

In the Matter of the Protest of

Petitioner.

## DECISION

the imported goods, or evidence as to why the use of such goods was exempt from tax. Petitioner declined to communicate with the Bureau via telephone, and instead submitted a notarized document indicating he was exempt from Idaho sales and use tax in accordance with the Fifth Amendment of the U.S. Constitution. The Bureau did not accept the exemption as described by Petitioner, and found the imported goods to be subject to Idaho use tax.

### **Petitioner's Protest**

Petitioner submitted several letters protesting the Notice; all letters received from Petitioner indicate he is seeking a declaratory order to determine if he is the person or object of the statute quoted in Title 63. Some of the letters also restate Petitioner's contention that he is exempt from Idaho sales and use tax, as the Fifth Amendment of the U.S. Constitution provides private property shall not be taken for public use without just compensation.

### **Relevant Tax Code and Analysis**

In Idaho, the sale, purchase, and use of tangible personal property is subject to tax unless an exemption applies. If sales tax cannot be, or is not, paid to the vendor, the buyer owes a use tax to the state. The sales tax and use tax rates are identical, and all states with a sales tax have a complementary or compensating use tax requirement. Payment of use tax extinguishes the sales tax obligation. Idaho Code §§ 63-3612 and 63-3621.

The Commission found none of Petitioner's arguments to have merit. Petitioner is identified by name and Social Security Number in the U.S. Customs reports, and the imported goods were shipped to a property in Idaho owned by Petitioner. Petitioner is a resident of Idaho, who possesses an Idaho driver's license and has submitted Idaho resident income tax returns. None of the correspondence received from Petitioner references the imported goods, and Petitioner has

presented no evidence to suggest the imported goods qualify for an exemption from sales tax or use tax.

### **Conclusion**

On appeal, a deficiency determination issued by the Commission “is presumed to be correct, and the burden is on the taxpayer to show that the Commission’s decision is erroneous.” *Parker v. Idaho State Tax Comm’n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010); *Albertson’s Inc. v. State Dep’t of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The Tax Commission requires Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, Petitioner did not provide adequate evidence. As a result, the Commission will uphold the Notice.

Absent information to the contrary, the Commission finds the Notice dated November 22, 2016, prepared by the Bureau to be a reasonably accurate representation of Petitioner’s use tax liability for the period May 2014 through December 2015.

The Bureau added interest and penalty to the sales tax and use tax deficiency. The Commission reviewed those additions, found both to be appropriate per Idaho Code §§ 63-3045 and 63-3046, and has updated interest accordingly. Interest is calculated through July 31, 2017, 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 November 22, 2016, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

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

<u>PERIOD</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
May 2014-December 2015	\$5,646	\$283	\$475	<u>\$6,404</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

## 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.

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