

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17522
[REDACTED])	
Petitioner.)	DECISION
)	
)	

On July 7, 2003, the Revenue Operations Division of the Idaho State Tax Commission (Commission) issued a Notice of Denial of Interest on Cash Bond (NODICB) to [Redacted] (petitioner), denying its request for interest on a \$3,000 cash bond deposited with the Commission in order for the petitioner to qualify for an Idaho Fuel Distributor license.

On July 15, 2003, a timely protest and petition for redetermination was filed by the petitioner's secretary-treasurer (secretary). An informal hearing was not requested. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The petitioner was issued a NODICB by the Commission [Redacted]

Idaho Code § 63-2427A requires that a distributor obtain a bond in order to hold a distributor's license in this state. The definition of a bond can be found in Idaho Code § 63-2401(3) which states:

- (3) "Bond" means:
 - (a) A surety bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or
 - (b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state; or
 - (c) An irrevocable letter of credit issued to the commission by a bank doing business in this state payable to the state upon failure

of the person on whose behalf it is issued to remit any payment due under the provisions of this chapter. (Emphasis added).

The Commission in Motor Fuel Administrative Rule 010.01 further defines amounts that can be deposited with the Commission instead of posting a surety bond. This rule states in pertinent part:

01. Bond. A person required to post a bond may, instead of posting a surety bond, deposit with the State Tax Commission any of the following amounts equivalent to the amount of the bond required:

a. Lawful money. Lawful money of the United States. Cash bonds must be submitted as a cashier's check, money order or other certified funds that are payable to the Idaho State Tax Commission. A cash bond will not accrue interest. The State Tax Commission will cash the funds and hold the money for the duration the taxpayer holds a distributor license.(Emphasis added).

...

This rule also states that the Commission allows a distributor to deposit other amounts such as time certificates and joint savings accounts from financial institutions where the interest paid by the financial institution on these accounts belongs to the distributor.

The petitioner's protest letter dated July 15, 2003, stated in pertinent part:

. . . Finally, [Redacted] requests your agency pay interest on the above mentioned money for the following reasons:

If interest is not paid, The State of Idaho is receiving an interest free loan.

If interest is not paid, Idaho is charging more than allowed by law under the bonding statutes.

The States of Oregon and Washington have always paid interest on transactions similar to this one.

Idaho Motor Fuels Administrative Rule 010.01.a., cited previously in this decision, expressly

states that a cash bond deposited with the Commission will not accrue interest. The Commission has no legal authority to pay interest on a cash bond. The amount of a distributor bond is determined by Idaho Code § 63-2428 which sets out a method to compute the amount of the bond required. The distributor must post a surety bond or other deposit for this amount. What other states do in this situation has no bearing on Idaho law.

Since the petitioner has not provided the Commission with a contrary result to its original determination, the Commission must uphold the NODICB.

WHEREFORE, Notice of Denial of Interest on Cash Bond dated July 7, 2003, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

DATED this ____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

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]
