

In the Matter of the Protest of

Petitioner.

## DECISION

amount of sales tax Petitioner charged and collected on each invoice and issued a Notice based on this amount.

Petitioner's representative, [REDACTED] (Representative) protested the Notice, arguing two issues: (1) Petitioner is not a retailer, so the responsibility to remit tax is not on them. (2) the Bureau's calculation of interest should not start accruing until the date of delivery. The Bureau reviewed Petitioner's protest and made no adjustments to the Notice based on their assertions. The Bureau then forwarded the case to the Tax Commission's Appeals Unit (Appeals) for administrative review. Appeals sent Petitioner a letter discussing the options available for redetermining a Notice. Petitioner responded but neglected to schedule an informal hearing and did not provide any additional information to substantiate their claims. Over time, Petitioner ceased to communicate with Appeals. Therefore, the Tax Commission renders its decision based on the information available.

### **LAW AND ANALYSIS**

Retailers in Idaho are sellers of tangible personal property. Idaho Code section 63-3610 defines a retailer as:

(a) Every seller who makes any retail sale or sales of tangible personal property and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

(c) Every person making more than two (2) retail sales of tangible personal property during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy, or every person making fewer sales who holds himself out as engaging in the business of selling such tangible personal property at retail or who sells a motor vehicle.

(d) When the state tax commission determines that it is necessary for the efficient administration of this act to regard any salesmen, representatives, peddlers, or canvassers as agents of the dealers, distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on

their own behalf or on behalf of such dealers, distributors, supervisors, or employers, the state tax commission may so regard them and may regard the dealers, distributors, supervisors, or employers as retailers for the purpose of this act.

(e) Persons conducting both contracting and retailing activities. Such persons must keep separate accounts for the retail portion of their business and pay tax in the usual fashion on this portion.

In the present matter, Petitioner's actions match the statutory definition of a "retailer," they bought and sold tangible property as evidenced by the invoices they provided. Petitioner provided no information to show they are purchasing agents.

Petitioner's argument related to the calculation of interest, while novel, is not supported by Idaho Code section 63-3624(h) which states:

When the tax commission determines that a retail sale is not exempt and the purchaser has failed to voluntarily pay sales or use tax in regard to the property or services purchased, the tax commission may collect the sales tax which was due at the time of the sale or the use tax due at the time of storage, use or other consumption of the taxable goods or services by issuing to the purchaser a notice of deficiency determination, asserting tax together with interest, at the rate provided in section 63-3045, Idaho Code, and may assert penalties found elsewhere in this chapter.

### **CONCLUSION**

In Idaho it is well established that a Tax Commission Notice "is presumed to be correct, and the burden is on the taxpayer to show that the Tax 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)). Petitioner has not met their burden. Therefore, the Tax Commission finds the Notice is correct. Interest is calculated at the rate set forth in Idaho Code section 63-3045(6) until paid.

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>
\$3,851	\$193	\$850	\$4,894

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.

[REDACTED]

\_\_\_\_\_  
\_\_\_\_\_

[REDACTED]