

Background and Audit Findings

Petitioner is a contractor based in _____, CO. specializing in the designing and building of _____ facilities. The business first registered with the Idaho Secretary of State in 2015 and obtained a sales/use tax permit June 2015.

The Bureau conducted a sales and use tax audit of the business activities in Idaho during the audit period. During the review the Bureau reconciled total Idaho sales per the Income Tax returns and the General Ledger was reconciled to sales and use tax remitted on Petitioner's 850 returns.

The Bureau found tangible personal property taxed improperly by Petitioner during the construction of the production facility.

Petitioner's Protest

The timely appeal from Petitioner was initially to allow for additional time to obtain requested documentation. Petitioner provided additional documentation to the Bureau that helped reduce the liability. Once all matters of a factual nature were completed, the Bureau forwarded the case to Appeals. Appeals has contacted Petitioner several times and asked for additional documentation to no avail.

On May 19, 2022, Appeals set a final due date of May 24, 2022, for any additional documentation. The appeals specialist explained via e-mail and phone message, if Petitioner missed the due date and did not attempt to contact Appeals, a decision would be issued based upon available information.

Relevant Tax Code and Analysis

In Idaho, sales tax is imposed on the retail sale of tangible personal property, and use tax is imposed on the storage, use or consumption of tangible personal property, unless an exemption applies. *See* Idaho Code § 63-3619 and § 63-3621.

Petitioner is also required to maintain proper business records per Idaho Code section 63-3624(c) which states:

“[E]very seller, every retailer, and every person storing, using, or otherwise consuming in this state tangible personal property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers as the state tax commission may require. Every such seller, retailer or person who files the returns required under this act shall keep such records for not less than four (4) years from the making of such records unless the state tax commission in writing sooner authorizes their destruction.”

In this case, Petitioner did not provide records to substantiate sales or use tax paid on equipment and material purchased and sold. Although Petitioner disagrees with the amount held taxable, they did not provide documentation to refute the Notice and the Bureau’s adjusted findings. The Bureau used available records to determine the amount of tax owed by Petitioner.

Conclusion

A deficiency determination issued by the Commission “is presumed to be correct, and the burden is on the taxpayer to show that the 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 Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). The 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. As a result, the Commission will uphold the Notice.

Absent information to the contrary, the Commission finds the adjusted Notice prepared by the Bureau to be a reasonably accurate representation of Petitioner's use tax liability for the period April 1, 2015, through December 31, 2017.

The Bureau added interest to the sales and use tax deficiency. The Commission reviewed the addition and found it to be appropriate per Idaho Code section 63-3045 and has updated interest accordingly. Interest is calculated through October 12, 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 January 27, 2020, adjusted by the originating Bureau, 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>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$219,761	\$53,639	\$273,400

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 _____ 2022.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2022,
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.
