

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

|                                 |   |                          |
|---------------------------------|---|--------------------------|
| In the Matter of the Protest of | ) |                          |
|                                 | ) | DOCKET NO. 0-418-564-096 |
| ██████████,                     | ) |                          |
|                                 | ) |                          |
| Petitioner.                     | ) | DECISION                 |
| _____                           | ) |                          |

On January 16, 2020, the Sales, Use and Miscellaneous Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to ██████████ (Petitioner), proposing sales tax, use tax, and interest for the period of January 1, 2016, through July 31, 2018, in the total amount of \$24,613.

On February 12, 2020, Petitioner filed a timely appeal and petition for redetermination of this Notice. On April 16, 2020, the Commission sent Petitioner a hearing rights letter. Petitioner responded and requested an informal hearing. The informal hearing was held August 26, 2020 by telephone. In the hearing, Petitioner indicated he would be submitting a settlement offer. No offer was received and on September 23, 2020, a follow up email was sent to Petitioner. Petitioner responded with a settlement offer due to economic hardship. The Commission reviewed the case file and upholds the Notice for the following reasons.

**Background and Audit Findings**

Petitioner operates a small family owned business located in ██████████ Idaho that he purchased from a family member. Petitioner provides dumpster rental and service as well as residential trash collection.

The Bureau conducted a comprehensive audit of the Petitioner’s business to determine its compliance with Idaho’s sales and use tax laws and rules. The Bureau’s examination found that sales tax wasn’t collected on the rental of trash containers and use tax wasn’t paid on some purchases.

Petitioner was unaware of the taxability of the trash container rental and didn't have an Idaho sales tax permit. The Bureau advised Petitioner on how to properly charge sales tax. In response, Petitioner obtained a permit and began collecting and remitting Idaho sales tax.

### **Petitioner's Protest**

In the protest, Petitioner didn't contest the amount of tax owed but requested a first time/one-time exception or waiver of all or at least a portion of the tax due. Petitioner raised no factual or legal basis for his protest.

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

In Idaho, the sale of tangible personal property is subject to tax unless an exemption applies (Idaho Code § 63-3619). Idaho Code § 63-3619(a) specifies that the tax shall apply to, be computed on, and collected at the time the rental is charged.

Purchases of tangible personal property in Idaho are subject to tax unless an exemption applies. (Idaho Code § 63-3619). Idaho Code § 63-3621 imposes a use tax on the storage, use or other consumption of tangible personal property in Idaho. Payment of sales tax to a vendor extinguishes the use tax liability. Therefore, purchases subject to use tax are only taxable when the purchaser buys goods without paying tax to the seller at the time of sale.

Petitioner does not contest the authority of the Commission to assess sales tax on Petitioner's rental of trash containers and use tax on purchases. He also does not contest the amount of sales tax, use tax and interest that he owes as determined by the Bureau. Petitioner filed his protest to request a first time/one-time exception or waiver of all or a portion of the tax due. However, as there is no issue of disputed liability, the Commission finds that the Notice properly reflects the amount of sales and use tax due.

**Conclusion**

The Commission finds the Notice to be an accurate representation of Petitioner’s sales tax and use tax liability for the period January 1, 2016, through July 31, 2018, and therefore upholds the Notice.

The Bureau added interest to the sales tax and use tax deficiency. The Commission reviewed this addition and finds it is appropriate per section 63-3045, Idaho Code, and updated interest accordingly. Interest is calculated through December 31, 2020 and will continue to accrue at the rate set forth in section 63-3045(6), Idaho Code, until paid. No penalty was assessed.

THEREFORE, the Notice of Deficiency Determination dated January 16, 2020, 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 and interest:

|            |                 |              |
|------------|-----------------|--------------|
| <u>TAX</u> | <u>INTEREST</u> | <u>TOTAL</u> |
| \$22,114   | \$4,253         | \$26,367     |

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 \_\_\_\_\_ 2020.

IDAHO STATE TAX COMMISSION



**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2020,  
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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