

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21754
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On December 16, 2008, the staff of the Sales, Use, and Miscellaneous 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 period October 1, 2005, through September 30, 2008, in the total amount of \$8,692. For the reasons that follow, the Commission adjusts the audit findings.

On January 21, 2009, the taxpayer filed a timely appeal and petition for redetermination of the Notice stating its disagreement. Subsequently, it provided information from which the auditor was able to make adjustments in the taxpayer's favor. The auditor sent revised workpapers to the taxpayer and requested that the taxpayer indicate if it wished either to continue or withdraw its protest. There was no reply to this request.

The Commission then sent three hearing rights letters on March 6, 2009, May 29, 2009, and September 23, 2010. No replies were received, but the taxpayer sent \$322.48 to the Commission on April 25, 2009. The Commission referred to this payment in the final hearing rights letter, to determine the taxpayer's intentions, but there was no reply.

The taxpayer did not provide evidence adequate to establish that the amount asserted in the Notice was 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.)

Absent information to the contrary, the Commission finds the deficiency prepared by the Bureau to be a reasonably accurate representation of the taxpayer's use tax liability for the period October 1, 2005, through September 30, 2008.

The Bureau added interest to the use tax deficiency. The Commission found the addition appropriate per Idaho Code sections 63-3045 and has updated the interest accordingly. Interest is calculated through April 30, 2012, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

THEREFORE, the Notice dated December 16, 2008, is hereby MODIFIED and in accordance with the provisions of this decision, is AFFIRMED and 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>
\$5,391	\$1,291	\$6,682.00
	PAYMENT	<u>(322.48)</u>
	TOTAL DUE	<u>\$6,359.52</u>

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 _____ 2012.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2012, 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.
