

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of

██████████

Petitioner.

DOCKET NO. 0-257-811-456

DECISION

██████████ (Petitioner) protested the Notice of Deficiency Determination (Notice) dated November 23, 2022, issued by the Sales, Use, and Miscellaneous Tax Audit Bureau (Bureau) for the period of October 1, 2017, through September 30, 2020, (Audit Period). The Idaho State Tax Commission (Tax Commission), having reviewed the matter, hereby upholds the Notice as modified by the Bureau.

BACKGROUND

Petitioner is located in ██████████ Idaho, and operates as a retailer and service provider of motorcycles, all-terrain vehicles, utility vehicles, snowmobiles, scooters, and other machinery designed for racing or recreational pleasure riding collectively referred to hereafter as “Recreational Vehicles.”

The Bureau contacted Petitioner to assess their compliance with Idaho sales and use tax laws. Petitioner responded, allowing the Bureau to review their sales invoices, repair orders, purchase invoices, and general ledgers. After their review, the Bureau found the following: 1) Non-taxed sales without exemption documentation, such as ST-101s. 2) Labor charges that were subject to sales tax. 3) Improperly calculated Manufacturer Rebates. 4) Nonexempt purchases where sales tax was not paid to the vendor at the time of purchase. Based on these findings, the Bureau issued a Notice, proposing additional sales tax due in the amount of \$95,648.

Petitioner protested the Notice, disagreeing with the Bureau's findings on all issues except the nonexempt purchases where sales tax was not paid to the vendor. Petitioner's protest contained the following arguments:

The Bureau made errors when they calculated the sales invoices and there are additional exemption certificates available for the Bureau's review.

- The Bureau's interpretation of Manufacturer Rebates and their treatment of such is incorrect.
- The labor charges on installation with the purchase of new accessories with the purchase of a new vehicle should be exempt retroactively before July 1, 2019.
- The imposition of the negligence penalty is not applicable.

The Bureau acknowledged Petitioner's protest and requested copies of the exemption certificates. After reviewing the additional certificates, the Bureau reduced the amount of sales subject to tax, corrected the calculation errors and sent Petitioner a modified Notice reflecting these adjustments. Despite the modifications, Petitioner maintained their objection to the Notice. As a result, the Bureau forwarded the matter to the Tax Commission's Appeals Unit (Appeals) for administrative review.

Appeals sent Petitioner a letter informing them of the options available for redetermining the Notice. Petitioner responded, requesting an informal hearing, which was held on January 13, 2025. During the informal hearing, Petitioner gave verbal testimony to support their arguments of the protested issues, but did not provide any additional documentation for consideration. After reviewing the matter, the Tax Commission hereby issues its decision.

LAW AND ANALYSIS

MANUFACTURER REBATES

In general, Petitioner's interpretations of Manufacturer Rebates is incorrect, based on IDAPA 35.01.02.51.01.b which defines a manufacturer rebate as "...a cash payment made by a manufacturer to a consumer who has purchased or is purchasing the manufacturer's product from the retailer." Specifically, each rebate demonstrates an example of the manufacturer providing a reduction on the sales price on behalf of the customer, paid by the manufacturer, not the dealer. In this matter, Petitioner breaks down these rebates into two categories: 1) Dealer Rebates 2) Customer Rebates

Dealer's Rebates

At the completion of each sale, Petitioner increased the recorded sales price by the amount of certain manufacturer rebates after calculating sales tax on a lower sales price. However, this practice conflicts with Idaho Code section 63-3613 which defines sales price and requires inclusion of the face value of manufacturer's discount coupons in the sales price. Therefore, Petitioner's accounting practice of adding the manufacturer's discounts back to the sales price, after calculating the sales tax does not comply with Idaho law.

Customer Rebates

Petitioner also allowed customers to use customer rebates offered by manufacturers with the purchase of a Recreational Vehicle as a down payment. However, Petitioner, deducted the manufacturer's discount from the taxable sales price. But that is only allowed pursuant to Idaho Code section 63-3613(b)(8) when purchasing a motor vehicle as defined in Idaho Code section 63-3605L. The Recreational Vehicles sold by Petitioner are not included in the definition of motor

vehicles set forth in Idaho Code section 63-3605L. Therefore, manufacturer's discounts are not deducted from the sale price of the Recreational Vehicles sold by Petitioner.

TAXABILITY OF ACCESSORY INSTALLATION LABOR PRIOR TO JULY 1, 2019

Petitioner argues that the enactment of Idaho Code section 63-3622OO demonstrates a legislative intent to exempt labor charges for accessory installation on new vehicles. Petitioner asserts such charges should be treated as exempt even for transactions occurring prior to the statute's effective date of July 1, 2019. However, this position is unsupported by the law. Statutory application is governed by the language enacted, not by presumed legislative intent. Idaho Code section 63-3622OO contains no retroactive provision, nor is there any legislative history indicating that the exemption was intended to apply to prior periods. Absent explicit retroactive language, newly enacted exemptions must be applied prospectively. Accordingly, labor charges incurred before July 1, 2019, remain subject to tax under the law in effect at that time. Therefore, under Idaho Code section 63-3613(a), the sales price for sales prior to July 1, 2019, includes services agreed to be rendered as part of the sale of tangible personal property, in this case accessories and their installation. Which is further reinforced with IDAPA 35.01.02.43.02. "Services Agreed to Be Rendered as Part of the Sale".

DISPUTE TO IMPOSED NEGLIGENCE PENALTY

The Tax Commission has reviewed the penalty assessed under Idaho Code section 63-3046 and IDAPA 35.02.01.41 and finds it applicable. The penalty assessment is based on Petitioner's failure to comply with Idaho sales and use tax laws, demonstrating a disregard for tax obligations, though without intent to defraud. Such negligence warrants the imposition of the penalty as outlined in the applicable statute and administrative rule. Accordingly, the penalty is upheld as a valid enforcement of Idaho's tax law.

CONCLUSION

The Bureau's review of Petitioner's sales and use tax compliance showed them as under collecting the sales tax due, and therefore under remitting the total amount of sales tax due. The Tax Commission requires Petitioner to provide adequate evidence to establish the amount asserted is incorrect. Petitioner was unable to provide additional information to support a reduction of the modified Notice. As a result, the Tax Commission upholds the modified Notice.

THEREFORE, the modified Notice of Deficiency Determination, directed to [REDACTED]

[REDACTED] is hereby AFFIRMED by this Decision 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>PREPAYMENTS</u>	<u>TOTAL</u>
\$56,168	\$2,809	\$8,667	(\$55,685)	\$11,958

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 _____ 2025.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2025,
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.


