

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],.) DOCKET NO. 22268
Petitioner.)
DECISION
_____)

On February 27, 2009, 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). The original Notice proposed additional sales tax, use tax, penalty, and interest in the total amount of \$28,763 for taxable periods January 2005 through December 2007.

The taxpayer filed a timely appeal and petition for redetermination on April 13, 2009. The petition asserted that the taxpayer had additional documentation to submit to the Commission that would result in a reduction in the liability.

In working with the taxpayer, the Bureau agreed to adjust the Notice based on additional documentation and information provided by the taxpayer. The adjustment reduced the Notice to additional sales tax, use tax, penalty, and interest in the total amount of \$23,541 for taxable periods January 2005 through December 2007. The Commission accepts this adjustment as determined by the Bureau.

On October 6, 2009, the case was transferred to the Legal and Tax Policy Division for administrative review of the remaining protest issues.

On November 2, 2011, the Commission held an informal hearing with the taxpayer's owner. At the hearing, the taxpayer's owner confirmed that he did not have any further legal or factual argument against the adjusted deficiency. He did express a desire to request a settlement offer on the basis of economic hardship.

The taxpayer declared bankruptcy on December 27, 2011. No settlement offer was ever submitted.

After the Bureau adjusted the Notice, the taxpayer has not provided the Commission with further legal or factual information to establish that the amount asserted in the Notice is incorrect. 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 sales and use tax liability for the period in question.

THEREFORE, the Notice of Deficiency Determination dated February 27, 2009, and directed to [Redacted] is AFFIRMED as MODIFIED by this decision.

IT IS ORDERED that the correct amount of tax, penalty, and interest for the taxpayer is:

	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
SALES TAX	\$19,624	\$0	\$6,115	\$25,739
USE TAX	410	0	129	539
			TOTAL DUE	<u>\$26,278</u>

Interest is calculated through April 30, 2012, and will continue to accrue until the entire liability has been paid.

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.