

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 24815  
 )  
 )  
Petitioner. ) DECISION  
 )  
\_\_\_\_\_ )

On November 29, 2011, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to [Redacted] (taxpayer) proposing use tax, penalty, and interest for the period November 2010 in the total amount of \$2,914. For the reasons that follow, the Commission upholds the audit findings.

In a letter received December 23, 2011, the taxpayer filed a timely appeal and petition for redetermination of the Notice stating that he disagreed with the findings. The Commission sent a standard hearing rights letter to the taxpayer on April 19, 2012, with a follow-up on August 6, 2012, marked “Final Notification”, but as of the date of this decision, there has been no reply.

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 use tax liability for the period November 2010.

The Bureau added interest and penalty to the 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 October 31, 2012, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

The outstanding amount due in this decision reflects the taxpayer's partial payment of \$1,200 on December 28, 2011. By Tax Commission Administration and Enforcement Rule 140, partial payments shall apply in the following order: interest, tax, and penalty (IDAPA 35.02.01.140.01). Interest accrues only on unpaid tax, not on accrued interest or penalty (Idaho Code § 63-3045(6)(a)). Since the partial payment reduced the tax due, it had the effect of slowing the subsequent interest accrual. It also resulted in a minor revision of the beginning interest total shown on the Notice.

THEREFORE, the Notice of Deficiency Determination dated December 15, 2012, 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>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$2,250	\$563	\$101	\$2,914
(1,108)		(101)	(1,209)
		44	44
		<b>TOTAL DUE</b>	<b><u>\$1,749</u></b>

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

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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.

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