agreement disposing of all but one contested issue.

The issue remaining involves the First Amendment to the United States Constitution. While cogently presented, the taxpayer's argument does not persuade the State Tax Commission (Commission). Administrative agencies of the State of Idaho have, however, no power to address the question of a statute's constitutionality even though they may exercise quasi-judicial powers in their normal proceedings. *Wanke v. Ziebarth Construction Co.*, 69 Idaho 64, 202 P.2d 384 (1949); *Ag Air, Inc. v. Idaho State Tax Commission*, 132 Idaho 345, 972 P.2d 313 (1999). The Commission therefore issues its decision without comment. The decision does modify the Notice of Deficiency Determination to reflect the agreement reached with the taxpayer on other issues.

WHEREFORE, the Notice of Deficiency Determination dated January 24, 2003, is hereby APPROVED, AFFIRMED and MADE FINAL as MODIFIED below.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty and interest:

<u>PERIOD</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
4/1/99 - 3/31/02	\$199,862	\$0	\$40,374	\$240,236

Interest is computed through October 7, 2003.

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

An explanation of taxpayer's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2003.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

### **CERTIFICATE OF SERVICE**

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2003, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

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