

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18403
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

On August 27, 2004, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable years 2000 through 2002 in the total amount of \$3,322.

On October 21, 2004, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers requested a hearing which was held on June 7, 2005. The Tax Commission, having reviewed the file, hereby issues its decision.

The Income Tax Audit Bureau (Bureau) reviewed the taxpayers' Idaho individual income tax returns for the taxable years 2000 through 2002. The Bureau adjusted the taxpayers' Idaho returns to correspond with an examination of the taxpayers' Subchapter S Corporation (S-corp.). (S corporation income flows through to the shareholder and is reported on the shareholder's individual income tax return.) The taxpayers failed to file a 2000 Idaho individual income tax return, so the Bureau prepared a return for the taxpayers from the information obtained from the taxpayers and from the examination of the S-corp. The Bureau increased the taxpayers' 2001 and 2002 Idaho adjusted gross income which in turn increased the taxpayers' Idaho taxable income. The taxpayers disagreed with the adjustments made to the S-corp. They stated the income reported on the S-corp. returns as capital gain income was the proper classification. All properties acquired by the S-corp. were held for investment.

The Tax Commission addressed the adjustment to the taxpayers' S-corp. in its decision on Docket Number 18402 – [Redacted]. In that decision the Tax Commission stated the proper classification of the sales of property was capital gain. Therefore, based upon the nature and character of Subchapter S corporations, the Tax Commission flowed through the S-corp. income to the taxpayers' Idaho individual income tax returns.

The resulting change to the taxpayers' individual returns is an adjustment to the Idaho capital gains deduction. Therefore, the Tax Commission recomputed the Idaho flow-through capital gains and the corresponding Idaho capital gains deduction.

The Bureau added a failure to file penalty to the taxpayers' 2000 return it prepared. The taxpayers provided a copy of the return they claimed to have filed along with a copy of the cancelled check paying the tax due on the return. The taxpayers stated that the check and the return were sent to the Tax Commission together. The Tax Commission has no record of receiving the taxpayers' 2000 return; however, the Tax Commission does have record of the payment made towards the taxpayers' 2000 Idaho income tax liability. Considering the facts and circumstances, the Tax Commission waives the late filing penalty on the 2000 return.

WHEREFORE, the Notice of Deficiency Determination dated August 27, 2004, 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 taxpayers pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2000	\$ 661	\$ 199	\$ 860
2001	171	39	210
2002	262	42	<u>304</u>
		TOTAL DUE	<u>\$1,374</u>

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

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

DATED this ____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2005, 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]