

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 1-055-294-464
	)	
Petitioner.	)	DECISION
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On June 8, 2022, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to (Petitioner) proposing sales and use tax and interest for the audit period December 1, 2020 through December 31, 2020, in the total amount of \$2,002. Petitioner disagreed with the Bureau’s findings and filed a timely appeal and petition for redetermination of the Notice.

The Commission hereby upholds the Bureau’s findings after reviewing the audit file, the protest letter, and the applicable Idaho laws.

**Background and Audit Findings**

Petitioner is the CEO and owner of ( a 501(c)(3) non-profit organization that sells medical and rehabilitation equipment for use by . filed for 501(c)(3) non-profit status from the IRS in 2019 and obtained the status in 2022.

The Bureau discovered Petitioner imported tangible personal property from Canada in December 2020 via customs records. The purchaser’s name listed on the customs document was

An inquiry letter was sent to Petitioner to obtain information about the purchase of the equipment. The inquiry went unanswered by Petitioner, so the Bureau issued the Notice based on available information for the purchase. The customs tariff description for the tangible

personal property imported from Canada was “Swimming pools and wading pools and parts & accessories thereof”.

Petitioner filed a timely appeal of the notice with the Commission on August 2, 2022. The protest explained the purpose of the swimming pool and accessories purchased by Petitioner. Petitioner stated that the pool was donated to rehabilitation residence for future use and demonstration. The rehabilitation residence is the personal home of Petitioner. Petitioner claimed the rehabilitation device qualified as tax exempt for the following reasons:

1. IDAPA 35.01.02.074 - DONATIONS TO POLITICAL SUBDIVISIONS AND CERTAIN NONPROFIT ORGANIZATIONS OF TANGIBLE PERSONAL PROPERTY USED FOR IMPROVEMENTS TO REAL PROPERTY.

Petitioner claims he donated the equipment to for use by the nonprofit organization.

2. IDAPA 35.01.02.085.02 - SALES TO AND PURCHASES BY NONPROFIT ORGANIZATIONS (EDUCATIONAL INSTITUTIONS).

qualifies as an education entity since they educate active, retired, and disabled on the educational opportunities available and promotes medical educational resources available for

3. IDAPA 35.01.02.085.12 - SALES TO AND PURCHASES BY NONPROFIT ORGANIZATIONS (SENIOR CITIZEN CENTERS)

A letter was mailed to Petitioner explaining the methods available for redetermination of a Notice and an informal hearing was scheduled and held on October 3, 2022. No new information was received from Petitioner supporting the exemptions claimed at that time.

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

All the exemptions claimed by Petitioner stem from the same code section in Idaho law, Idaho Code section 63-3622O Exempt and Private Organizations. The code section defines the entity types referenced as exempt in the administrative procedure acts quoted by Petitioner.

Petitioner first claims that the tangible personal property purchased was donated to for display and demonstration purposes. IDAPA 35.01.02.074 exempts donations of tangible personal property to political subdivisions or nonprofit organizations as defined in section 63-3622O, Idaho Code. is not a political subdivision and is not a nonprofit organization that is defined or identified as exempt in Idaho Code section 63-3622O. Furthermore, IDAPA 35.01.02.074.02 excludes from the exemption, sales tax applicable to the purchase of tangible personal property that will be donated. Petitioner was the purchaser of the tangible personal property, not The materials were not purchased for resale by Petitioner and are therefore subject to Idaho sales tax.

The other two issues protested are dependent upon being the purchaser of the materials in question. Idaho Code Section 63-3622O states that “Sales To” or “Purchases By” educational institutions and senior citizen centers are exempt. Petitioner purchased the materials on behalf of This is not the same as the nonprofit purchasing the materials themselves. Because of this, the exemptions claimed by Petitioner are not applicable.

### **Conclusion**

The Commission requires Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Petitioner did not provide adequate evidence to substantiate exemptions claimed. As a result, the Commission will uphold the Notice.

Absent information to the contrary, the Commission finds the Notice prepared by the Bureau to be a reasonably accurate representation of Petitioner's sales tax liability for the period December 1, 2020 through December 31, 2020.

The Bureau added interest and penalty to the sales and use tax deficiency. The Commission reviewed those additions, found both to be appropriate per Idaho Code sections 63-3045 and 63-3046, and has updated interest accordingly. Interest is calculated through December 14, 2022 and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

THEREFORE, the Notice of Deficiency Determination dated June 6, 2022, 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>
\$1,842	\$92	\$88	\$2,022

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 \_\_\_\_\_ 2023.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2023,  
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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