

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22616
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On December 10, 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 sales tax, use tax, penalty, and interest for the period January 1, 2005, through June 30, 2008, in the total amount of \$243,314. For the reasons that follow, the Commission upholds the audit findings.

On February 16, 2010, the taxpayer filed a timely appeal and petition for redetermination of the Notice stating that it disagreed with the imposition of a 5 percent negligence penalty. Following considerable correspondence with the Commission, the taxpayer scheduled an informal hearing for August 23, 2011. Prior to the hearing, however, the taxpayer declined the meeting, suggesting instead that the taxpayer enter a payment agreement with the Commission. In a letter dated August 18, 2011, the taxpayer withdrew its petition for redetermination and proposed a payment plan that the Commission later deemed unacceptable.

The Commission wrote on December 8, 2011, stating the payment plan was unacceptable and that, as an alternative, the Commission could issue a decision, after which the taxpayer would be able to discuss a mutually acceptable payment plan with the Commission's compliance staff. If the taxpayer disagreed with the Commission's recommendation for pursuing a payment plan with compliance staff, however, the taxpayer would nevertheless retain its rights to appeal

the decision to a district court. The Commission's letter asked for a reply, but none has been received as of the date of this decision.

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

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 January 1, 2005, through June 30, 2008.

The Bureau added interest and penalty to the sales and use tax deficiency. The Commission reviewed those additions, found both to be appropriate per Idaho Code sections 63-3045 and 63-3046, and has updated 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 of Deficiency Determination dated December 10, 2009, is hereby 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>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1/1/05 – 6/30/08	\$189,393	\$ 9,470	\$ 62,911	\$ 261,774

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.