

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 18564
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On December 1, 2004, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued two Notices of Deficiency Determination to [Redacted] (taxpayer). One proposed income tax, penalty, and interest for the taxable year 2001 in the amount of \$0 and one for 2002 in the amount of \$32, for a total amount of \$32.

On February 1, 2005, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather chose to provide additional documentation and an income tax return for the Tax Commission's consideration. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer is an Idaho S-corporation with a single shareholder, [Redacted]. The Income Tax Audit Bureau (Bureau) selected the taxpayer's 2001 corporate income tax return for audit when its shareholder filed an amended return for 1999 to carry back a net operating loss from 2001. The Bureau also found that the taxpayer had not filed a return for the 2002 tax year. The Bureau scheduled the audit, reviewed the taxpayer's records, made adjustments to the taxpayer's 2001 return, prepared a 2002 return for the taxpayer, and sent the taxpayer Notices of Deficiency Determination.

The taxpayer protested the Bureau's determination stating it disagreed with the 2001 adjustments and that it would provide a complete and accurate return for 2002. The Bureau acknowledged the taxpayer's protest and referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving it two options for having the Notices of Deficiency Determination redetermined. The taxpayer responded that it had requested information [Redacted] and that a 2002 return was being prepared. The taxpayer asked for additional time for the information to be received [Redacted]. The Tax Commission granted the time and a few months later the taxpayer submitted a 2002 corporate income tax return. However, nothing was provided as additional support for the 2001 audit adjustments.

The adjustments to the taxpayer's 2001 return were to the expense accounts for wages, depreciation, gifts, and miscellaneous. Of these adjustments, the taxpayer only addressed the adjustment to wages. The taxpayer stated it requested information [Redacted] to get a copy of the wage and withholding information the taxpayer filed [Redacted]. However, the information the taxpayer received [Redacted] was that the taxpayer had not filed its annual reconciliation form. The taxpayer then requested the same information from the Tax Commission. The results were the same; the taxpayer did not file an annual reconciliation form with the Tax Commission. Consequently, the taxpayer had no additional information to provide on the wages paid.

The information the Bureau used to determine the wages paid by the taxpayer were the taxpayer's general ledgers, the federal forms 941 the taxpayer filed for the first and second quarters, the Department of Labor wage reports filed for the first and second quarters, and the Idaho forms 958 that the taxpayer filed. Considering the information used and the lack of any opposing documentation, the Tax Commission finds the determination of the wages paid by the taxpayer to be accurate.

The adjustments to depreciation, gifts, and miscellaneous were not argued by the taxpayer. The depreciation adjustment was for a building that was owned by the shareholder and her husband, not the S-corporation. The Bureau adjusted gifts and miscellaneous because there

was no documentation substantiating the expenses. Since the taxpayer presented no argument or documentation for these expenses, the Tax Commission upholds the Bureau's adjustments to these accounts.

The taxpayer did provide a corporate income tax return for 2002. The Tax Commission reviewed that return and found it to be a better representation of the taxpayer's taxable income than the return prepared by the Bureau. Therefore, the Tax Commission accepts the taxpayer's 2002 return in lieu of the return prepared by the Bureau, subject to the normal examination process of the Tax Commission.

Since the taxpayer is a flow-through entity, any changes made to the taxpayer's income tax returns affects the amount of income reported by the taxpayer's shareholder. Therefore, the adjustments made to the taxpayer's 2001 return and the acceptance of the taxpayer's 2002 return will be reflected on the taxpayer's shareholder's individual income tax return. However, as an entity required to file Idaho income tax returns, the taxpayer was required to pay a minimum tax. Since the taxpayer did not file a return for 2002, the minimum tax was not paid. The taxpayer did, however, pay the minimum tax when it submitted its 2002 return.

In addition to the minimum tax, the Bureau assessed the delinquency penalty and interest pursuant to Idaho Code sections 63-3045 and 63-3046. The Tax Commission reviewed those additions and found that they are appropriate and applicable to the 2002 return the taxpayer submitted.

WHEREFORE, the Notices of Deficiency Determination dated December 1, 2004, are hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, are 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>
2001	\$ 0	\$ 0	\$ 0	\$ 0
2002	20	10	3	<u>33</u>
			TOTAL	\$33
			REMITTANCE	<u>(20)</u>
			TOTAL DUE	<u>\$13</u>

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 2006.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2006, 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]

Receipt No.

[REDACTED]

\_\_\_\_\_