

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 1-522-329-600
[Redacted]	)	
	)	
Petitioner.	)	DECISION
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On August 30, 2017, 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 May 1, 2013, through April 30, 2016, in the total amount of \$29,946. After the Notice was issued, Petitioner submitted additional documentation regarding some of the items held taxable in the audit. The Bureau reviewed these documents, and determined an adjustment was appropriate. The Notice was modified, and now reflects a total amount due of \$5,087.

On October 24, 2017, Petitioner filed a timely appeal and petition for redetermination of the Notice. At Petitioner’s request, the Commission held an informal hearing on October 11, 2018. The Commission is fully advised of the contents of the audit file as well as information obtained at the hearing, and hereby issues its decision upholding the Notice as modified.

**Background and Audit Findings**

Petitioner is a retailer/wholesaler of irrigation supplies, landscape components, and wood stoves with three locations in Washington, and two locations in Idaho. Petitioner started its business in [Redacted]

The Bureau conducted a comprehensive audit to determine Petitioner’s compliance with Idaho sales tax and use tax laws. No use tax liability was found. Most of the audit liability is attributed to nontaxed sales of irrigation parts and supplies to customers from Petitioner’s [Redacted]

location. Many of Petitioner's customers in this area are contractors who provide sprinkler repairs to both Idaho and Washington clients. When Petitioner's customers buy items in bulk, they often don't know how the parts will ultimately be used. This is especially true of Washington jobs, as Washington law typically treats irrigation repairs and installation as a retail sale, with sales tax due on the cost of parts and labor for the job.

### **Petitioner's Protest**

Petitioner contends its customers should have the option to present a tax exemption certificate for all purchases, and later remit taxes directly to the Commission for any parts used in such a manner as to be subject to Idaho sales tax or use tax.

After the Notice was issued, Petitioner contacted its customers and requested they provide information regarding how the untaxed purchases were ultimately used, and document any sales tax or use tax remitted to the Commission or if any of the items held taxable were installed in Washington. The Bureau adjusted its workpapers to reflect the customer documentation provided, and this significantly reduced the Notice. Petitioner was notified of these adjustments, but elected to continue its protest in hopes the Commission would consider providing additional relief in light of Petitioner's efforts to cooperate with the audit.

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

Purchases of tangible personal property in Idaho are subject to tax unless an exemption applies. *See* Idaho Code § 63-3619.

With regards to exemption and resale certificates, Idaho Code § 63-3622 provides the following, in part:

- (a) To prevent evasion of the sales and use tax, it shall be presumed that all sales are subject to the taxes imposed by the provisions of this chapter and the retailer shall have the burden of establishing the facts giving rise to such exemption unless the

purchaser delivers to the retailer, or has on file with the retailer, an exemption or resale certificate. \* \* \*

(g) It shall be presumed that sales made to a person who has completed an exemption or resale certificate for the seller's records are not taxable and the seller need not collect sales or use taxes unless the tangible personal property or services purchased are taxable to the purchaser as a matter of law in the particular instance claimed on the exemption certificate.

Idaho Code § 63-3622.

IDAPA 35.01.02.128.05 provides that all exemption forms must be legible and include a date and specific identifying information of the purchaser, including signature. The ST-101 exemption forms must also state the claimed exemption and primary business of the purchaser.

IDAPA 35.01.02.128.07 provides that a retailer cannot rely upon an exemption certificate when the law does not provide an exemption from the tax for the purchaser, or when the exemption claimed by the retailer does not exempt the goods sold to the customer. The Bureau accepted the exemption certificate as valid on any item that could be used in an exempt capacity. The only items extended as taxable are those purchased by customers who did not complete an ST-101 form, and those items specifically excluded from the exemption claimed on the certificate as a matter of law. Petitioner has not provided any evidence to the Commission that the remaining purchases held taxable by the Bureau should have qualified for an exemption.

### **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.” *See 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 as modified.

Absent information to the contrary, the Commission finds the Notice as modified by the Bureau to be a reasonably accurate representation of Petitioner's sales tax and use tax liability for the period May 1, 2013, through April 30, 2016.

The Bureau added interest to the sales tax and use tax deficiency. The Commission found this addition to be appropriate per Idaho Code § 63-3045, and has updated interest accordingly. Interest is calculated through May 31, 2019, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

THEREFORE, the modified Notice of Deficiency Determination dated August 30, 2017, is hereby APPROVED as MODIFIED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

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

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$4,687	\$708	\$5,395

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 \_\_\_\_\_ 2019.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2019,  
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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