

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 21146  
 )  
 ) DECISION  
Petitioner. )  
\_\_\_\_\_ )

On November 16, 2007, the staff of the Sales, Use, and Miscellaneous Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (Taxpayer) proposing use tax, penalty, and interest for the period April 1, 2004, through September 30, 2007, in the total amount of \$96,198.

On January 11, 2008, the taxpayer filed a timely appeal and petition for redetermination. In the petition for redetermination letter, the Taxpayer asked if he could discuss the audit results further. Over the next few months, the Taxpayer provided the auditor with additional documentation. After making appropriate adjustments, the auditor determined that the deficiency should be restated to \$35,188. On April 24, 2008, the auditor prepared revised work papers reflecting this revised liability and sent them to the Taxpayer. The Taxpayer did not respond to further requests, and in late May, the auditor referred the file to the Legal Section of the Commission.

On June 10, 2008, the Commission sent a hearing rights letter, but the Taxpayer has not responded. Thus far, the Taxpayer has not provided anything further for the Commission to consider. The Commission, having reviewed the file, hereby issues its decision.

The Taxpayer has not provided the Commission with legal or factual information to establish that the amount asserted in the Notice of Deficiency Determination, as adjusted, is incorrect. As a result, the Commission will uphold the tax deficiency notice, as adjusted, for the

period April 1, 2004, through September 30, 2007. 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), and the burden is on the taxpayer to show that the deficiency is erroneous (*Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 Ct. App. 1986.) Absent information to the contrary, the Commission finds the deficiency prepared by the Bureau to be a reasonably accurate representation of the Taxpayer's use tax liability for the period April 1, 2004, through September 30, 2007.

The Bureau added interest and penalty to the use tax deficiency. The Commission found both to be appropriate per Idaho Code §§ 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated November 16, 2007, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

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

<b>TAX</b>	<b>PENALTY</b>	<b>INTEREST</b>	<b>TOTAL</b>
\$25,927	\$ 6,482	\$ 3,801	\$ 36,210

Interest is calculated through December 15, 2008, 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 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.  
  
\_\_\_\_\_