

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 1-071-457-280
)	
)	
)	DECISION
Petitioner.)	

(Petitioner) protested the Notice of Deficiency Determination (Notice) dated June 16, 2023, asserting use tax and interest in the amount of \$80 for the period of March 1, 2021 through March 31, 2021 (Audit Period). Petitioner disagreed with the purchases held taxable. The Idaho State Tax Commission (Tax Commission), having reviewed the file, hereby upholds the Notice.

BACKGROUND

Petitioner purchased a generator and parallel cables for a generator (purchases) from a retailer in Idaho. They claimed an agricultural exemption and therefore did not pay sales tax at the time of purchase. The Sale, Use and Miscellaneous Tax Audit Bureau (Bureau) received information on the purchases and was unable to verify Petitioner’s exemption. The Bureau sent Petitioner a letter explaining that to qualify for an agricultural exemption, they need to operate a farm or ranch with the intention of making a profit. In addition, the Bureau requested Petitioner provide their federal income tax return for the Audit period and include either a Schedule C (Business), or Schedule F (Farming) to support their farm or ranch activity for the Audit Period.

Petitioner responded to the Bureau stating that the generator they purchased powers a remote well pump that primarily serves a livestock watering system. Petitioner invited the Bureau to review the purchases in person and observe a demonstration of how the system works. Petitioner

also stated they were not timely receiving the Bureau's correspondence. Therefore, Petitioner requested the Bureau contact them by phone first and they would then stop by the office to pick up any future correspondence. As requested, the Bureau contacted Petitioner by phone on three separate occasions regarding information to support their agricultural exemption but received no response and therefore issued the Notice.

Petitioner submitted their protest of the Notice on August 18, 2023. Petitioner's protest letter lists ten arguments as the basis for redetermination. In part, Petitioner claims the Tax Commission made its determination without sufficient facts; the Tax Commission failed to consider the information provided; failed to provide the proper weight to the information that was provided; the Tax Commission misapplied its own rules under the Idaho Administrative Procedures Act, statutory provisions of Idaho Code, the Constitution of the State of Idaho, and binding decisional law from the courts of Idaho; and that the Tax Commission did not allow them time to amend the subject form, the ST-101. The Bureau sent Petitioner a letter on August 22, 2023 acknowledging their protest and informing them the matter, was being transferred to the Tax Commission's Appeals Unit (Appeals) for administrative review.

On October 6, 2023, Appeals sent Petitioner a letter outlining the options available for redetermining a protested Notice. Petitioner responded with a request for a copy of the case file which Appeals provided on October 10, 2023. Petitioner later requested an informal hearing, and it was scheduled for November 5, 2023. However, on November 2, 2023, Petitioner requested the informal hearing be rescheduled to allow time to retain a third-party counsel. Petitioner's representative contacted Appeals and scheduled an informal hearing on January 8, 2024.

At the informal hearing, the representative argued Petitioner was in the agricultural industry and therefore qualified for the exemption. Idaho provides an exemption on purchases

made by taxpayers in the agricultural industry if what is purchased is *primarily and directly* used or consumed towards what was being produced. The lack of evidence to show Petitioner is in the agricultural industry was discussed, as they are unpermitted, and their federal returns do not reflect such. Petitioner had until January 31, 2024, to provide any additional information to verify they qualify for the exemption.

On January 9, 2024, Petitioner requested and received an electronic copy of the informal hearing. Come January 31, 2024, neither the representative nor Petitioner provided Appeals with any additional information to show Petitioner was engaged in agriculture. Seeing they had more than adequate time and opportunity to further argue their position, the Tax Commission decided the matter based on the information provided.

LAW AND ANALYSIS

The responsibility for a retailer to collect sales tax unless provided with an exemption is discussed in Idaho Code section 63-3622(a), which states:

To prevent evasion of the sales and use tax, it shall be presumed that all sales are subject to the taxes imposed by the provisions of this chapter and the retailer shall have the burden of establishing the facts giving rise to such exemption unless the purchaser delivers to the retailer, or has on file with the retailer, an exemption certificate or resale certificate, in which case the purchaser shall bear the burden of establishing the facts giving rise to the exemption.

Petitioner provided to the retailer an exemption certificate claiming their qualification for an *Agriculture Exemption*. The retailer accepted the exemption certificate in good faith, alleviating their responsibility to charge, collect and remit sales tax on the transaction, as explained in Idaho Code section 63-3621(6). When the Bureau requested Petitioner support their claimed exemption and they were unable to do so, use tax became due on the purchase, which is further explained in Idaho Code section 63-3621(1) as:

An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after October 1, 2006, for storage, use, or other consumption in this state at the rate of six percent (6%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.

It is well settled that a Notice of Deficiency Determination issued by the Tax Commission is presumed to be accurate. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The burden is on Petitioners to show the deficiency is erroneous. *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). Petitioner's laundry list of assertions in their protest are unfounded and unconvincing. The Tax Commission allowed Petitioner more than a full year to supply information to support their exemption, but they sent no such information. As a result, the Tax Commission finds that Petitioner did not meet their burden of proving error in the Tax Commission's Notice.

CONCLUSION

Petitioner purchased items from an Idaho retailer and did not pay sales tax. At the time of purchase, Petitioner presented an exemption certificate to the retailer indicating the purchases are exempt from sales tax as they will be used to produce goods in a farming or ranching activity. However, Petitioner has not provided adequate information to show they qualify for the agricultural exemption. Therefore, use tax is due on their purchases.

The Bureau added interest to Petitioner's tax. The Tax Commission reviewed the addition and found it appropriate and in accordance with Idaho Code section 63-3045.

THEREFORE, the Notice of Deficiency Determination 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>AUDIT</u> <u>PERIOD</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
March 2021	\$74	\$7	\$81

An explanation of Petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____ 2024.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2024,
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.
