

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21858
[Redacted])	
)	DECISION
Petitioner.)	
_____)	

On January 15, 2009, the staff of the Sales Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted], [Redacted] (taxpayer) proposing sales tax, use tax, and interest for the period of November 1, 2000, through December 31, 2007, in the total amount of \$146,609. In a letter dated March 10, 2009, the taxpayer filed a timely appeal and petition for redetermination. The Commission held an informal hearing with the taxpayer on June 25, 2009.

The Commission upholds the audit findings for the reasons that follow.

BACKGROUND AND CONCLUSION

During the audit period, the taxpayer [Redacted] and conducted some retail sales as well. In Idaho, contractors improving real property are defined as the consumers of materials they use or install. They owe a use tax on their consumption of that material unless they paid sales tax to an Idaho registered vendor or to another state, in conformance with the laws of the other state (Idaho Code §§ 63-3609 and 63-3621). The audit found instances where the required taxes were not paid.

A retail sale is defined as an exchange of tangible personal property for consideration (e.g. money) and is taxable unless an exemption applies (Idaho Code §§ 63-3609 and 63-3612). Idaho retailers are required to collect sales tax from buyers (Idaho Code § 63-3619) in the absence of an exemption. The audit found instances where the required taxes were not collected.

The taxpayer does not dispute that it owes the taxes asserted in the audit findings, although it did raise one issue. In the early part of the audit period, the corporation was owned by a predecessor to the current taxpayer. The taxpayer mentions that it is without recourse against the prior owner, but does not dispute the liability.

Tax liability attributable to the prior ownership period is still the responsibility of the current owners (i.e., the taxpayer) under a successors' liability statute, since the taxpayer did not make the necessary inquiries to the Tax Commission regarding any existing tax liability when it purchased the company (Idaho Code § 63-3628).

After the Notice of Deficiency Determination was issued, the taxpayer provided additional documentation for the auditor's review. This documentation increased the tax. The increase is reflected in the figures below.

WHEREFORE, the Notice of Deficiency Determination dated January 15, 2009, is MODIFIED, and as MODIFIED is MADE FINAL.

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

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$117,654	\$35,130	\$152,155

Interest is calculated through February 28, 2010, 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.
