

In the Matter of the Protest of

Petitioner.

DECISION

Bureau reduced the amount of use tax due by \$646.00.¹. Petitioner provided no further documentation, and the matter was forwarded to the Tax Commission's Appeals unit for administrative review.

Appeals sent Petitioner a letter informing them of the options available for redetermining a Notice. Petitioner's attorney in fact (Representative) responded and scheduled an informal hearing, which was held on October 15, 2024.

At the informal hearing, Representative again stated they had additional documentation they would like to submit for the Tax Commission's consideration. After some time, Petitioner provided information that further reduced the amount of use tax due. The Notice was again modified to reduce use tax by \$8,176.00 and interest by \$701.00. Petitioner continued their objection to the modified Notice, still arguing they had more documentation that would further reduce the additional tax proposed in the Notice. Petitioner has had ample opportunity to provide documentation for consideration. Therefore, the Tax Commission decides this matter based on the information presently available.

LAW AND ANALYSIS

All sales made in Idaho are presumed to be taxable unless an exemption applies. Idaho Code section 63-3622(a) states:

(a) 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.

¹ The Bureau also adjusted the amount of interest shown in the Notice with the decrease in use tax and further reduced it due to HB 715 which passed in 2024, ceasing the accrual of interest during an audit.

Idaho Sales and Use Tax Administrative Rule 128.02 states:

All sales made within Idaho are presumed to be taxable unless the seller obtains from the buyer a properly executed resale or exemption certificate. If the seller does not have an exemption certificate on file it will have the burden of proving that a sale is not taxable. The seller may overcome the presumption by establishing the facts giving rise to the exemption. If the seller obtains a valid certificate from the buyer, the seller need not collect sales or use taxes unless the sale of the tangible personal property or the transaction in question is taxable to the buyer as a matter of law in the particular instance claimed on the certificate.

In the present matter, Petitioner's records show numerous sales transactions where Petitioner did not charge sales tax and did not have an exemption certificate on file. Petitioner claimed to have exemption certificates that would reduce their sales tax liability, but they have yet to provide them or any information to show the sales transactions in question are not taxable.

Idaho Code section 63-3621 imposes a use tax on all tangible property used, stored, or otherwise consumed in Idaho unless an exemption applies. The use tax is complimentary to the sales tax, which imposes tax on the retail sale of tangible personal property within Idaho. If the seller of goods fails to, or cannot charge sales tax and no exemption applies, the buyer is obligated to pay a use tax directly to the state.

Idaho Code 63-3621 states in part:

(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...

The Bureau's review of Petitioner's purchases showed numerous transactions where

Petitioner did not pay sales tax or accrue use tax. Again, Petitioner claims they had documentation, invoices, and/or receipts, which would show sales tax was paid at the time of purchase or an exemption applies. Petitioner provided some additional documentation that reduced the use tax liability shown in the Notice, but did not provide documentation for every transaction in the audit period.

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 the taxpayer 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 has not met its burden. The Tax Commission finds that the Notice, as modified, is a reasonably accurate representation of Petitioner's sales and use tax liability for the period January 1, 2020, through December 31, 2022.

THEREFORE, the Notice of Deficiency Determination dated March 1, 2024, as modified by the Bureau, is FURTHER MODIFIED and MADE FINAL.

IT IS ORDERED that Petitioner pay the following tax, and interest:

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$81,669	\$8,865	\$90,534

The Tax Commission DEMANDS immediate payment of this amount. Interest is calculated in accordance with Idaho Code section 63-3045.

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.
