

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|--------------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 0-976-965-632 |
| [Redacted] |) | |
| |) | |
| Petitioner. |) | DECISION |
| _____ |) | |

Idaho State Tax Commission’s Income Tax Audit staff (Audit) determined that **[Redacted]** (Petitioner) had underreported its income tax liability for the 2010 taxable year. According to Audit, Petitioner owes Idaho additional income tax, interest, and penalty totaling \$4,481,875.

The Petitioner reported income from the sale of **[Redacted]** as nontaxable. Petitioner contends that this exclusion is justified; arguing that it merely held a passive investment in **[Redacted]** and that Idaho may not tax any gain from the sale. The Idaho State Tax Commission (the Commission) disagrees. The Commission finds that Petitioner and **[Redacted]** are engaged in the same business effort, that Petitioner’s ownership interest in **[Redacted]** was not a mere passive investment, and that income from the sale of **[Redacted]** is taxable by Idaho.

Petitioner has requested that if the Commission finds that the income from the sale of **[Redacted]** is taxable by Idaho that the Commission depart from the standard approach and apply an alternative method to calculate its tax liability. Petitioner argues that including income from the sale of **[Redacted]** and applying standard apportionment provisions does not fairly represent its business activities in state. After considering the facts specific to taxable year 2010, the Commission agrees that an alternative method is appropriate.

I. ISSUES

In its Petition and during the redetermination process, Petitioner raised numerous arguments including several arguments that Idaho's tax law is unconstitutional.¹ The Commission does not have the authority to declare an act of the Idaho legislature unconstitutional.² Accordingly, the Commission has narrowed the arguments raised by Petitioner to just those issues that the Commission has authority to answer as follows:

- A. Does Petitioner's ownership interest in **[Redacted]** make Petitioner taxable in the state of Idaho?
- B. Is it appropriate to assess a tax on Petitioner and not on **[Redacted]** directly?
- C. Is Petitioner's gain from the sale of **[Redacted]** taxable as business income?
- D. Are the receipts relating to the gain from Petitioner's sale of **[Redacted]** included in the Idaho sales factor?
- E. Are **[Redacted]** "throwback sales" includable in the Idaho sales factor?
- F. Is alternative apportionment appropriate?

II. FACTUAL BACKGROUND

[Redacted] is Petitioner's founder and president. He is also a former **[Redacted]**. It was during his service as a **[Redacted]** that he decided to start a business to make tactical and combat gear. The inspiration to start this business came when he was operating inside **[Redacted]** Iraq. **[Redacted]** was carrying a large amount of gear in a pack through an enemy minefield. The pack failed, dumping the gear onto the mine-ridden ground. **[Redacted]** remarked to a fellow operator, "If I get out of this one alive, I will make this stuff the way it needs to be built so none of my buddies have to go through this." **[Redacted]** formed Petitioner to do just this; starting in his garage, **[Redacted]** began designing and manufacturing gear and packs that were more robust.³

¹ Petitioner's representative summarized the constitutional arguments in their letter dated July 6, 2016.

² The Commission has issued numerous decisions citing *Wanke v. Ziebarth Const. Co.*, 69 Idaho 64, 75, 202 P.2d 384, 391 (1949) ["...[t]he question of a statute's constitutionality is a judicial problem that only the courts have to decide. It is not a proper question for determination by an administrative board even though it may in its normal proceedings exercise quasi-judicial powers."]. Also see *In The Matter Of The Protest Of ****, Petitioners, Docket 19281, WL 3951662, at 3 (Id. St. Tax Com. 2006).

³ Undated article titled "**[Redacted]**" downloaded from the Internet on 7/29/10 during prior audit cycle.

[Redacted] formed Petitioner in 1993 and used Petitioner from 1993 through 2003 to manufacture and sell tactical and combat gear.⁴ [Redacted] incorporated Petitioner under Virginia law on February 12, 1993, as [Redacted] ⁵ Starting on January 1, 2001, and for all times relevant to this matter, Petitioner has been an S corporation.⁶

On January 1, 2004, [Redacted] directed Petitioner to contribute its net assets to [Redacted], a limited liability company formed on December 1, 2003. In exchange, Petitioner received a controlling, 78.54% membership interest in [Redacted].⁷ Following this transaction, [Redacted] continued to direct the vision of his business. He served as [Redacted] President and CEO. Just as with Petitioner, [Redacted] directed the vision of [Redacted] and oversaw all aspects of [Redacted] with a particular focus on product development.⁸

Starting in 2004, [Redacted] began reporting a physical presence in Idaho. From 2004 through 2006, [Redacted] had property, payroll, and sales in Idaho. This presence expanded in 2007 when [Redacted] leased a “100,000 square foot factory in [Redacted] Idaho.” This factory served as [Redacted] “West Coast operation center.” [Redacted] stated that this facility would “shorten the time-to-market” of its products and would “reduc[e] production lead times.”⁹ [Redacted] used this Idaho factory for assembling, warehousing, and shipping its products. [Redacted] maintained the Idaho factory through the Petitioner’s 2010 sale of [Redacted].

⁴ Petitioner’s federal income tax return attached the Idaho return lists two shareholders: [Redacted] and a minority interest held by a grantor-retained annuity trust organized by [Redacted].

⁵ Taxable year 2010 Federal form 1120S, page one, Petitioner changed its name to [Redacted] Industries, Inc. in 2010, see Commonwealth of Virginia, State Corporation Commission, Office of the Clerk, document [Redacted] dated [Redacted] 2010.

⁶ Taxable year 2010 Federal form 1120S, page 1.

⁷ [Redacted] December 31, 2009 and 2008 Consolidated Financial Report, page 7, Note 1.

⁸ Exhibit A attached to letter dated November 10, 2014, submitted by Petitioner’s representative.

⁹ [Redacted] press release dated May 24, 2007.

For taxable years 2004 through 2009, **[Redacted]** passed through its income to Petitioner who paid Idaho tax on behalf of **[Redacted]**.¹⁰ From 2004 through 2009, Petitioner treated the income generated by **[Redacted]** as Petitioner’s business income.

In 2010, **[Redacted]** directed Petitioner to sell its interest in **[Redacted]** for a net gain of nearly \$120 million. Of this income, Petitioner attributed nearly all of the gain to goodwill. Despite its history of treating income derived from **[Redacted]** as business income, Petitioner—when applying the allocation and apportionment provisions found in Idaho Code § 63-3027—treated the income it derived from the sale of **[Redacted]** as nonbusiness income and did not include the income in its calculation of Idaho taxable income.¹¹ Likewise, Petitioner excluded the receipts related to the sale of **[Redacted]** from its Idaho apportionment factor calculation.

For taxable year 2010, Audit primarily reviewed Petitioner’s treatment of income and receipts from its sale of **[Redacted]**. Audit also adjusted Petitioner’s Idaho sales factor numerator to include the amount of **[Redacted]** out-of-state sales that should be “thrown back” to Idaho and treated as Idaho sales. Audit required Petitioner to include a substantial amount of sales **[Redacted]** made to other states as Idaho sales. On March 27, 2015, Audit issued a Notice of Deficiency Determination (Notice) to Petitioner for the 2010 taxable year. Then, on May 27, 2015, Petitioner filed a timely protest of the Notice.

III. LAW AND ANALYSIS

A. Because Petitioner Transacted Business In Idaho Through Its Subsidiary, **[Redacted], It May Be Taxed By Idaho.**

¹⁰ Petitioner’s Idaho income tax returns for taxable years 2004 through 2009.

¹¹ Unless otherwise indicated, references to the Idaho Code refers to the Idaho Code in existence for taxable year 2010.

Petitioner is taxable in Idaho because it transacted business in the state through its ownership interest in **[Redacted]** . A business transacts business in Idaho when it owns or leases any property located in Idaho or engages in any activity in Idaho for the purpose of producing “economic or pecuniary gain or profit.”¹² By rule, any corporation that is a partner in a partnership transacting business in Idaho is itself transacting business in Idaho even if the corporation has no other contact with Idaho.¹³ The use of the word “partnership” in this rule includes any organization, such as a limited liability company, treated as a partnership under the internal revenue code.¹⁴ Thus, a corporation with an ownership interest in a limited liability company treated as a partnership is transacting business in Idaho if that limited liability company is transacting business in Idaho.

[Redacted] was transacting business in Idaho. It leased property in Idaho and engaged in the assembling, warehousing, and shipping of its products from Idaho. **[Redacted]** was a limited liability company treated as a partnership under federal and Idaho law. Petitioner held an ownership interest in **[Redacted]** . Therefore, Petitioner is taxable in Idaho because it, a corporation, was a partner in a partnership transacting business in Idaho.

B. It Is Proper To Assess Tax On Petitioner And Not On [Redacted] Directly, As Petitioner Was Responsible For The Tax Liability In The Taxable Years.

Petitioner was directly responsible to pay tax in Idaho during the years at issue in this case. While it is common for the shareholders of S corporations to be directly responsible to pay income tax, for taxable years prior to 2011, a shareholder may elect to have the S corporation pay the tax on his behalf.¹⁵ In addition, and in cases where the shareholder fails to make an election and does

¹² Idaho Code § 63-3023(a).

¹³ IDAPA 35.01.01.620.02 (2017)

¹⁴ Idaho Code § 63-3006A.

¹⁵ Idaho Code § 63-3022L (1).

not report or pay the tax himself, the S corporation is responsible to report and pay the tax.¹⁶

For taxable year 2010, Petitioner was responsible to report and pay income tax. [Redacted] did not make the election to have Petitioner report his Idaho income. Likewise, he did not file an Idaho nonresident individual income tax return or pay the Idaho tax for taxable year 2010. As such, it was Petitioner's responsibility to report and pay the income tax resulting from the 2010 sale of [Redacted]. Thus, it is appropriate for the Commission to assess the tax on Petitioner.

C. The Income Petitioner Derived From Its Sale Of [Redacted] Is "Business Income" Which Is Taxable And Apportionable In Idaho.

The income Petitioner derived from its sale of [Redacted] is "business income" and is apportionable and taxable in Idaho. Business income is income that arises from "transactions and activity in the regular course of the taxpayer's trade or business."¹⁷ Business income is defined to include "income from the . . . disposition of . . . intangible property when such . . . disposition constitutes integral or necessary parts of the taxpayer's trade or business operations."¹⁸

Idaho's Income Tax Rules specify two tests for determining if income is business income. The first test is the "transactional" test. Under this test "income arising from transactions and activity in the regular course of the taxpayer's trade or business" is business income.¹⁹ The second test is the "functional" test. Under this test, "income from tangible and intangible property" is business income "if the acquisition, management or disposition of the property constitutes an integral or necessary part of the taxpayer's regular trade or business operations."²⁰ These rules mirror the Idaho Supreme Court's decision in *Union Pacific Corporation v. Idaho State Tax Commission*

¹⁶ Idaho Code § 63-3022L (3).

¹⁷ Idaho Code § 63-3027(a)(1).

¹⁸ Idaho Code § 63-3027(a)(1).

¹⁹ IDAPA 35.01.01.332.01 (2017).

²⁰ IDAPA 35.01.01.333.01 (2017).

setting forth these tests as “two separate and independent definitions of business income.”²¹

Under the functional test, there is no requirement that the income arise from transactions and activities in the regular course of the taxpayer’s trade or business.²² Rather, the key determination is whether the disposition of the property was directly connected with the taxpayer’s business operations. Property not directly connected to the taxpayer’s business operations does not generate business income.

When analyzing the sale of an ownership interest under the functional test, the important question is whether the sold interest was directly connected with the taxpayer’s business activity or whether it was merely a passive investment. In other words, did the ownership interest serve “an operational function” or an “investment function?”²³

The Idaho Supreme Court has ruled that an ownership interest serves an operational function and is business income when there is a “direct relationship between the underlying asset and the taxpayer’s trade or business.”²⁴ Alternatively, as stated in Idaho’s rules, income arising from the sale of an ownership interest is business income if that ownership interest served “an integral, functional, or operative component” to the taxpayer’s business.²⁵ Ultimately, income derived from the sale of an ownership interest is business income if it is more than a mere return on a passive investment.

In this matter, Petitioner’s sale of its ownership interest in **[Redacted]** satisfies the functional test as **[Redacted]** was not just an integral component of Petitioner’s business, it was Petitioner’s business. **[Redacted]** repurposed Petitioner specifically to hold his controlling

²¹ *Union Pacific Corp. v. Idaho St. Tax Comm.*, 136 Idaho 34, 39, 28 P.3d 375, 380 (2001).

²² *Union Pacific*, 136 Idaho at 39, 28 P.3d at 380.

²³ *Id.* at 788.

²⁴ *American Smelting & Ref’g Co. v. Idaho St. Tax Comm.*, 99 Idaho 924, 933, 592 P.2d 39, 48 (1979), rev’d on other grounds, *ASARCO Inc. v. Idaho State Tax Commission*, 458 U.S. 307, 102 S.Ct. 3103 (1982).

²⁵ IDAPA 35.01.01.333.08 (2017). See also IDAPA 35.01.01.333.05 (2017).

interest in **[Redacted]**.²⁶ **[Redacted]** was the sole owner of Petitioner and its president and directed it in the business of producing and selling **[Redacted]** gear.²⁷ After Petitioner transferred its assets to **[Redacted]** remained the sole shareholder and president of Petitioner and was the majority owner, president, and CEO of **[Redacted]** where he continued to direct the business of producing and selling **[Redacted]** gear.²⁸ **[Redacted]** even made sure to form **[Redacted]** under a name similar to Petitioner's original name. Petitioner's business was the operation of **[Redacted]**; as such, there was a direct relationship between Petitioner's ownership interest and Petitioner's business.

Additionally, regardless of the close operational ties between the two enterprises, the asset still served an operational function in Petitioner's business. The income Petitioner derived from its ownership interest in **[Redacted]** drove Petitioner's bottom line. Nearly all of the income or losses Petitioner produced came from its ownership of **[Redacted]**. Thus, Petitioner's ownership interest in **[Redacted]** was not merely a passive investment. It was an integral component of Petitioner's business. Therefore, the gain Petitioner received from **[Redacted]** sale is business income under Rule 333.²⁹

Ultimately, the Commission is not convinced that Petitioner's ownership interest in **[Redacted]** was a mere passive investment. **[Redacted]** decision to create Petitioner, a shell company, to hold his business should not transmute the income from the sale of **[Redacted]** from business income to non-business income. Accordingly, the Commission finds Audit to be correct in treating the gain on the sale of Petitioner's ownership interest in **[Redacted]** as

²⁶ While Petitioner also held an interest in a real estate holding company, it is undisputed that its primary business purpose was to own **[Redacted]**.

²⁷ Letter dated November 14, 2014, submitted by Petitioner's representative.

²⁸ Id. attached Exhibit A.

²⁹ IDAPA 35.01.01.333.05.(2017)

business income subject to apportionment.

D. Under Standard Apportionment, Receipts From The Sale Of [Redacted] Should Be Included As “Idaho Sales” In Petitioner’s Sales Factor.

Because the gain from Petitioner’s sale of [Redacted] is business income, Idaho may tax its apportioned share of the income. Typically, when a taxpayer sells a pass-through business entity that has “operational assets located in Idaho,” Idaho includes the receipts relating to the sale in the Idaho sales factor numerator and denominator. The portion of the receipts included in the Idaho sales factor numerator is determined by using the percentage of the sold entity’s “total real and tangible personal property located in Idaho at the time of the sale.”³⁰ However, in this case Petitioner and the Commission agree that an alternative apportionment method should be used to fairly reflect Petitioner’s Business activity in Idaho. As such, while the income derived from the sale of [Redacted] is apportionable income with the related receipts required to be included in the sales factor, the Commission is not applying the standard apportionment formula methodology. Instead, it will apply the alternative apportionment method, which results in a reasonable means of apportioning Petitioner’s income as discussed in greater detail below.

E. Under Standard Apportionment, Petitioner’s Throwback Sales Should Be Included As “Idaho Sales” In Petitioner’s Sales Factor.

During an audit of [Redacted], Audit requested additional information to verify that sales shipped from Idaho to locations outside of Idaho should not be treated as Idaho sales. However, [Redacted] was unable to provide this information. Since [Redacted] failed to supply adequate documentation, Audit estimated the Idaho throwback sales amount based on the prior year audited sales figures. Audit included Petitioner’s share of [Redacted] estimated

³⁰ IDAPA 35.01.01.570.01.b (2017)

throwback sales in Petitioner's Idaho sales factor numerator. However, and as discussed below, the Commission is not requiring Petitioner to include these throwback sales in its Idaho sales factor numerator under alternative apportionment.

F. The Commission Requires The Use Of The Alternative Apportionment Method.

Idaho law permits a taxpayer to request, or the Commission can require, the use of an alternative means of apportioning income where standard apportionment produces "incongruous results".³¹ The party petitioning to use an alternative approach bears the burden of "show[ing] that the . . . [standard] formula does not accurately reflect the taxpayer's business in the State."³²

The Idaho Supreme Court has articulated that a departure from the standard apportionment formula should be avoided except where reasonableness requires a departure.³³ The Court noted, "It must . . . be established that statutory apportionment does not adequately reflect business activity, not merely that it does not adequately reflect income earned in the state."³⁴ In sum, the party requesting alternative apportionment must demonstrate that standard apportionment results in a sufficient distortion of business activity in the state; simply advocating for a method other than the standard formula is not enough.³⁵

In the present matter, the Commission and Petitioner agree that the standard apportionment formula would not fairly reflect their business activity in Idaho. Since applying standard apportionment to Petitioner's facts for taxable year 2010 would produce incongruous results, it is appropriate to apply an alternative method of apportioning Petitioner's income to reflect fairly its

³¹ Idaho Code § 63-3027(s). IDAPA 35.01.01.560 (2017).

³² *Union Pacific Corp. v Idaho State Tax Commission*, 139 Idaho 572, 83 P.3d 116 (2004).

³³ *Id.* at 577, 83 P.3d at 121, citing *Pierce, The Uniform Division of Income for State Tax Purposes*, 35 TAXES 747, 781 (1957).

³⁴ Emphasis added. *Id.* at 577, 83 P.3d at 121 citing *Twentieth Century-Fox Film Corporation v. Dep't of Revenue*, 700 P.2d 1035, 1042, (1985).

³⁵ *Id.* at 122, 83 P.3d at 578, citing *Appeal of New York Football Giants*, (Opinion on Pet. Rhg., Calif. St. Bd. of Equalization, June 28, 1979).

business activity in Idaho. Accordingly, the Commission requires Petitioner to use the reasonable alternative apportionment method as set forth below.³⁶ The Commission notes that this method does not need to be the most reasonable method and the Commission does not have to show that its alternative apportionment method is “more reasonable than any competing method.”³⁷ The Commission’s alternative apportionment method modifies the standard apportionment calculation of Petitioner’s property and sales factor, leaving the payroll factor as calculated under standard apportionment.

1. Idaho Property Factor

Since under standard apportionment, the property factor excludes goodwill, the Commission modifies the Idaho property factor as stated on the Notice, to include the value of goodwill, reflected as follows:³⁸

- Property Factor Numerator: includes 12% of the fair market value of goodwill; the modification increases the Idaho property numerator from \$15,621,425 to \$29,766,220.
- Property Factor Denominator: includes fair market value of goodwill; the modification increases the property denominator from \$38,059,391 to \$155,932,684.³⁹

The Commission did not have information available that would allow the Commission to identify the periods that resulted in the creation of goodwill or in what state. Using the Idaho apportionment reported on Petitioner’s Idaho return as filed, the average Idaho apportionment percentage for taxable years 2005 through 2010 was 11.4381%.⁴⁰ Using the Idaho apportionment reported on the **[Redacted]** Idaho return as filed, the average Idaho apportionment

³⁶ The alternative method a state requires a taxpayer to use does not have to be the method requested by a taxpayer. *Media Gen. Commc’ns, Inc. v. S.C. Dep’t of Revenue*, 388 S.C. 138, 151, 694 S.E.2d 525, 531–32 (2010).

³⁷ *Carmax Auto Superstores W. Coast, Inc. v. S.C. Dep’t of Revenue*, 411 S.C. 79, 88, 767 S.E.2d 195, 199 (2014).

³⁸ See **Table 4** attached to the end of this decision.

³⁹ Petitioner provided the value used in the property factor denominator in Exhibit 2 of letter provided by Petitioner’s representative dated February 27, 2015.

⁴⁰ See **Table 3** at the end of this decision for the Idaho apportionment factor per year.

percentage during that same period was 12.3297%.⁴¹ To determine the amount of the goodwill included in the Idaho property factor numerator for purposes of alternative apportionment, the Commission simply used 12%. Had the Commission included throwback sales in the determination of the Idaho sales factor percentage for taxable years 2007 through 2010, the averaged Idaho sales factor percentage for the six-year period would increase substantially.

2. *Idaho Sales Factor Modification*

Based on alternative apportionment, the Commission modifies the Idaho sales factor numerator in two ways. First, the Commission removes the \$10,886,866 of throwback sales, leaving the \$46,042 in sales of tangible personal property to Idaho customers. Second, the Commission reduces the \$80,141,317 of receipts used in the Notice's Idaho sales factor numerator relating to the sale of **[Redacted]** to \$17,254,388. The \$17,254,388 figure was arrived by taking 12% (see discussion above regarding the use of 12%) times \$143,786,567 (\$120,451,369 of goodwill receipts plus \$23,335,198 of other receipts from the sale of **[Redacted]**). The Commission's net modifications to the Idaho sales factor numerator reduces the Idaho sales factor numerator from \$91,074,225 to \$17,300,430.⁴²

The Commission modifies the Idaho sales factor denominator by limiting the \$129,824,293 of receipts associated with the sale of goodwill to \$120,451,369 (\$129,824,293 times the 92.7803 gross profit percentage).⁴³ The modification reduces the Idaho sales factor denominator by \$9,372,924 (the difference between \$129,824,293 and \$120,451,369) and better matches the receipts with the taxable year that the gain was reported. The modified total everywhere sales factor denominator is \$159,319,774 (168,692,698 less \$9,372,924).⁴⁴

⁴¹ See **Table 3** at the end of this decision for the Idaho apportionment factor per year.

⁴² See **Table 4** at the end of this decision.

⁴³ Federal Form 6252, Installment Sale Income, line 19, attached to Petitioner's 2010 Idaho income tax return.

⁴⁴ See **Table 4** at the end of this decision.

3. *Alternative Apportionment vs Standard Apportionment Percentages*

The following table identifies the impact the Commission’s alternative apportionment method has on Audit’s standard apportionment determination:⁴⁵

TABLE 1: ALTERNATIVE APPORTIONMENT PERCENTAGE COMPARISON

| Description | (A) Taxpayer’s Idaho Return | (B) Audit’s Notice | (C) Alternative Apportionment |
|----------------------------|-----------------------------------|--------------------------|-------------------------------------|
| Property factor | 41.0449% | 41.0449% | 19.0891% |
| Sales factor (doubled) | 0.5928% | 107.9764% | 21.7178% |
| Payroll factor | 13.0582% | 13.0582% | 13.0582% |
| Total Factor | 54.6959% | 162.0795% | 53.8651% |
| Divided by 4 | 4 | 4 | 4 |
| Idaho Apportionment Factor | 13.6740% | 40.5199% | 13.4663% |

Table 1 shows the Commission’s modifications to the property and sales factor is substantial. The Commission’s modifications reduce the Idaho apportionment percentage by two-thirds, resulting in an apportionment percentage lower than the percentage reported reflected on the Idaho return as filed and consistent with Petitioner’s average Idaho self-reported apportionment percentage (12%) for the tax period 2005 through 2010.

IV. CONCLUSION

The Commission finds that the gain on the sale of Petitioner’s ownership interest in **[Redacted]** is business income and that under standard apportionment the Idaho sales factor should include both the throwback sales and the receipts related to the sale of the LLC.⁴⁶ However, the Commission agrees with Petitioner that given Petitioner’s facts and circumstances for 2010, the use of standard apportionment—as determined in the Notice—results in an outcome that does not fairly reflect Petitioner’s business activity in Idaho. Therefore, the Commission finds

⁴⁵ See **Table 4** at the end of this decision.

⁴⁶ The sale of goodwill on the installment basis resulted in part of the gain recognized in 2011. The Commission makes no findings in this decision regarding Idaho’s jurisdiction to tax the gain recognized in 2011. If Audit issues a Notice for taxable year 2011 and Petitioner disagrees with Audit’s finding, Petitioner is free to timely protest Audit’s determination and request a redetermination at that time.

alternative apportionment appropriate in this case. The Commission requires Petitioner to use the alternative apportionment method set forth in this decision. The Commission's alternative method is appropriate, reasonable, and satisfies the guidelines set forth by the Idaho Supreme Court.

The Commission modifies and finalizes the Notice of Deficiency Determination issued on March 27, 2015.

The Commission ORDERS that Petitioner pay the following tax, penalty, and interest:

| <u>YEAR</u> | <u>TAX</u> ⁴⁷ | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|--------------------------|----------------|-----------------|--------------|
| 12/31/2010 | \$1,140,489 | \$-0- | \$283,031 | \$1,423,520 |

The Commission calculated the interest shown above through December 31, 2017.

The Commission now DEMANDS immediate payment of this amount.

An explanation of Petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____ 2017.

IDAHO STATE TAX COMMISSION

COMMISSIONER

⁴⁷ See Table 2 attached to the end of this decision.

[Redacted]

[Redacted]

[Redacted]

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2017, 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.
