

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19931
[Redacted])	
)	DECISION
Taxpayer.)	
_____)	

On December 18, 2006, 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, penalty, and interest for the period of October 1, 2002, through September 30, 2005, in the total amount of \$49,362.

On January 9, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request an informal hearing before the Commission.

The taxpayer did not respond to a hearing rights letter sent on February 20, 2007. A second letter was sent on April 6, 2007. One of the taxpayer's tax analysts responded and said she agreed that the taxpayer had a sales and use tax liability but that tax had been paid on some of the items held as taxable by the auditor. This led to a series of e-mails between the taxpayer's tax analyst and the Commission's auditor and tax policy specialist. As a result of these e-mails, the auditor reduced the amount of sales and use tax due from \$40,927 to \$36,006. Although the taxpayer's analyst said that she still thought there were still some items to be deleted, she did not respond to the last e-mail sent on January 15, 2008.

A determination of the State Tax Commission is presumed to be correct. *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The burden is on the petitioner to show that the deficiency is erroneous. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The taxpayer has not met that burden in this case.

WHEREFORE, the Notice of Deficiency Determination dated December 18, 2006, is MODIFIED, and as MODIFIED, is APPROVED, AFFIRMED, and MADE FINAL.

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

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$36,006	\$1,800	\$8,035	\$45,841

Interest is calculated through March 1, 2008, and will continue to accrue at the rate set forth in Idaho Code section 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 _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, 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.