

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23049
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On May 5, 2010, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing [Redacted] tax, penalty, and interest for the period of June 1, 2007, through November 30, 2009, in the total amount of \$19,521.

On June 21, 2010, the taxpayer filed a timely appeal and petition for redetermination. The Commission held an informal hearing with the taxpayer on August 26, 2010.

Idaho Code §§ 63-2552 and 63-2552A impose a tax on the sale, use, [Redacted] products in this state. The total tax rate is 40 percent of the wholesale sales price of such products.

The taxpayer is in the business of [Redacted] and other [Redacted] products at retail. The taxpayer meets the definition of a [Redacted] distributor and has a tobacco products permit, as required by Idaho Code § 63-2554. The taxpayer is, therefore, required to pay the tax on the purchases of [Redacted] it imports from out-of-state distributors. [Redacted] distributors are also required to provide schedules with their monthly tax returns showing the amount of [Redacted] products they purchase from each of their vendors.

The taxpayer had failed to provide such schedules from April 2008 through July 2009. When the taxpayer did supply the schedules, the purchase amounts appeared to be “[Redacted]” figures that were calculated to match the returns the taxpayer had filed previously.

The Commission then contacted the taxpayer's vendors and asked for copies of the [Redacted] products sales invoices. A comparison of these invoices to the returns showed that the taxpayer had significantly underreported its [Redacted] purchases.

At the hearing, the taxpayer raised numerous factual issues, which have now been resolved. The taxpayer also stated that there were several purchases of [Redacted] that were included in the purchases of [Redacted]. The [Redacted] were purchased from a [Redacted] manufacturer. They were listed as separate line items on the invoices. The Commission contacted the manufacturer and determined that purchasers of [Redacted] were required to purchase [Redacted]. The charge for [Redacted] is, therefore, part of the wholesale sales price of the [Redacted]. The manufacturer noted that it is no longer separately stating the charge for [Redacted].

The Commission has reviewed the other factual issues and has made adjustments accordingly. Also, the Commission has agreed to reduce the 50 percent fraud penalty to a 5 percent negligence penalty.

WHEREFORE, the Notice of Deficiency Determination dated May 5, 2010, is MODIFIED, and as MODIFIED, 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>
\$10,689	\$534	\$1,503	\$12,726

Interest is calculated through December 31, 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

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.
