

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20160
[Redacted],	)	
	)	DECISION
Taxpayer.	)	
_____	)	

On April 13, 2007, the staff of the Sales, Use, and Miscellaneous Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Taxpayer Initiated Refund Determination to [Redacted] (Taxpayer). The Bureau determined that the Taxpayer was entitled to a refund of \$5,212.35, which included interest, but denied the remainder of the requested amount, \$1,058.97.

In a letter dated April 19, 2007, the taxpayer filed a timely appeal and petition for redetermination. The Taxpayer failed to respond to a standard hearing rights letter that the Commission sent on May 15, 2007. In August of 2007 the Taxpayer responded by telephone to a July 20, 2007, letter from the Commission again advising the Taxpayer of its rights. In that telephone call, the Taxpayer respectfully declined an administrative hearing and asked the Commission to consider its petition for redetermination in its deliberative process.

For the reasons that follow, the Commission hereby upholds the Bureau’s findings.

Background and Audit Findings

The Taxpayer is in the [Redacted] business. It rents [Redacted] to customers and collects sales tax on the rentals. Permitted for sales tax collection since June of 2002, the Taxpayer bought [Redacted] over time and paid tax on the purchases. Since these purchases were for the purpose of resale in the form of rentals to its customers, the taxpayer could have claimed a reseller’s exemption from its vendor(s) but did not. When it learned it could do so, the Taxpayer

applied to the Commission for a refund of sales tax paid to its vendors. The request covered [Redacted] purchases made in the period 9/1/2002 – 2/28/2007. The Bureau made a partial refund but denied a refund for transactions earlier than March 2004 as they were beyond the period allowed by Idaho Code § 63-3626.

#### Discussion of Applicable Sales and Use Tax Statutes

In Idaho, the sale of tangible personal property is taxable unless an exemption applies. The taxpayer was entitled to buy [Redacted] tax exempt because it would hold the items for “resale...or lease or rental of [the] property in the regular course of business.” (Idaho Code § 63-3609) In order to make the tax exempt purchases, the taxpayer was required by Idaho Code § 63-3622 to give its vendor(s) a properly completed exemption form, but it did not do so.

The Taxpayer sought a refund for the taxes it erroneously paid in the past, back to September 2002. The Commission approved of a refund dating back only three years. The audit staff did not refund amounts from previous periods because they are barred by Idaho Code § 63-3626.

#### The Protest and Analysis

The Taxpayer acknowledges the three-year statute of limitations on sales tax refunds. However, the Taxpayer claims, it was “never instructed by...auditors in 2002 to file an ST-101 [the exemption form] with the manufacturers...” and to buy the [Redacted] tax exempt. Therefore, it concludes it should be entitled to a refund for the entire purchase period of approximately five years. Further, it states that, “If the state has the ability to pursue me for tax revenue up to a seven year period [we]” should be allowed a refund over that same period.

The Taxpayer is mistaken about the state’s ability to pursue it for sales and use tax up to a seven year period. At the time of the refund request, the Taxpayer had been filing sales tax

returns for almost five years, a period which closely matches its entire business life. For the period in which it filed sales tax returns, the Commission is limited to the most recent three year audit period. (Idaho Code § 63-3633(a)) Only in the case of non-filing (absent fraud) can the Commission audit for, or up to, the seven year period referenced by the taxpayer. (Idaho Code § 63-3633(c)) As this Taxpayer filed its returns for the required period and is not the subject of a fraud investigation, the Commission's reach for audit purposes is limited to three years.

The issue the Taxpayer raises about being uninformed is moot in light of the statute limiting refunds to a three year period. However, the Commission notes here that it provides newly permitted taxpayers with relevant, written tax guidelines pertaining to retailers' rights and responsibilities. The exemption available to retailers is the mostly widely used and therefore the most widely known aspect of the sales tax statutes.

In 1990, the United State Supreme Court recognized the necessity and validity of time-barred limitations of tax refunds in *United States v. Frances L. Dalm*:

The very purpose of statutes of limitations in the tax context is to bar the assertion of a refund claim after a certain period of time has passed, without regard to whether the claim would otherwise be meritorious. That a taxpayer does not learn until after the limitations period has run that a tax was paid in error, and that he or she has a ground upon which to claim a refund, does not operate to lift the statutory bar. (494 U.S. 596, 110 S.Ct. 1361)

WHEREFORE, the Notice of Taxpayer Initiated Refund Determination dated April 13, 2007, is APPROVED, AFFIRMED, and MADE FINAL.

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**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2007, 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:

[REDACTED]

Receipt No.

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