

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 21358  
 )  
 ) DECISION  
Petitioner. )  
\_\_\_\_\_ )

On June 10, 2008, the staff of the Sales Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted], and [Redacted] (taxpayer) proposing sales and use tax, penalty, and interest for the period of January 1, 2005, through December 31, 2006, in the total amount of \$5,301. On August 4, 2008, the taxpayer filed a timely appeal and petition for redetermination. The Commission held an informal hearing with the taxpayer on December 12, 2008.

The taxpayer is a [Redacted] that is owned [Redacted] formed the company for the purpose of buying [Redacted] that it intended to subsequently lease to [Redacted].

The taxpayer obtained an Idaho seller's permit and an Idaho [Redacted] however, the taxpayer did not collect or remit any sales tax during the audit period. The Commission cancelled the taxpayer's seller's permit in December 2006 for inactivity. The Idaho Transportation Department then revoked the taxpayer's [Redacted] permit because it no longer had a seller's permit.

During the audit period, the taxpayer purchased a [Redacted]. The taxpayer purchased all of these [Redacted] exempt from sales tax as purchases for resale. The taxpayer did not enter into any lease agreements with [Redacted], nor did it collect and remit tax, as mentioned above.

The taxpayer might have been able to claim the exemption for leases between related parties found in Idaho Code § 63-3622K(b)(4), which exempts:

(4) The sale, lease or rental of a capital asset in substantially the same form as acquired by the transferor and *on which the initial transferor has paid sales or use taxes pursuant to section 63-3619 or 63-3621, Idaho Code*, when the owners of all of the outstanding stock, equity or interest of the transferor are the same as the transferee or are members of the same family within the second degree of consanguinity or affinity. (Emphasis added.)

Since the taxpayer did not pay sales or use tax on its initial purchase of the [Redacted], this exemption does not apply and tax is now due.

WHEREFORE, the Notice of Deficiency Determination dated June 10, 2008, is MODIFIED, and as MODIFIED, 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>
\$4,434	\$222	\$856	\$5,512

Interest is calculated through May 31, 2009, 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 \_\_\_\_\_, 2009.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, 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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