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Statesman seeks records on Cabela's tax break

Newspaper asks judge to make Tax Commission release details on decision to grant 'special status'

A lawyer for the Idaho Statesman urged a district judge Monday to order the release of details about the Idaho Tax Commission's decision to allow retailer Cabela's not to collect sales taxes from its Idaho online and catalog customers.

The Statesman sued the commission in February to obtain the information after the agency denied a public records request, saying tax information was confidential. A hearing on the suit took place on Monday in 4th District Court.

Cabela's opened its first Idaho store in Boise in August. Idaho law says companies that have a substantial presence or "nexus" in the state must start collecting sales tax from their Idaho online and catalog customers. But the Nebraska-based outdoor retailer requested and received a ruling from the commission exempting it from that requirement.

Cabela's maintains that its retail operations and online operations are two separate companies, so the nexus provision doesn't apply. In the hearing before Judge Michael McLaughlin, Statesman lawyer Chuck Brown argued that information about the circumstances leading to the tax-break ruling should be public.

Deputy Attorney General Ted Spangler, representing the Tax Commission, argued that all the information provided to the commission was exempt from public records because it was defined as protected tax information.

Spangler said there were two documents in question: a request from Cabela's asking the Tax Commission whether it was exempt and the declaratory ruling from the commission granting the exemption. The law is clear that such information is protected from disclosure, he said.

The commission agreed to provide the information for McLaughlin to review to make his decision.

"If you look at the ruling, you'll see a lot of discussion of how this particular taxpayer goes about doing business," Spangler said.

Before making the decision, Spangler said, the state required Cabela's to disclose the same information it would have disclosed in an audit or a tax return. "This protects the ability of taxpayers to come forward and get an early resolution before there's a lot of money involved in a tax dispute," Spangler said. "It's something we do all the time. It's common practice."

Brown said the Statesman isn't asking for specific financial information. The newspaper seeks information about how the commission came to its decision to grant Cabela's the preferred status, he said.

"Because we are an open society, Idaho taxpayers have a right to know why there is a disparity in treatment and a right to know why this large corporation obtained its special status," Brown said.

McLaughlin said he would review the arguments and the Tax Commission documents before issuing a written ruling.

Contact reporter Ken Dey at kdey@idahostatesman.com or 672-6757.