

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	
[Redacted])	DOCKET NO. 1-639-842-816
)	
Petitioner.)	DECISION
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On July 11, 2017, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to [Redacted] (Petitioner), proposing use tax, penalty, and interest for the period January 1, 2016, through January 31, 2016, in the total amount of \$5,069.

On October 8, 2017, Petitioner filed a timely appeal and petition for redetermination of the Notice. The Commission sent hearing rights letters to Petitioner on July 18, 2018, and August 20, 2018. No response was received from Petitioner.

Having reviewed the audit file, the Commission hereby upholds the Notice.

Background and Audit Findings

In late 2010, Petitioner purchased a [Redacted] from a private party outside Idaho. The vessel is documented by the United States Coast Guard, and therefore is exempt from state registration requirements. According to Petitioner, he brought the vessel into Idaho sometime during 2011.

In January 2016, the Bureau received information from the United States Coast Guard that Petitioner's vessel was in Idaho. The Bureau sent a questionnaire to Petitioner in April 2017, requesting additional information regarding the purchase of the vessel. Petitioner responded in May 2017. After a series of correspondence with Petitioner, the Bureau held Petitioner's purchase of the vessel subject to use tax.

Petitioner's Protest

Petitioner contends that no sales tax or use tax is due on the vessel because the vessel is documented with the United States Coast Guard, and therefore cannot be registered with the State of Idaho. Even if his purchase of the vessel was taxable, Petitioner asserts the statute of limitations has expired for the Bureau to assess the tax and interest shown on the Notice.

Relevant Tax Code and Analysis

Idaho Code § 63-3621 imposes a use tax at the rate of 6 percent of the sales price of tangible personal property stored, used, or otherwise consumed in Idaho. The tax is due unless the purchaser pays sales tax to the vendor or an exemption applies.

Petitioner's protest indicates he brought the vessel and its trailer into Idaho during 2011, and attempted to register and pay tax on both the vessel and the trailer at the Department of Motor Vehicles (DMV). Petitioner states:

I made no attempt to conceal my purchase from a private owner and in fact paid tax on the boat trailer (which is registered). DMV said that since the boat was not registered there was no way to pay the tax.

In this statement, Petitioner acknowledges tax was due on the vessel. Petitioner has provided no evidence to indicate any exemption applies to Petitioner's purchase of the vessel. The Commission finds Petitioner's purchase of the vessel is subject to use tax.

Petitioner asserts that because he purchased the vessel from a private party and was unable to register the vessel with the State of Idaho, there was no available avenue for him to remit the tax due. In his protest, Petitioner states "The law is specific in a way that does not provide for a private individual to pay sales tax on a private sale of a non-registered motorized vehicle or watercraft." Petitioner's statement is incorrect. Idaho Code § 63-3623(d) states in pertinent part:

For the purposes of the use tax, a return shall be filed... by every person purchasing tangible personal property, the storage, use, or

other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax.

The Commission maintains Form 850-U, *Idaho Self-Assessed Use Tax Worksheet and Return*, for individuals to file on purchases of this nature. In this instance, Petitioner had an obligation to file the Form 850-U on or before the twentieth day of the month following the month Petitioner first brought the vessel into Idaho. Idaho Code § 63-3623(c).

Even assuming the DMV somehow gave Petitioner inaccurate guidance, which the Commission does not determine here, regarding Form 850-U or the option of reporting and paying the use tax on his individual income tax returns, the only relief for a government official giving inaccurate guidance in a situation such as this is relief from an imposed penalty. *Ryder v. Idaho State Tax Com'n*, 939 P.2d 564, 568–69, 130 Idaho 245, 249–50 (Idaho,1997). No penalty was imposed here and so the Commission does not address this issue further.

Finally, Petitioner contends the statute of limitations expired prior to the Bureau issuing a Notice for tax and interest due. Idaho Code § 63-3633(a) provides in part:

The amount of taxes imposed by this chapter shall be assessed within three (3) years after the due date of the return or the date the return was filed, whichever is the later, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period...

However, Idaho Code § 63-3633(c) states:

In the case of taxes owed by a person who has failed to file a return as provided in section 63-3623, Idaho Code, the amount of taxes imposed in this chapter shall be assessed within seven (7) years of the time the return upon which the tax asserted to be due should have been filed.

Petitioner did not file a return; therefore, the statute of limitations for the Bureau to assess the use tax due is seven years. Petitioner claims he brought the vessel into Idaho sometime during

2011; therefore, the earliest date the statute of limitations could expire is February 21, 2018. The Commission finds the Bureau issued the Notice in a timely manner.

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 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 tax and use tax liability for the period January 1, 2016, through January 31, 2016.

The Bureau added interest to the use tax deficiency. The Commission reviewed this addition, found it to be appropriate per Idaho Code § 63-3045, and has updated interest accordingly. Interest is calculated through December 31, 2018, 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 July 11, 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>
\$4,800	\$0	\$504	<u>\$5,304</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 _____, 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.
