

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 22729
[Redacted])
)
Petitioner.)
) DECISION
)
_____)

On March 18, 2010, the staff of the Sales and Use Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to [Redacted](taxpayer) proposing use tax and interest for the audit period July 1, 2007, through July 31, 2007, in the total amount of \$11,389.

In correspondence dated March 23, 2010, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to two hearing rights letters dated May 4, 2010, and June 21, 2010. The Commission, having reviewed the file and the letter of protest, herein upholds the Notice for the following reasons.

BACKGROUND

The taxpayer, an incorporated [Redacted], [Redacted] year, July 1, 2006, through June 30, 2007. The taxpayer did not pay sales or use tax on the purchase or use [Redacted] and does not dispute the amount owed. An auditor examined [Redacted] and concluded that the taxpayer did not qualify for a tax exemption. Subsequently, the Commission issued a Notice based on the auditor’s conclusions. The Notice contains tax and interest. The taxpayer protests only the imposition of interest.

APPLICABLE TAX LAW

In Idaho, the sale, purchase, and use of tangible personal property is taxable (Idaho Code §§ 63-3612(1), 63-3619, and 63-3621) unless an exemption applies. The relevant exemption in this decision is commonly called the “International Registration Program (IRP) exemption,” codified in Idaho Code § 63-3622R and cited below in relevant part:

These are exempted from the taxes imposed by this chapter...

(c) Sale or lease of motor vehicles with a maximum gross registered weight over twenty-six thousand (26,000) pounds, which shall be immediately registered under the international registration plan, whether or not base plated in Idaho, and the sale or lease of trailers which are part of a fleet of vehicles registered under the international registration plan when such vehicles and trailers are substantially used in interstate commerce. If such a motor vehicle or trailer is not substantially used in interstate commerce during any annual registration period under the international registration plan, it shall be deemed used in Idaho and subject to the use tax under section 63-3621, Idaho Code. For the purpose of this subsection, "substantially used in interstate commerce" means that the vehicles or trailers will be part of a fleet with a minimum of ten percent (10%) of the miles operated by the fleet accrued outside of Idaho in any annual registration period under the international registration plan.

The auditor’s examination commencing November 2009 concluded that the fleet of two vehicles failed the minimum 10 percent threshold for out-of-state mileage in the registration year July 1, 2006, through June 30, 2007. As a result, the auditor imposed tax based on the following sales tax administrative rule:

Failure To Meet Interstate Mileage Requirement. The use of a fleet of trucks and trailers, purchased exempt under the IRP exemption provided by Section 63-3622R, Idaho Code, will become taxable at the end of any registration period for which the out of state mileage is less than ten percent (10%) of the total fleet mileage (IDAPA 35.01.02.101.07.)

PROTEST SUMMARY

In the protest letter, the taxpayer objects to the imposition of interest stating that had the tax requirement been made known to it immediately, it would have paid the tax and an accrual of

interest could have been avoided. In essence, the taxpayer is critical of the time it took the auditor to determine that tax was owed.

ANALYSIS

The imposition of interest on a tax liability is a statutory requirement:

Interest on deficiencies. Interest upon any deficiency shall be assessed at the same time as the deficiency and shall be due and payable upon notice and demand from the state tax commission and shall be collected as a part of the tax at the rate provided in section 63 3045, Idaho Code, from the date prescribed for the payment of the tax (Idaho Code § 63 3632.)

As noted in the administrative rule cited previously, the tax imposed in this decision was due on the last day of the registration period for which the mileage minimum was not met. In this case, that date was July 31, 2007. The Commission is barred by statute from assessing taxes that were due more than three or seven years prior when the following conditions exist:

Period of limitation upon assessment and collection. Except as otherwise provided in this section:

- (a) The amount of taxes imposed by this chapter shall be assessed within three (3) years after the due date of the return or the date the return was filed, whichever is the later...
- (b) In the case of taxes owed by a person who has failed to file a return as provided in section 63 3623, Idaho Code, the amount of taxes imposed in this chapter shall be assessed within seven (7) years of the time the return upon which the tax asserted to be due should have been filed (Idaho Code § 63 3633.)

In the present case, the assessment was made within the three-year provision of the limitation statute.

Finally, the Commission notes that the tax exemption at issue must be claimed by the purchaser. [Redacted]. As such, it is the responsibility of the taxpayer to know under what conditions the exemption would no longer apply. The Commission is not required by statute to bring this knowledge to the attention of the taxpayer at the precise moment of a breach.

The Commission upholds the audit findings that both the tax and interest (per Idaho Code §§ 63-3045(6)) are due. It also acknowledges that the taxpayer paid the tax in full and is entitled to a reduction of the interest due because it paid the tax on March 29, 2010, and the interest was accrued to May 20, 2010, in the Notice.

WHEREFORE, the Notice of Deficiency Determination dated March 18, 2010, is hereby APPROVED, and as APPROVED, is AFFIRMED and MADE FINAL in accordance with the provisions of this decision.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following interest: \$1,541.

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

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.
