

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-004-924-416
	)	
Petitioner.	)	DECISION
<hr style="width: 45%; margin-left: 0;"/>	)	

(Petitioner) protested the Notice of Deficiency Determination (Notice) dated June 28, 2023, for the period of June 1, 2021, through October 31, 2021, (Audit Period). The Idaho State Tax Commission (Tax Commission), having reviewed the file, hereby upholds the Notice.

**BACKGROUND**

The Tax Discovery Bureau (Bureau) received information from U.S. Customs about Petitioner importing three aluminum articles into Idaho from \_\_\_\_\_ with a reported value of \$50,040. The Bureau determined the aluminum articles may be subject to tax and sent a letter on May 10, 2023, requesting information. They asked for documentation showing proof of any of these three things: that sales or use tax had been paid to Idaho or another state; that the transactions qualified for an exemption from Idaho sales and use taxes; or that the aluminum articles had not been delivered into Idaho. Petitioner left a voicemail stating he had questions about the letter but did not respond when the Bureau called back offering assistance. After a month with no further response, the Bureau issued the Notice based on the reported amounts from the U.S. Customs information.

The Bureau received Petitioner’s protest letter on September 5, 2023. Petitioner argues that he is a resident of Alaska, and that Idaho sales tax does not apply to out-of-state residents. Along with the protest letter, Petitioner supplied letters from the Alaska Department of Administration

and the Alaska Department of Revenue stating that the state of Alaska does not charge a formal sales tax.

In addition, Petitioner does not agree with the Bureau's determination of the amount held taxable arguing, one of the items shown in the Notice is a duplicate and not an actual import. He mentions he could not find any purchase documents matching the amounts shown on the U.S. Customs report.

After sending a letter acknowledging the protest, the Bureau transferred Petitioner's file to the Tax Commission's Appeals unit (Appeals). Appeals attempted contacting Petitioner by phone on November 9, 2023, and November 13, 2023. They sent Petitioner a letter in early December 2023 outlining the options available for redetermining a protested Notice. Petitioner sent an email on January 5, 2024, requesting a phone conference before sending documentation. Appeals attempted contacting Petitioner by phone again on January 23, 2024; February 16, 2024; and March 15, 2024; leaving a voicemail each time. No conference was held, and no documentation has been received. Therefore, the Tax Commission renders its decision based on the information provided.

## **LAW & ANALYSIS**

The Tax Commission responds to the following matters as identified in Petitioner's protest: (1) Alaska does not charge sales tax, and therefore Idaho sales tax does not apply. (2) The amount held taxable is incorrect.

### **THE TAXABILITY**

Petitioner believes as a resident of Alaska, a state not charging a sales tax, they are only obligated to the laws of Alaska. It is true, Alaska does not charge a sales tax, however according

to the U.S. Customs report, Petitioner took possession of the aluminum articles valued at \$50,040 in Idaho. Idaho Code section 63-3619 states:

An excise tax is hereby imposed upon each sale at retail at the rate of six percent (6%) of the sales price of all retail sales subject to taxation under this chapter and such amount shall be computed monthly on all sales at retail within the preceding month.

The definition of a “sale” is contained in Idaho Code section 63-3612(1):

The term "sale" means any transfer of title, exchange or barter, conditional or otherwise, of tangible personal property for a consideration and shall include any similar transfer of possession found by the state tax commission to be in lieu of, or equivalent to, a transfer of title, exchange or barter.

In Petitioner’s case, the transfer of possession of the aluminum articles took place in Idaho and he has not provided any information to substantiate an exemption from tax.

#### THE CORRECT TAXABLE AMOUNT

The U.S. Customs report shows Petitioner imported three items, one on June 9, 2021 valued at \$19,160 and two items on October 25, 2021, both valued at \$15,440. Petitioner stated in his protest letter that he believes the \$15,440 amount is a duplicate as, “I have not found anything relating to those amounts in my documents going to Idaho.” Petitioner was given multiple opportunities to provide said purchase documentation but has failed to do so. IDAPA 35.01.02.111 provides guidelines for record keeping for such requested information:

**01. Records Required & Auditing of Records: In General.** Every retailer doing business in this state and every purchaser storing, using, or otherwise consuming in this state tangible personal property shall keep complete and adequate records as may be necessary for the State Tax Commission to determine the amount of sales and use tax for which that person is liable under Title 63, Chapter 36, Idaho Code. (3-30-01)

...

**04. Record Retention.** All records pertaining to the transactions involving sales or use tax liability shall be preserved for a period of not less than four (4) years. If an assessment has been made and an appeal to the State Tax Commission or any court is pending, the books and records relating to the period under appeal

by such proposed assessment must be preserved until final disposition of the appeal.  
(3-30-01)

**05. Examination of Records.** All of the foregoing records shall be made available for examination on request of the State Tax Commission or its authorized representatives. (3-30-01)

The Bureau did not receive the requested purchase documentation to reconcile the sales price on the aluminum articles reported by U.S. Customs. Therefore, as defined in Idaho Code section 63-3613(a):

The term "sales price" means the total amount for which tangible personal property, including services agreed to be rendered as a part of the sale, is sold, rented or leased, valued in money, whether paid in money or otherwise...

In this case, the "value" of the aluminum articles is the amount reported on the U.S. Customs report, and absent information to the contrary, is the taxable amount.

It is well settled that a Notice of Deficiency Determination issued by the Tax Commission is presumed to be accurate. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The burden is on Petitioner to show the deficiency is erroneous. *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). Petitioner has not provided sufficient legal argument or documentation to show that the Notice is incorrect.

## CONCLUSION

The Tax Commission reviewed the U.S. Customs report and determined Petitioner's import of aluminum articles is taxable, and Petitioner is responsible for the tax. The Tax Commission finds the Notice to be an accurate representation of Petitioner's tax liability for the Audit Period. Interest is calculated in accordance with Idaho Code section 63-3045(6).

THEREFORE, the Notice 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>
\$3,002	\$150	\$257	\$3,409

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

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2024,  
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:

Receipt No.

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