

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 [REDACTED]) DOCKET NO. 17132
)
 Petitioner.) DECISION
)
)
)
)
 _____)

[Redacted] (petitioner) protests the Notice of Deficiency Determination issued by the staff of the Idaho State Tax Commission (Commission) dated September 3, 2002, asserting additional income tax, penalty, and interest in the total amounts of \$1,734, \$46, and \$657 for 1998, 1999, and 2000.

In March 2001, Tax Commission staff contacted the petitioner and requested that the petitioner file income tax returns for the years 1998, 1999, and 2000. Over the next year, the Tax Commission contacted the petitioner on several occasions and requested that the petitioner file its returns for the years in question. No returns were received; and, on April 1, 2002, the Tax Commission issued a Notice of Deficiency Determination to the petitioner based on information in the Tax Commission's file. The petitioner then filed returns for the years 1998, 1999, and 2000. Based upon these returns, the Tax Commission issued a second Notice of Deficiency Determination dated September 3, 2002, and the petitioner filed a timely protest to this Notice of Deficiency.

The petitioner claimed net operating losses in the amounts of \$18,183 and \$5,672 on the 1998 and 2000 returns, respectively. The net operating loss deduction claimed for 1998 was represented to have been carried forward from earlier years. The net operating loss claimed on the 2000 return was purportedly carried forward from 1999.

The Tax Commission staff denied the net operating loss in the amount of \$18,183 claimed on the 1998 income tax return. The 1999 loss was allowed as a deduction in computing the petitioner's 1998 Idaho taxable income.

The petitioner's position is that the losses reported should generate net operating losses which should offset the profits, thereby eliminating any liability for income tax to the state of Idaho. No authority was cited to support the petitioner's position.

Upon reviewing the application of the net operating losses here in question, the Commission finds that the denial of the net operating loss in the amount of \$18,183 claimed on the 1998 income tax return was correct. The petitioner claimed to be entitled to such a loss carried forward from previous years. The petitioner failed to file an income tax return for 1996 and has not established that the losses from years prior to 1996 would exceed any income reportable in 1996. The only other loss which might be available was reported on the petitioner's 1997 income tax return. That loss was required by Idaho Code to have been carried back three years before any remaining loss could be carried forward. Again, the petitioner failed to demonstrate that the loss exceeded the income reportable in 1996. Therefore, the petitioner has failed to carry the burden of proof that it was entitled to any net operating loss incurred in prior years.

The net operating loss reported by the petitioner in 1999 was subtracted in determining the Idaho taxable income of the petitioner for 1998. That loss, as well, was required to be carried back three years (to 1996) before it could be applicable in computing the petitioner's 1998 Idaho taxable income. Since the petitioner failed to file an Idaho income tax return for 1996, the income in that year may well have been sufficient to offset the 1999 loss. Therefore, the petitioner has again failed to carry the requisite burden of proof that the net operating loss was available.

WHEREFORE, the Notice of Deficiency Determination dated October 5, 2001 is hereby MODIFIED, and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the following tax, penalty, and interest (calculated to August 15, 2003):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$1,514	\$379	\$471	\$2,364
1999	30	10	7	47
2000	481	120	76	<u>677</u>
				\$3,088
			LESS AMOUNT PAID	<u>(188)</u>
			TOTAL	<u>\$2,900</u>

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

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

DATED this _____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2003, 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]