

questioned purchases; however, Petitioner did not provide this documentation. The Bureau held the questioned purchases taxable, and determined an error rate. The Bureau projected the error rate over the entire audit period.

The Bureau also examined Petitioner's fixed asset purchases. Petitioner provided invoices, a manual depreciation schedule for the period November 1, 2013, through December 31, 2015, and monthly purchase reports for the period January 1, 2016, through October 31, 2016. Some of Petitioner's invoices showed Petitioner paid sales tax during the audit period, while others did not. The Bureau also found many instances where the cost of the asset shown on the invoice did not correlate to the value of the asset shown on Petitioner's depreciation schedule or monthly report. Petitioner did not provide additional documentation to link these fixed asset purchases to the depreciation schedule or monthly report. The Bureau held these discrepancies taxable.

Petitioner's Protest

Petitioner protested fourteen line items in the Bureau's fixed assets schedule. Petitioner explained the reason it disputed each of the fourteen line items, and provided additional documentation for these items.

Petitioner and the Bureau agreed to the taxable portion for ten of the fourteen items protested. Of the four remaining items protested, the Bureau only held two of these line items taxable. Only these two line items remain for analysis.

Relevant Tax Code and Analysis

The sale of tangible personal property is subject to sales tax, and the storage, use, or other consumption in this state of tangible personal property is subject to use tax, unless an exemption applies to either, sections 63-3619 and 63-3621, Idaho Code.

The first line item protested was a CITI Card monthly report dated January 31, 2016.

Petitioner provided a document that seemed to be a screen shot of a credit card transaction for signage in the amount of \$2,775. The Bureau did not hold this transaction taxable because it appeared to be a duplicate of a transaction the Bureau already held taxable. Also, Petitioner provided documentation for the purchase of 3 Apple iPad minis with accessories totaling \$718.57. The Bureau held this purchase taxable because Petitioner did not provide evidence that the sales tax or use tax had been paid on this transaction. The Commission agrees that the Bureau correctly held the Apple transaction taxable, section 63-3621, Idaho Code.

The second line item protested was an American Express monthly report dated October 31, 2016. Petitioner provided an order summary from Restaurant Equipppers Inc. for a refrigerator purchased for \$4,345 plus shipping of \$457.91 for a total price of \$4,802.91. The Bureau held the refrigerator purchase taxable because Petitioner did not provide any evidence that sales tax or use tax had been paid on this transaction. The Commission agrees that the Bureau correctly held the refrigerator purchase for \$4,345 taxable, section 63-3621, Idaho Code. Petitioner provided an invoice from [Redacted] for \$6,667.65. The Bureau did not hold this transaction taxable because Petitioner purchased these items for resale and was exempt from tax, sections 63-3609 and 63-3612, Idaho Code.

In this case, Petitioner did not provide adequate records to establish the questioned assets' purchase prices or provide documentation to show sales or use tax was paid on these purchases, and Petitioner is required to keep adequate records for a period of four years, section 63-3624(c), Idaho Code. Therefore, the Commission found the Bureau correctly held these purchases subject to use tax, section 63-3621, Idaho Code.

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) (citing *Albertson's Inc. v. State Dep't of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). The Commission requires Petitioner to provide adequate evidence to establish that the amount asserted in the modified Notice is incorrect. Here, Petitioner did not provide adequate evidence. As a result, the Commission upholds the modified Notice.

Absent information to the contrary, the Commission finds the modified Notice prepared by the Bureau to be an accurate representation of Petitioner's use tax liability for the period November 1, 2013, through October 31, 2016.

The Bureau added interest and penalty to the use tax deficiency. The Commission reviewed those additions, found both to be appropriate per sections 63-3045 and 63-3046, Idaho Code, and has updated interest accordingly. Interest is calculated through September 30, 2018, and will continue to accrue at the rate set forth in section 63-3045(6), Idaho Code until paid.

THEREFORE, the Modified Notice, dated September 8, 2017, 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>
\$26,627	\$1,331	\$3,232	\$31,190

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 _____, 2018.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2018,
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.
