

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
[REDACTED],) DOCKET NO. 17736
)
) DECISION
Petitioner.)
_____)

On August 27, 2003, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing additional income tax and interest for the taxable years 1998 and 1999 in the total amount of \$15,386.

On October 29, 2003, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Income Tax Audit Bureau (Bureau) examined an Idaho S-corporation, of which the taxpayer was a shareholder. The S-corporation examination resulted in adjustments to the S-corporation's Idaho income tax return. Since S-corporations are flow-through entities, the taxpayer's prorata share of the adjustments was made on his individual Idaho income tax return. In addition to the flow-through adjustments, the Bureau reviewed some items on the taxpayer's individual income tax returns and made adjustments to those items as well. The Bureau sent a Notice of Deficiency Determination to the taxpayer, which he protested.

The taxpayer stated he had additional information that was not considered, and, consequently, the tax due amounts were incorrect. The taxpayer provided the information to the Bureau, which reviewed the information, and made adjustments to the Notice of Deficiency

Determination. The Bureau sent a revised audit report to the taxpayer but did not receive a response from the taxpayer.

The Bureau referred the matter for administrative review, and the Tax Commission sent the taxpayer a letter giving him two alternatives for having the notice of deficiency redetermined. The taxpayer did not respond, so the Tax Commission sent a follow-up letter. The taxpayer still failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

The Bureau adjusted the taxpayer's 1998 and 1999 returns for additional income flowing through the taxpayer's S-corporation from an audit of that entity. The Bureau also adjusted the taxpayer's 1998 return for an investment tax credit that was previously claimed. The taxpayer's 1999 return was also adjusted for itemized deductions that were not verified. The additional information the taxpayer provided resulted in the Bureau backing out the flow-through income from the S-corporation for 1998 and reducing it substantially for 1999. The Bureau also reduced the adjustment to the taxpayer's itemized deductions to only a disallowed portion of the investment interest expense.

The taxpayer has not provided any further documentation for the Bureau or the Tax Commission to consider. "Whether and to what extent deductions shall be allowed depends upon legislative grace; and only as there is clear provision therefore can any particular deduction be allowed. . . Obviously, therefore, a taxpayer seeking a deduction must be able to point to an applicable statute and show that he comes within its terms." New Colonial Ice Co. v. Helvering, 292 U.S. 435, 54 S.Ct. 788 (1934). Since the taxpayer has failed to provide anything to show he is entitled to anything more than what the Bureau allowed, the Tax Commission upholds the modified audit report as a proper correction to the taxpayer's Idaho income tax returns.

WHEREFORE, the Notice of Deficiency Determination dated August 27, 2003, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$ 920	\$ 368	\$1,288
1999	2,010	657	<u>2,667</u>
		TOTAL DUE	<u>\$3,955</u>

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

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this ____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2004, 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]

Receipt No.

[REDACTED]
[REDACTED]
[REDACTED]