

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25278
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On July 12, 2012, 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). The Notice asserted additional sales tax, penalty, and interest in the total amount of \$26,520 for taxable periods from January 1, 2005, through December 31, 2011. The taxpayer filed a timely appeal and petition for redetermination on September 13, 2012.

After being advised of his right to an informal hearing, the taxpayer requested a hearing, which was held on April 2, 2013. During the hearing, the Commission asked the taxpayer to provide additional documentation. Within a month, the taxpayer presented part of the documentation requested; however, the documentation was incomplete. The Commission made several attempts to contact the taxpayer regarding additional documentation, but no more information was provided.

The Commission, having reviewed the audit file and considered the information and documentation provided at the hearing and in the months following the hearing, modifies the audit findings for the reasons detailed below.

During the audit period, the taxpayer operated a small farm and ranch engaging in a variety of activities. The activities that are relevant to this decision are the taxpayer [Redacted].

The Bureau undertook a routine audit of the taxpayer's records to review compliance with applicable sales and use tax laws. The Bureau found that the taxpayer had not charged sales tax on any sales, regardless of the product sold or who the customer was. There was no documentary evidence of an exemption claim from any of his customers. In the absence of any documented exemption, the Bureau held all sales of [Redacted] subject to tax. For those years which the taxpayer was unable to provide sales records, the auditor estimated sales based on sales reported on the [Redacted] income tax returns or sales from adjoining years.

The taxpayer protested the Bureau's imposition of tax on most of his [Redacted] sales. He argued that he sold a majority of the [Redacted] to a wholesaler, who resold it, and sold a majority of the [Redacted] with it. He pointed out that such purchasers would be able to claim a sales tax exemption on those transactions, although he also admitted that he had obtained no written exemption claims from any of his customers. The taxpayer raised no objection to the imposition of tax on the sales of [Redacted].

Sales of tangible personal property in Idaho are subject to sales tax (Idaho Code § 63-3619). In fact, all sales in Idaho are presumed to be taxable and the burden is on the seller to show that an exemption applies to a transaction, or that an exemption certificate has been filled out by its customer (Idaho Code § 63-3622(a)). If the seller maintains a valid exemption certificate on file for a customer, sales to that customer are presumed to be exempt (Idaho Code § 63-3622(g)). The seller can obtain a valid exemption certificate after a transaction has occurred, which would also relieve the seller of its burden (Idaho Code § 63-3622(d)).

The most common and relevant exemption certificate to this case is Form ST-101, Sales Tax Resale or Exemption Certificate. It contains a section for wholesalers to fill out and a section for businesses that qualify for the production exemption, such as farms. During the

hearing, the Commission asked the taxpayer to provide a completed ST-101 from each of his customers to whom he made a sale that he considered to be exempt. In addition, the Commission requested sales documentation that contained specific customer names. The sales records presented during the hearing only contained a few customer names over the course of several years of the audit.

The taxpayer submitted several valid exemption certificates, but never provided more detailed customer information, despite several attempts by the Commission requesting more information. Of the ST-101s provided, only one of the customers was denoted on the sales records available to the Commission. For the other ST-101s, the Commission had no way to connect the exemption certificate with the sales to which it applied.

In the absence of an exemption certificate, the Commission agrees with the Bureau that the sales of [Redacted] are subject to sales tax. The Commission has reduced the audit findings to account for those sales that could be tied to the one exemption certificate. The Bureau and Commission agree that more detailed sales information would probably result in further reduction to the taxpayer's liability, but given the documentation available, the Commission must uphold the remainder of the findings.

Finally, the Commission approves of the Bureau's imposition of interest as appropriate per Idaho Code § 63-3045(6). The Commission has reduced the penalty imposed by the Bureau under Idaho Code § 63-3046(a) and this change is reflected in the amount below.

THEREFORE, the Notice dated July 12, 2012, and directed to [Redacted] is AFFIRMED as MODIFIED by this decision.

IT IS ORDERED that the taxpayer pay the following amount of tax, penalty, and interest:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$8,099	\$0	\$2,672	\$10,771

Interest is calculated through March 7, 2014, and will continue to accrue until the entire liability has been paid.

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.