

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17760
[REDACTED])	
Petitioner.)	DECISION
)	
)	

On September 29, 2003, the Income Tax Audit Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer), proposing additional income tax, penalty, and interest in the total amount of \$3,334 for the years ending December 31, 1995, and December 31, 1996.

The taxpayer, through its representative (POA), filed a timely appeal and petition for redetermination. A fully executed Power of Attorney form was enclosed with the letter of protest. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision based thereon.

[Redacted]Idaho Code § 63-3002 provides:

Declaration of intent. It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; to achieve this result by the application of the various provisions of the Federal Internal Revenue Code relating to the definition of income, exceptions therefrom, deductions (personal and otherwise), accounting methods, taxation of trusts, estates, partnerships and corporations, basis and other pertinent provisions to gross income as defined therein, resulting in an amount called "taxable income" in the Internal Revenue Code, and then to impose the provisions of this act thereon to derive a sum called "Idaho taxable income"; to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within

this state. All of the foregoing is subject to modifications in Idaho law including, without limitation, modifications applicable to unitary groups of corporations, which include corporations incorporated outside the United States. (Emphasis added.)

Idaho Code § 63-3002 states it is the intent of the Idaho legislature to make the Idaho Code identical to the Internal Revenue Code in the way taxable income is determined. Idaho Code § 63-3069 states that, upon a final determination of any deficiency or refund of federal taxes, written notice shall be immediately sent to the State Tax Commission by the taxpayer. IDAPA 35.01.01.890.03 Income Tax Administrative Rules state that immediate notification is within 60 days of the final determination.

From the cited Idaho Code sections and the Administrative Rule, it is apparent the Idaho legislature intended any changes made to a taxpayer's federal return to be reflected on the taxpayer's Idaho return. Therefore, it is the Tax Commission's position that the changes made to the taxpayer's federal return must be made to the taxpayer's state return.

In his letter protesting the NODD, the POA argued about the IRS's disallowance of certain deductions in spite of having agreed to those same adjustments – each issue of the IRS audit was detailed in both the Counsel Settlement Memorandum and the United States Tax Court Decision the POA signed indicating his agreement.

The POA wrote: “The Tax Court decision cannot be followed as procedural due process was denied to the Petitioner and the case is on appeal or will be appealed when final order is entered.” He has furnished nothing to substantiate his claim of appeal. IRS records show the United States Tax Court Decision and the federal audit were both finalized in 2002.

Following the Idaho Code, the adjustments should be made to the taxpayer's 1995 and 1996 Idaho Corporation Income Tax Returns to match the final federal determination of taxable income. The taxpayer would like the Tax Commission to re-audit what the IRS already audited even though

he agreed with the federal determination at the time. The Tax Commission's position is the taxpayer must be granted relief at the federal level before relief can be granted at the state level.

The POA questioned the Bureau's failure to recognize the employment tax case that is still pending in Tax Court. He said: "The payment of the deficiency if any, will allow an additional deduction for the years in question." However, if the final federal determination in the separate employment tax case results in additional deductions in the 1995 and 1996 income tax returns, the taxpayer may file Amended Idaho Corporation Income Tax Returns in accordance with Idaho Code § 63-3072(d) to claim those deductions. The employment tax case has never been a part of the NODD.

Since the taxpayer has not provided a contrary result to the IRS's determination of the taxpayer's 1995 and 1996 taxable income that was supported by a United States Tax Court Decision, the Tax Commission must uphold the deficiency as asserted by the Bureau.

Under Idaho Code § 63-3069, the taxpayer was required to immediately send written notice to the Idaho Tax Commission upon a final determination of a deficiency in its reported federal tax. The taxpayer did not notify the Tax Commission of the final federal determination. The Bureau properly imposed the penalty provided by Idaho law.

WHEREFORE, the Notice of Deficiency Determination dated September 29, 2003, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1995	\$ 726	\$36	\$441	\$1,203
1996	1,397	70	736	<u>2,203</u>
			TOTAL	<u>\$3,406</u>

Interest is computed through July 15, 2004.

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 enclosed with this decision.

DATED this ____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2004, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
