

documentation showing sales tax was paid at the time of purchase. In addition, they inquired about a credit to offset their sales tax liability, stating:

I also noticed while reviewing the supporting documentation, there were a few months found during the audit period where we actually overpaid sales tax, however these overpayments were not taken into account during the tax assessment. Is there any way to get the overpayments applied to the balance owed as a credit?

The Bureau acknowledged the protest and allowed Petitioner time to provide additional purchase documentation. Petitioner provided the documentation which was reviewed by the Bureau and resulted in a modification of the Notice. Petitioner continued their objection to the modified Notice. Therefore, the Bureau forwarded the matter to the Tax Commission's Appeals Unit (Appeals) for administrative review.

Appeals sent Petitioner and their representative a letter informing them of their options available for redetermining the Notice. Petitioner's representative responded, providing more purchase information for review. The information was forwarded to the Bureau, and they further modified the Notice. Appeals reached out to Petitioner on several occasions asking how they would like to proceed. Petitioner did not respond. The Tax Commission, having reviewed the matter, hereby issues its decision.

LAW AND ANALYSIS

Idaho Code section 63-3629, states in pertinent part:

If the state tax commission is not satisfied with the return or returns of the tax, because of errors or omissions discovered in audits or in any other way, it may compute and determine the amount which is due upon the basis of facts contained in the return or returns or upon the basis of any information within its possession or that may come into its possession and assert a deficiency.

In this case, Petitioner did not correctly report their taxable sales on their sales and use tax returns which resulted in an underpayment of Idaho sales tax. Petitioner, as an Idaho retailer, is responsible for the under reported amount. Idaho Code section 63-3623A:

All moneys collected by retailers in compliance with this chapter shall, immediately upon collection, be state money and every such retailer shall hold such money for the state of Idaho and for payment to the state tax commission in the manner and at the times required in this chapter.

Petitioner does not dispute the inaccuracy of its sales and use tax returns but argues in some periods these inaccuracies resulted in an over payment of sales tax and asked for this amount to offset the additional tax due.

The sales tax on the over reported sales is considered to be state money as explained in IDAPA 35.01.02.105.01.c which states:

Taxable Sales Create State Revenue. The sales or use tax collected by a retailer from a customer at the time of purchase becomes state money at that time. The collected amounts may not be put to any use other than that allowed by Chapter 36, Title 63, Idaho Code, and these rules.

Therefore, it's not an option for Petitioner to utilize the sales tax collected to reduce the amount of additional sales tax due.

The other issue in this matter is Petitioner's purchases where they did not remit use tax. Idaho Code section 63-3621 imposes use tax on all tangible personal property brought into Idaho unless an exemption applies. 63-3621(1)(2) states:

- (1) 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.
- (2) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

Petitioner did not provide a purchase invoice showing sales tax was paid at the time of purchase or additional information to show a tax exemption for the purchases.

CONCLUSION

On appeal, a deficiency determination issued by the Tax Commission “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)). The Tax Commission requires Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, Petitioner did not provide adequate evidence. They have not met their burden.

THEREFORE, the modified Notice is hereby APPROVED with interest calculated at the rate set forth in Idaho Code section 63-3045(6), 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>
\$5,812	\$661	\$6,473

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]