

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of) DOCKET NO. 1-777-865-728
[REDACTED])
Petitioner.) DECISION
[REDACTED])

[REDACTED] (Petitioner) protested the Notice of Deficiency Determination (Notice) dated August 22, 2024, issued by the Tax Discovery Bureau (Bureau) for the period May 1, 2022, through December 31, 2023 (Audit Period). The Idaho State Tax Commission (Tax Commission), having reviewed the matter, hereby upholds the Notice.

BACKGROUND

Petitioner is a food truck retailer located in [REDACTED] Idaho. Petitioner obtained an Idaho sellers permit in March 2022 but did not file the required sales and use tax returns.¹ It was only after the Tax Commission sent Petitioner a letter estimating taxable sales and the associated tax due, that Petitioner submitted returns.

The returns Petitioner filed for the period May 2022 through September 2023 reported zero Idaho sales. However, Tax Commission records (Form 1099-K) show Petitioner had taxable sales during this period. Therefore, to ensure all sales were properly reported, the Bureau sent Petitioner a letter, requesting it complete a Sales tax worksheet listing all sales made prior to December 31, 2023. Petitioner did not respond.

¹ Petitioner is a quarterly filer, required to submit returns by the 20th of the month following the end of the quarter. Idaho code section 63-3623

The Bureau issued a Notice, estimating Petitioner's sales tax liability, using the income information in Tax Commission records (Form 1099-K) along with an estimate for cash sales.² Petitioner protested the Notice, stating it is incorrect because:

“For year 2022 the company was registered but no activity or sales were made”, and “For year 2023 I have provided the catering detail and taxable food as instructed by the tax department representative. We were unaware of the situation that the food had to be taxed on catering. This is our first time in this profession.”

The Bureau reviewed the 2023 catering information Petitioner provided, compared it to the income information in Tax Commission records and the estimates shown in the Notice but made no modifications. 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 informing them of the options available for redetermining a Notice and received no response. The Tax Commission, having reviewed the matter, hereby issues its decision based on the information available.

LAW AND ANALYSIS

Idaho Code section 63-3619 states that a tax is imposed upon each sale at retail at a rate of six percent (6%) of the sales price on all retail sales and the tax shall be collected by the retailer from the consumer.

Idaho code section 63-3612(2)(b) defines a sale as any transfer of title, exchange or barter of tangible personal property for consideration and includes furnishing, preparing, or serving food, meals, or drinks and services included in those charges.

² Cash sales were estimated based on an average percentage of cash payments reported by similar food truck businesses.

In the present matter, Petitioner provided no sales data for 2022 stating in their protest that no sales occurred. However, information provided by the Internal Revenue Service shows Petitioner received \$39,765 between May and December based on credit and debit card sales alone. Assuming some cash transactions occurred and without any information to the contrary, the Tax Commission finds the estimated sales amounts shown in the Notice for 2022 to be reasonable.

For 2023, Petitioner provided sales data showing a breakdown between food and catering services and argues they were unaware food sales as part of a catering order were taxable. Like 2022, Petitioner did not file returns or remit sales tax for 2023, but did report the income received from credit and debit sales on the owner's Schedule C. Again, taking into consideration that some cash sales more than likely occurred, the Tax Commission finds the estimated sales amounts and related tax due shown in the Notice for 2023 to be reasonable.

CONCLUSION

Petitioner is a retailer with an Idaho sellers permit who began making sales in 2022. Being unaware of the Idaho code related to catering services does not relieve them of their responsibility to collect and remit sales tax. For the period under review, Petitioner either did not timely file the required sales tax returns or filed returns that did not accurately reflect their sales.

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 and therefore, has not met its burden.

THEREFORE, the Notice 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>
\$7,688	\$386	\$1,188	\$9,262

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] _____

[REDACTED] _____
[REDACTED] _____