

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 25326
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

On August 15, 2012, 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 sales tax, use tax, and interest for the period October 1, 2008, through September 30, 2011, in the total amount of \$10,961. The Commission has reviewed the audit file and information received in a telephonic hearing with the taxpayer. For the reasons that follow, the Commission upholds the audit findings.

Background

[Redacted] is an Idaho retailer and repair facility for [Redacted]. According to the auditor, the taxpayer included set-up and assembly charges in the price of customized parts sold with [Redacted]. As these labor services were agreed upon as part of the sale of tangible personal property (i.e., the vehicles), the auditor believed them to be taxable. Since the taxpayer did not collect tax on the charges, the auditor asserted a liability. This liability is approximately 20 percent of the total, and is the only audit finding that the taxpayer protests.

On January 14, 2013, the Commission held an informal hearing via telephone at the taxpayer's request. The taxpayer asked for leniency on the one issue referred to above, indicating that its business recovery in the post-down-turn economy will be hurt by the added liability.

### Applicable Tax Law and Analysis

In Idaho, the sale of tangible personal property is subject to tax unless an exemption applies. (Idaho Code §§ 63-3612 and 63-3621). Further, to determine the sales price subject to tax, the following code section is relied upon:

Sales Price. (a) The term "sales price" means the total amount for which tangible personal property, including services agreed to be rendered as a part of the sale, is sold, rented or leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

1. The cost of the property sold....
2. The cost of materials used, labor or service cost, losses, or any other expense (Idaho Code § 63-3613).

The taxpayer refers to the disputed charges held taxable as “installation” of parts and accessories. Installation charges for tangible personal property are exempt from tax per Idaho Code § 63-3613 (b)4. However, the Commission holds that installation labor is taxable when it is associated with the purchase of goods sold and packaged with other goods as a condition of the primary goods’ sale.

The two parts of Idaho Code § 63-3613 must be read together for a complete understanding. The taxability of “services agreed to be rendered as part of the sale” must be given meaning and, if installation labor is the service agreed upon and included, it is reasonably taxable. Conversely, installation labor is not taxable when it is associated with contemporaneously purchased tangible personal property incorporated into goods already owned by the customer.

Thus, when the sale of [Redacted] includes additionally assembled and installed parts to customize the contemporaneously purchased vehicle to the specifications of the buyer, these labor charges must be included in the sales price subject to tax. The logic of this treatment for

tax purposes can be understood as follows. The sales price of all tangible personal property includes the labor to assemble parts and install them to reach a desired and marketable final form. If the vehicle chosen by the customer was already fitted with the accessories desired, the price would include the labor that it took to achieve the end product, whether it is assembly labor, installation labor, or both. There is no statutory basis for reducing the sales price for that labor.

### Conclusion

While the Commission upholds the audit findings, it is aware that the taxpayer asked for leniency on the basis of financial hardship. Financial hardship can be a factor in which the Commission will use its statutory discretion to settle cases for less than the amount shown in the Notice (Idaho Code §§ 63-3047 and 63-3048). While the Commission exercises its discretion with respect to approving settlements, it generally delegates the initial consideration to Compliance staff who determine the appropriateness of a taxpayer's request based on financial data. It will do so in this case if the taxpayer requests this consideration.

The taxpayer may contact the Compliance staff if it wants to forgo the appeal process referred to in the notifications that accompany this decision. Alternatively, it may wait until it is contacted by Compliance for payment following the expiration of the appeal timeframe. However, interest continues to accrue on unpaid taxes, as noted below.

Absent information to the contrary, the Commission finds the deficiency prepared by the Bureau to be an accurate representation of the taxpayer's sales and use tax liability for the period October 1, 2008, through September 30, 2011.

The Bureau added interest to the sales and use tax deficiency. The Commission found it appropriate per Idaho Code § 63-3045 and has updated interest accordingly. Interest is

calculated through September 30, 2013, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

THEREFORE, the Notice of Deficiency Determination dated August 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>INTEREST</u>	<u>TOTAL</u>
\$9,861	\$1,402	\$11,263

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

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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.

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