

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 25044
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

On August 12, 2011, the staff of the Sales, Use, and Miscellaneous Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Refund Denial (Notice) to [Redacted] (taxpayer) denying in part a sales tax refund request for the period July 1, 2010, through December 31, 2010, in the total amount of \$1,053. For the reasons that follow, the Commission upholds the audit findings.

On October 12, 2011, the taxpayer filed a timely appeal and petition for redetermination of the Notice. The Commission sent a hearing rights letter on June 29, 2012, and a final reminder on September 14, 2012. As of the date of this decision, the taxpayer has not replied.

Facts and Conclusion

The taxpayer claimed a refund of a portion of sales tax that it remitted to Idaho on financed retail sales to customers who subsequently defaulted, after which the taxpayer repossessed the sold goods. The refunds are permissible by statute:

Taxes previously paid on amounts represented by accounts found to be worthless may be credited upon a subsequent payment of the tax provided in this chapter or, if no such tax is due, refunded. If such accounts are thereafter collected, a tax shall be paid upon the amount so collected (Idaho Code § 63-36 13(d)).

A sales tax administrative rule establishes guidelines for bad debt sales tax refunds when the goods in question are repossessed:

03. Rules for Secured Credit Sales. The following rules apply to secured credit sales:...

c. If the collateral is repossessed and seasonably resold at public or private sale, then the seller is entitled to a bad debt adjustment. However, before calculating the amount of tax that may be credited or refunded, the taxpayer must reduce the amount claimed as worthless by the amount realized from the sale of the collateral (IDAPA 35.01.02. 063).

Since the bad debt refund is related to [Redacted] sales, the auditor rightly questioned whether the taxpayer accounted for the proceeds from the resale of the [Redacted]. Further, the auditor questioned that certain charges that were part of the original sales but not subject to sales tax, including debt insurance and optional maintenance, were erroneously accounted for by the taxpayer in the refund requested.

The auditor adjusted the requested refund of \$1,375, allowing \$328 and denying the remainder. While the taxpayer disputed the findings in the protest letter and offered to provide evidence in favor of its position, it did not, and requests for the taxpayer to participate in a hearing or otherwise resolve the case were unanswered.

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 amount is erroneous (Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 Ct. App. 1986.)

THEREFORE, the Notice dated August 12, 2011, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

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.  
  
\_\_\_\_\_