

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20021
[REDACTED].)	
)	DECISION
Taxpayer.)	
_____)	

On January 3, 2007, the staff of the Sales Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing sales and use tax and interest for the period of August 1, 2003, through July 31, 2006, in the total amount of \$27,993.

On February 21, 2007, the taxpayer filed a timely appeal and petition for redetermination requesting an informal hearing before the Commission, which was held on June 6, 2007.

The taxpayer is in the business of [Redacted], primarily for [Redacted]. During the audit period, the taxpayer made several taxable sales for which no tax was charged or the incorrect amount of tax was charged.

The taxpayer has only raised one issue: the sampling method used by the auditor. Due to the large volume of transactions, the auditor reviewed a random sample of the taxpayer's sales and projected errors in the sample to the taxpayer's sales. The auditor noted three large customers, however, and removed sales to those customers from the population of sales transactions. Sales to two of the customers were not taxable because they were either sales for resale or exempt under Idaho Code § 63-3622D, commonly know as the production exemption. Sales to the third large customer were taxed incorrectly. The auditor then calculated separately the amount of tax that should have been charged to the customer. For these three customers then, there was no possibility of sampling error because all the sales were examined.

The sample was then drawn randomly from the remaining sales. The auditor used a percentage of error method and multiplied the error rate from the sample to the total sales less the sales to the three large customers. This projected figure was added to the incorrectly taxed sales to the large customer to calculate the deficiency.

The auditor employed a sampling method known as grouping and stratification. In its protest letter, the taxpayer stated:

From a Statistical standpoint, the results of the random sampling were skewed (in the States (sic) favor) when three customers were removed from the sampling; therefore, the random error sampling report is also in error. This action caused [Redacted] to be unduly penalized and burdened with an artificially high tax error rate.

The taxpayer is correct in asserting that the grouping in this case increased the error rate; however, the error rate was applied to a much smaller population than it would have been otherwise. Grouping and stratification are done to make the sample more representative, not less. In *Statistical Sampling in Sales and Use Tax Audits*, Dr. Will Yancey explains:

The population analysis results in the sampling frame for the audit period. Once the sampling frame is established, it can be subdivided into appropriate groups and strata. *Grouping* is subdividing the sampling frame into account type, time period, or some other type. *Stratification* is sub-dividing a group into strata by the dollar amount of the items... (Emphases in original.)

The primary goal of grouping is to sub-divide the population so that the items within a group are more similar to each other than they are to items in the other groups. This concept is also known as within-group homogeneity and between-group heterogeneity. *This concept is fundamental to the statistical technique of analysis of variance (ANOVA). If the grouping method is effective, samples drawn from a group are more likely to be representative of that group.* (Emphasis added.) Yancey, *Statistical Sampling in Sales and Use Tax Audits*, pg, 66, CCH Incorporated, Chicago, IL (2002).

It is difficult to see, then, how removing the large customers from the population would make the sample less representative. Moreover, the Commission offered to review the taxpayer's sales in detail. The taxpayer declined this offer.

The taxpayer did provide three additional exemption certificates (Form ST-101) which reduced the amount of the tax deficiency from \$24,823 to \$22,950.

WHEREFORE, the Notice of Deficiency Determination dated January 3, 2007, is AMENDED and as AMENDED, is APPROVED, AFFIRMED, and MADE FINAL.

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

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$22,950	\$3,881	\$26,831

Interest is calculated through September 15, 2007, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

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

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

DATED this ____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2007,
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]

Receipt No.
