

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15556
[REDACTED])	
)	DECISION
Petitioner.)	
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)	

On February 16, 2001, the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination to [Redacted] (petitioner), proposing additional income tax and interest for the taxable years 1996, 1997, and 1998 in the total amount of \$2,174. The petitioner filed a timely protest and petition for redetermination. The Tax Commission, having reviewed the file, hereby issues its decision.

The only adjustment made to the petitioner’s 1996, 1997, and 1998 Idaho income tax returns was the disallowance of a 1995 Idaho net operating loss carryforward claimed as a deduction in arriving at the petitioner’s Idaho taxable income for taxable year 1996. The auditor disallowed the deduction claimed in 1996 since the petitioner had already carried the same loss back to 1992 and claimed it as a deduction in arriving at his 1992 Idaho taxable income. Thus, the question is the proper application of petitioner’s 1995 Idaho net operating loss.

Idaho Law and analysis

The starting point for computing Idaho taxable income is federal taxable income as defined in the Internal Revenue Code. Idaho Code section 63-3002.¹ In computing Idaho taxable income, any federal net operating loss is added to federal taxable income. Idaho Code section 63-3022(c). Any Idaho net operating loss is then subtracted. Idaho Code section 63-3022(d).

¹ Unless otherwise indicated, references to Idaho Code sections refer to the Idaho Code section in effect for taxable year 1995.

Idaho Code section 63-3022(d)(1) stated, in pertinent part:

A net operating loss for any taxable year commencing on and after January 1, 1990, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars (\$100,000) to the three (3) immediately preceding taxable years. Any portion of the net operating loss not subtracted in the three (3) preceding years may be subtracted in the next fifteen (15) years succeeding the taxable year in which the loss arises in order until exhausted. . . . At the election of the taxpayer, the three (3) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next fifteen (15) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the year in which it is made.

Since the petitioner did not make the election to forego the carryback period, the petitioner was required to carry the 1995 Idaho net operating loss back to taxable years 1992, 1993, and 1994 before the loss could be carried forward to taxable year 1996. Since the entire 1995 Idaho net operating loss was fully absorbed in 1992, the Tax Commission's Income Tax Audit Bureau was correct in disallowing the \$21,789 deduction claimed by the petitioner in taxable year 1996.

WHEREFORE, the Notice of Deficiency Determination dated February 16, 2001, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$1,648	\$732	\$2,380
1997			-0-
1998			-0-
		TOTAL DUE	<u>\$2,380</u>

Interest is calculated through December 31, 2002, and will continue to accrue at the rate set forth in Idaho Code section 63-3045.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's rights to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2002, 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:

[REDACTED]
[REDACTED]

[Redacted]
