

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 22601
[Redacted],	)	
	)	
Petitioner.	)	DECISION
	)	
	)	

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On October 19, 2009, the staff of the Sales Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer)<sup>1</sup> proposing sales and use tax, penalty, and interest for the period of July 1, 1998, through December 31, 2008, in the total amount of \$72,117. On January 5, 2010, the amount of the NODD was reduced to \$29,027.

On November 18, 2009, the taxpayer filed a timely appeal and petition for redetermination. The Commission held an informal hearing with the taxpayer on July 1, 2010.

The taxpayer is in the business of selling [Redacted]. The Commission staff compared the sales the taxpayer reported on his sales tax returns to the gross sales he reported on his sales tax returns and to the amount of sales he reported to the [Redacted]. The Commission staff found that the taxpayer had substantially underreported his taxable sales and the sales tax due. Because the underreporting appeared to be intentional, the auditor asserted a 50 percent fraud penalty pursuant to Idaho Code § 63-3046. Also, the three-year statute of limitations provided by Idaho Code § 63-3633 is inapplicable in the case of fraud.

On November 25, 2009, the Commission received the taxpayer's letter petitioning for a redetermination. In this letter, the taxpayer stated that he believed that the Commission's estimates of the taxpayer's sales were incorrect. The auditor then met with the taxpayer's CPA

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<sup>1</sup> The taxpayer operates as a [Redacted][Redacted].

and reviewed more documentation. On January 5, 2010, the Commission sent a letter to the taxpayer informing him of the reduction in the amount of the deficiency to \$29,027.

At the hearing, the taxpayer did not dispute the amount of tax he owed. He did raise the issue of financial hardship as a basis of settlement. After reviewing the taxpayer's financial information, the Commission has determined that the taxpayer has sufficient income and property to pay the amount due. The Commission, therefore, affirms the NODD.

WHEREFORE, the Notice of Deficiency Determination dated October 19, 2009, is 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>
\$15,003	\$7,502	\$6,974	\$29,479

Interest is calculated through October 15, 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 \_\_\_\_\_ 2010.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2010, 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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