

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	
[Redacted])	DOCKET NO. 24645
)	
)	
Petitioner.)	DECISION

On September 19, 2011, 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]** (Petitioner), proposing sales tax, use tax, penalty, and interest for the period August 1, 2004, through July 31, 2005, in the total amount of \$2,118.

On November 18, 2011, Petitioner filed a timely appeal and petition for redetermination of the Notice. The Commission mailed a letter on March 8, 2012, informing Petitioner of his right to a hearing. Petitioner responded on May 30, 2012, but did not request a hearing. There was no further contact until the Commission wrote Petitioner on August 8, 2016, to again offer an informal hearing. No response was received from Petitioner, and the Commission sent another letter on September 26, 2016. Petitioner responded on September 29, 2016, and indicated he did not wish to hold a hearing. For the reasons that follow, the Commission upholds the audit findings.

Background and Audit Findings

Petitioner operated a tax preparation service during the audit period, and has never held a permit for sales or use tax. The Bureau's review was complicated by the lack of documentation provided by Petitioner during the audit. To date, Petitioner has not provided a complete set of business records. It should be noted that while the Bureau does not generally review personal financial records of the owners of a business when auditing a business, in this instance Petitioner

combined personal finances with business records and as a result, those records were subject to review in the audit. The Bureau was unable to conduct the audit utilizing a sample of the records provided, as requested by Petitioner, because Petitioner either redacted or failed to provide many of the business documents requested by the Bureau. Without a complete set of records to document the sales and use tax paid on Petitioner's business purchases, the Bureau issued a Notice based upon Petitioner's Schedule C as the most comprehensive information available regarding business purchases made by Petitioner.

Petitioner's Protest

In his protest dated November 18, 2011, Petitioner asked "how can he prove he paid sales tax when the invoices are long gone?" Petitioner also stated he "does not have an exemption certificate – how can he prove he does not have it?" Finally, Petitioner claimed that he "agreed to a statistical analysis of the invoices he does have," which would "all show the payment of sales tax."

Relevant Tax Code and Analysis

In Idaho, the sale, purchase, and use of tangible personal property are subject to tax unless an exemption applies. If sales tax is not paid to the vendor, the buyer owes a use tax to the state. The sales 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.

Pursuant to Idaho Code § 63-3624, the Commission is authorized to examine Petitioner's records, yet Petitioner did not allow the Commission access to the records requested.

Conclusion

On appeal, a deficiency determination issued by the Tax 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 prepared by the Bureau to be a reasonably accurate representation of Petitioner’s sales and use tax liability for the period August 1, 2004, through July 31, 2005.

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 §§ 63-3045 and 63-3046, and has updated interest accordingly. Interest is calculated through April 30, 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 September 19, 2011, 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>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$1,474	\$74	\$871	\$2,419

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

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.
