

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22440
[Redacted])	
)	
Petitioner.)	DECISION
_____)	

On October 28, 2009, 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) asserting use tax and interest for taxable period January 1, 2005, through June 30, 2009, in the total amount of \$95,229. In a letter received November 20, 2009, the taxpayer filed a timely appeal and petition for redetermination. On May 21, 2010, the Commission sent a standard hearing rights letter to the taxpayer. The taxpayer replied in a letter dated June 18, 2010, stating some objections to the tax liability, discussing financial hardship, and asking for advice with respect to hiring an attorney and having an informal hearing.

On April 7, 2011, the Commission sent a reply to the taxpayer reiterating that the hearing process was informal and that representation was permissible but not required. Further, the letter included copies of the Commission’s financial hardship settlement paperwork with a suggestion that the taxpayer fill out the forms completely and return them for consideration.

On April 11, 2011, the taxpayer replied by email indicating that the business was closed but no bankruptcy proceeding had taken place. The taxpayer again asked for advice on how to proceed. The Commission replied in a letter dated June 30, 2011, restating its advice to submit financial forms for a settlement consideration, if the taxpayer wished to apply. The letter further

restated that the taxpayer was entitled to hearing rights. No reply was received and there has been no additional correspondence by the Commission.

The Commission has no evidence from the taxpayer that indicates audit finding errors. The taxpayer has not requested a hearing following multiple notifications of this administrative remedy. Further, the taxpayer has not made a formal request for a settlement although the Commission made ample notification of the process.

The Taxpayer did not provide evidence adequate to establish that the amount asserted in the Notice of Deficiency Determination is incorrect. As a result, the Commission will uphold the Notice. A determination of the State Tax Commission is presumed to be correct (Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 1984) and the burden is on the taxpayer to show that the deficiency is erroneous (Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 Ct. App. 1986.)

THEREFORE, the Notice of Deficiency Determination dated October 28, 2009, is AFFIRMED and as AFFIRMED is MADE FINAL.

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

<u>TAX PERIOD</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
1/1/2005 through 6/30/2009	\$81,501	\$21,484	\$102,985

Interest is calculated through February 15, 2012, 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 _____ 2011.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2011, 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.
