

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25931
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On June 3, 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 sales tax, use tax, penalty, and interest, for the period October 1, 2009, through September 30, 2012, in the total amount of \$31,516.

On July 30, 2013, the taxpayer filed a timely appeal and petition for redetermination of the Notice. The Commission wrote on September 23, 2013, advising the taxpayer of its right to an informal hearing, to which no response was received. A second letter was sent on December 19, 2013. The taxpayer called on January 21, 2014, and declined an informal hearing, asking that its objection on record be considered by the Commission in defense of its position. The Commission is fully advised of the contents of the audit file and hereby issues its decision upholding the audit findings.

Background and Audit Findings

[Redacted] is in the business of [Redacted] [Redacted] for resale and selling [Redacted] to other in-state and out-of-state processing plants. The Bureau conducted a routine comprehensive audit of the taxpayer’s business for the purpose of determining compliance with Idaho sales and use tax law. After its review, the Bureau asserted errors in both ordinary purchases and fixed asset additions. The taxpayer is in agreement with the audit findings with

the exception of the imposition of Idaho use tax on the taxpayer's purchase of "[Redacted]," which are [Redacted]. The Bureau determined that the [Redacted] fell under the category of transportation equipment and supplies, which are specifically excluded from the production exemption.

Taxpayers Protest and Analysis

Both the Bureau and the taxpayer agree that the [Redacted] is not a [Redacted]. Both the Bureau and the taxpayer agree that the finished product is being placed onto the [Redacted] so that the finished product can be transported out of the production area.

The finished product is stacked onto a [Redacted]. The taxpayer maintains that the [Redacted].

The Bureau and the taxpayer disagree about where the production process ends. Without [Redacted], the taxpayer says that it cannot transport [Redacted] away from the production line and the production process is not complete. IDAPA35.01.02.79.04 states that the "production process ends when the product is placed in storage, however temporary, ready for shipment." The Bureau found that at the point that the finished product is being stacked onto the [Redacted], the production process is already complete.

The Bureau asserts that the purchase and use of [Redacted] is specifically excluded from the production exemption by statute. The relevant exclusion is property used in transportation activities from the tangible personal property exempted by Idaho Code § 63-3622D.

Conclusion

The Commission has determined that the purchase and [Redacted] in question does not qualify for the production exemption. The finished product is placed in storage, however temporary, at the point that it is stacked on the [Redacted]. The [Redacted] remains with the

finished product as it is transported to another area for long term storage or shipping by truck or rail car. The Commission maintains that [Redacted][Redacted] are a supply being used in the transportation of the finished good. As a result, the Commission upholds the Notice as prepared by the Bureau.

The Commission finds the deficiency prepared by the Bureau to be a reasonably accurate representation of the taxpayer's sales and use tax liability for the period October 1, 2009, through September 30, 2012.

The Bureau added interest to the sales and use tax deficiency. The Commission reviewed that addition, found it to be appropriate per Idaho Code § 63-3045, and has updated interest accordingly. The interest is calculated through May 30, 2014, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

The Bureau added penalty to the sales and use tax deficiency. The Commission reviewed that addition and modified that amount per Idaho Code § 63-3045.

THEREFORE, the Notice of Deficiency Determination dated June 3, 2013, is hereby APPROVED, as modified 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>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$27,859	\$696	\$3,064	\$31,619

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.
