

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted]) DOCKET NO. 25234
Petitioner.)
DECISION
_____)

On November 17, 2011, 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, penalty, and interest for the period October 1, 2010, through December 31, 2010, in the total amount of \$29,236. For the reasons that follow, the Commission upholds the audit findings with adjustments in the taxpayer’s favor.

On January 17, 2012, the taxpayer filed a timely appeal and petition for redetermination of the Notice stating that it disagreed with the findings. Following a request by the Bureau and an exchange of additional information, the liability was reduced. The Bureau continued to advise the taxpayer that additional evidence was required in order to reduce or eliminate the liability. When no further information was received, the Bureau forwarded the audit file to the Legal/Tax Policy Division where protested audit findings are afforded an administrative appeal allowed by statute (Idaho Code § 63-3633).

The Commission then wrote to the taxpayer on September 27, 2012, advising the taxpayer of its rights to an informal hearing. This letter, returned by the U.S. Postal Service as undeliverable, was followed by a letter dated October 3, 2012 to an alternate address. This, too, was undeliverable. The Commission sent another letter on October 10, 2012, which is presumed to have been received by the taxpayer. To date, 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 an accurate representation of the taxpayer's use tax liability for the period October 1, 2010, through December 31, 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 March 31, 2013, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

THEREFORE, the Notice dated November 17, 2011, 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>
\$6,916	\$346	\$989	\$8,251

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 _____ 2013.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2013, 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.