



The Bureau reviewed the information submitted by Petitioner but needed more documentation to determine Petitioner's entitlement to the requested refund. The Bureau asked Petitioner to provide a report of their sales tax accruals for 2018 and 2019, a copy of the contracts outlining the work conducted on the sales invoices, and documentation showing they refunded the tax collected to Customer per Sales Tax Rule 105.056.c. Petitioner responded, providing only their sales tax accruals for 2018 and 2019. The Bureau reviewed this information and found that Petitioner collected more tax than they reported and remitted to the state. Additionally, the documentation that Petitioner did provide demonstrated that at least some of the amounts Petitioner claimed were charges for labor were in fact charges for materials, or fabrication labor that are taxable.

The Bureau, lacking adequate documentation to approve the refund, issued the Notice. Petitioner's attorneys in fact, [REDACTED] [REDACTED] and [REDACTED] [REDACTED] (Representatives) filed a timely protest of the Notice, asserting the refund denial is incorrect for the following reasons: (1) Petitioner properly reported and remitted sales tax through monthly tax returns corresponding to the sales of tangible personal property. (2) Petitioner intends to refund Customer once they receive payment from the Tax Commission.<sup>2</sup> (3) Labor and installation charges are non-taxable, and Petitioner has identified transactions where they collected tax on separately stated charges for labor and installation. (4) There are additional non-taxable or exempt items and services that were not addressed with the Bureau.

The Bureau acknowledged Petitioner's protest and forwarded the case to the Tax Commission's Appeals Unit (Appeals) for administrative review. Appeals sent Petitioner a letter

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<sup>2</sup> Petitioner provided a copy of a promissory note to [REDACTED] [REDACTED] which states their intent to refund the sales tax they collected.

informing them of the options available for redetermining a Notice. Representatives responded, requesting an informal hearing.

At the informal hearing, Representatives stated that, “theoretically, it appears that not all sales tax collected by Petitioner was remitted to the state” and they understand that a refund can’t be issued if Petitioner has not properly remitted the tax. However, Representative argues that [REDACTED] is still due a refund and Petitioner will forego the portion of the \$33,081 refund request that is the amount of tax that was not remitted.

Also discussed at the informal hearing was Petitioners’ assertion that [REDACTED] erroneously paid tax on improvements to real property, non-taxable services and/or separately stated installation or separately stated repair labor. Representatives provided no additional documentation to support their position; therefore, the Tax Commission will issue its decision based on the information presently available.

### **LAW AND ANALYSIS**

For Petitioner to be entitled to a sales tax refund they must show that it collected sales tax in excess of that owed by its customer and that it remitted the amount it collected to the State of Idaho. Here, Petitioner asserts that it improperly collected sales tax on installation labor that is not subject to the Idaho sales tax and remitted those amounts to the State of Idaho. But the records provided by Petitioner demonstrate that it collected sales tax from [REDACTED] but only remitted part of the taxes collected to the State of Idaho. Petitioner also failed or refused to produce records that were necessary to evaluate its claim that it over collected from its customer.

The Bureau reviewed the sales tax accruals and found that the total sales tax Petitioner collected from its customer was not remitted to the Tax Commission. While the amount of the refund Petitioner seeks exceeded the total amount of sales tax remitted to the state, much of the

amount of the refund sought was not remitted. Only amounts that have been overpaid can be refunded. Idaho Code section 63-3626. There can be no refund of the amounts that were not remitted.

Even if Petitioner had fully remitted the sales taxes it collected, Petitioner has not shown that the amounts it collected are overpayments. Instead, Petitioner has shown that there is merely a possibility that it may have over collected by some amount. The documentation that Petitioner provided showed a mixture of labor and materials, but they were not separately stated. Additionally, the labor entries in the documentation were not sufficient to determine whether the labor was taxable fabrication labor, or installation labor, or labor to improve real property. The auditor repeatedly requested documentation that would have allowed them to correctly determine what Petitioner included in the invoices and if any of it was exempt from tax. Petitioner did not respond to those requests during the audit and Petitioner did not provide that information on appeal either. As a result, Petitioner has failed to show that the sales tax it collected was not due.

The money Petitioner collected immediately upon its collection belonged to the State of Idaho. Idaho Code section 63-3623A. Petitioner's failure to remit all the funds is improper. Petitioner also failed to establish that any particular amount collected was not taxable. The only thing that does appear clear is that the amount Petitioner collected and failed to remit may exceed the amount of the refund claimed. And, Petitioner has failed to provide documentation and information to show that any amounts it collected were collected improperly. As a result, no refund is due.

THEREFORE, Petitioner's refund claim is denied. The Notice of Refund Determination dated April 9, 2024, is hereby APPROVED, AND MADE FINAL.

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]

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