

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 22602 |
| [Redacted], |) | |
| |) | |
| Petitioner. |) | DECISION |
| _____ |) | |

On September 30, 2009, 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 September 1, 2005, through November 30, 2008, in the total amount of \$67,855. For the reasons that follow, the Commission upholds the audit findings, with adjustments in the taxpayer's favor.

On November 23, 2009, the taxpayer filed a timely appeal and petition for redetermination of the Notice. The taxpayer indicated in a letter on March 8, 2010, that he would like a hearing, but expressed interest in receiving current workpapers that would reflect changes made by the auditor. The auditor later made some adjustments in the taxpayer's favor that were dated March 31, 2010. The taxpayer did not reply to two subsequent hearing rights letters mailed April 14, 2011, and December 6, 2011.

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, with the aforementioned adjustments, to be a reasonably accurate representation of the taxpayer's use tax liability for the period September 1, 2005, through November 30, 2008.

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

THEREFORE, the Notice dated September 30, 2009, is hereby MODIFIED and is APPROVED in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

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

| <u>PERIOD</u> | <u>TAX</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|---------------------|------------|-----------------|--------------|
| 09/01/05 – 11/30/08 | \$51,347 | \$12,760 | \$64,107 |

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.
