

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
[REDACTED],) DOCKET NO. 20872
)
) DECISION
Petitioner.)
_____)

On October 17, 2007, the Compliance Section of the State Tax Commission (Commission) timely issued a Notice of Deficiency Determination to [Redacted] as a responsible officer of [Redacted] LLC (taxpayer). The notice asserted the taxpayer was responsible for the unpaid sales tax and related penalty and interest for [Redacted] LLC in the amount of \$3,345.55 for the periods of May, June, and July 2007. On December 19, 2007, the taxpayer timely protested and requested a redetermination. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision based thereon.

The deficiency determination asserts that the taxpayer is a responsible party of [Redacted], an entity that has an unpaid sales tax debt. The staff reviewed the records on the Idaho Secretary of State’s web page. According to these records, the taxpayer is listed as a member and registered agent. Additionally, her name appears on a business check for [Redacted].

The taxpayer protested. She did not dispute that she is a responsible party, but instead contended that [Redacted] LLC is a separate legal entity and that it has every intent to pay the debt. She also indicated she has had several conversations with a representative of the Commission about ensuring that [Redacted] will have a plan to pay the debt. The Commission provided the taxpayer with an opportunity to have a hearing to present additional information in

support of her protest. She did not respond to this offer. Thus, the Commission hereby issues its decision based on the information in the file.

Idaho Code § 63-3627 imposes personal liability on every individual with the duty to account for and pay over taxes which are imposed upon or required to be collected by an entity of which the individual is either an officer, member, or employee. Essentially, the statute imposes personal liability on certain officers, employees, or members of an entity when the entity does not pay its sales or use tax. Here, the taxpayer does not offer any dispute to the allegation that she is a responsible party. She simply states that the obligation belongs to [Redacted] LLC and that [Redacted] LLC is trying to work out a payment arrangement. The evidence relied upon by the staff indicates that the taxpayer would likely have sufficient responsibility to ensure that the tax is paid. The taxpayer has provided nothing to rebut this determination.

There is sufficient information available to conclude that the taxpayer is responsible for the amount asserted due in the notice. The Notice of Deficiency is presumed to be correct, and the burden is on the taxpayer to prove she is not responsible for the tax claimed due. *Riverside Development Company v. Vandenberg*, 137 Idaho 382, 48 P.3d 1271 (2002). [Redacted] LLC has made some partial payments on the liability, so this decision amount, with respect to this taxpayer, is hereby reduced from the original deficiency amount.

WHEREFORE, the Notice of Deficiency Determination dated October 17, 2007, is MODIFIED and as MODIFIED is hereby APPROVED, AFFIRMED, AND MADE FINAL .

IT IS ORDERED and THIS DOES ORDER that the taxpayer pays the following tax and interest for the periods of May 2007 through July 2007:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$994.35	\$0	\$64.16	\$1,058.51

Interest is calculated through August 31, 2008, and will continue to accrue at \$.15 per day 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 enclosed.

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.
