

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25268 & 25269
[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 Notices of Deficiency Determination Refund Denials (Notices) to [Redacted]. (taxpayer) denying, in part, requests for a refund of sales tax and accrued interest for the periods July 1, 2010, through December 31, 2010, and January 1, 2010, through June 30, 2010 (Docket Nos. 25268 and 25269, respectively).

The Notice assigned Docket No. 25268 refers to a request for a refund in the amount of \$5,832, allowing a total refund of \$795, which included interest, and denying \$5,050. The Notice assigned Docket No. 25269 refers to a request for a refund in the amount of \$20,848, allowing a total refund of \$9,301, which included interest, and denying \$11,792.

The taxpayer requested refunds for sales tax it remitted to the Commission on financed sales of tangible personal property when the customers later defaulted on their secured loans. For the reasons that follow, the Commission upholds the refund allowances and denials in the amounts shown above.

On October 13, 2011, the taxpayer filed a timely appeal and petition for redetermination of each Notice. The Bureau corresponded with the taxpayer after it issued the Notices and instructed the taxpayer regarding the necessary evidence to substantiate its refund claims. When no further information was received, the Bureau forwarded the audit file to the Policy Section where protested audit findings are afforded an administrative appeal allowed by statute (Idaho

Code § 63-3633). On October 4, 2012, the Commission wrote to the taxpayer informing it of its rights to an informal hearing. As of the date of this decision, there has been no reply.

Analysis and Conclusion

In Idaho, the sale, purchase and use of tangible personal property is subject to tax unless an exemption applies (Idaho Code § 63-3612). Retailers must collect the tax from their customers and the tax must be computed on the sales price at the time of the sale for all credit, installment or similar conditional sales (Idaho Code § 63-3619).

However, the tax code has a provision for a business to recover taxes it paid on financed sales accounts later found to be worthless:

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 § 63-3613(d)).

The details for calculating a refund of sales tax for worthless accounts involving secured credit sales is described in Sales Tax Administrative Rule 063, excerpted in pertinent part:

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

- a. If the collateral is not repossessed, the seller may treat a bad debt the same as an unsecured credit sale.
- b. If the collateral is repossessed and not seasonably resold at a public or private sale, its retention is considered to satisfy the debt and no bad debt adjustment is allowed.
- 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.
- d. If merchandise is repossessed and is subsequently resold at retail, sales tax is computed on the sales price and collected and remitted the same as on other retail sales (IDAPA 35.01.02.063.03).

The auditor contends that the taxpayer did not properly account for, or provide sufficient evidence relating to, the subsequent sale of and proceeds from, repossessed property despite repeated requests to provide the documentation.

The taxpayer did not provide evidence adequate to establish that the amounts denied in the Notices are incorrect. As a result, the Commission will uphold the Notices. A determination of the 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 finding 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 Notices prepared by the Bureau to be an accurate representation of the taxpayer's sales tax and interest refund amounts for the periods July 1, 2010, through December 31, 2010, and January 1, 2010, through June 30, 2010.

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

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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.
