

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21361
[Redacted])	
)	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] (taxpayer) proposing sales and use tax and interest for the period of January 1, 2001, through December 31, 2006, in the total amount of \$132,999. 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 primarily a [Redacted] contractor. Its primary activities are [Redacted]. The use tax liability stems from the taxpayer's failure to pay sales or use tax on purchases of equipment and materials during the audit period.

In its protest letter, the taxpayer stated that its purchases of equipment and repair parts for its [Redacted] were exempt under Idaho Code § 63-3622D, commonly known as the production exemption. The production exemption applies to purchases of tangible personal property primarily used in manufacturing, mining, and farming. To qualify for the exemption, a business must be primarily devoted to producing tangible personal property, which that business will sell and is intended for ultimate sale at retail.

Idaho Code § 63-3609 defines contractors improving real property as the consumers of the materials they install. The [Redacted] during the audit period. For instance, the taxpayer

made 10 retail sales in 2005 and none in 2006. Since the taxpayer is [Redacted] that is meant to be sold at retail, it cannot qualify for the exemption.

The taxpayer did send some documentation showing that tax had been paid to the vendor on some of the purchases scheduled on the audit workpapers. Those items have been deleted.

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>
\$107,084	\$5,725	\$24,621	\$137,430

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

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.
