

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25725
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On February 20, 2013, 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 and interest for the periods August 1, 2011 through December 31, 2011, in the total amount of \$671.

On December 4, 2012, the taxpayer filed a timely appeal and petition for redetermination of the Notice. The Commission wrote on September 19, 2013, advising the taxpayer of his right to an informal hearing, to which there was no response. A second letter was sent on December 19, 2014, to which the taxpayer responded that he did not wish to have a hearing and that the original information submitted with his appeal should suffice. For the reasons that follow, the Commission upholds the audit findings.

Background and Audit Findings

The taxpayer purchased a [Redacted], and a [Redacted] from [Redacted] during the audit period. At the time of purchase, the taxpayer completed an exemption certificate, Form ST-101, claiming that the equipment was to be used by a business devoted to [Redacted]. Such use is exempt from sales tax in Idaho under the production exemption (Idaho Code § 63-3622D).

The Bureau reviewed the exemption claimed along with the taxpayer’s 2011 Idaho Individual Income Tax return and found that the taxpayer had not filed a Schedule F (Profit or Loss From Farming), which is generally submitted when someone is operating a [Redacted] as a

business. The taxpayer's schedule E (Supplemental Income or Loss), a schedule used to report income or loss from rental real estate and royalties, showed that the equipment was being depreciated. The equipment was also listed on the Idaho form 49 for the Idaho Investment Tax Credit.

The Bureau concedes that the taxpayer owns an [Redacted] acre parcel of land in [Redacted] County, but points out that it is not being [Redacted] by the taxpayer; it is being rented by the taxpayer. The Bureau determined that purchase of equipment used in maintaining rental property does not qualify for the production exemption and held the equipment subject to use tax.

Taxpayer Protest and Analysis

The taxpayer disagrees with the imposition of tax on the equipment purchases. He states that the equipment should be exempt because he owns an active [Redacted] and he uses the purchased equipment on the [Redacted]. He says that the [Redacted] operation has been reported on his income tax return for twenty plus years.

The taxpayer claims that, since the appeal, he has used the [Redacted] for [Redacted] and has used it to clean [Redacted] and auger post holes for fences. He states that he received money for the sale of [Redacted] and for the pasture he fenced and irrigated. He also states that he rented ground to another [Redacted] to grow [Redacted] on and was paid in cash.

The taxpayer did not report [Redacted] income, but instead reported rental income. Cleaning [Redacted] and auguring post holes for fences on rental property does not constitute [Redacted]. Idaho Code § 63-3622D only applies to a business devoted to [Redacted], [Redacted], [Redacted] or [Redacted]. A Notice of Deficiency issued by the Commission is presumed to be correct and the burden is on the taxpayer to prove he is not responsible for the

taxes claimed due. Riverside Development Company v. Vandenberg, 137 Idaho 382, 48 P.3d 1271 (2002). The taxpayer in this case has not met that burden.

The Bureau added interest and penalty to the sales and 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 August 29, 2014, 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 February 20, 2013, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

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

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$642	\$59	\$701

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 _____ 2014.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2014, 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.
