

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 22261
[Redacted]	)	
	)	DECISION
Petitioner.	)	
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On July 29, 2009, the Idaho State Tax Commission's (Commission) Tax Discovery Bureau (TDB) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner) proposing additional income tax, penalty, and interest for taxable years 2001 through 2007 in the total amount of \$245. The petitioner was informed of its appeal rights. The Tax Commission, having reviewed the file, hereby issues its decision.

The TDB determined, based upon federal information and a review of the Commission's records, that the petitioner had an Idaho filing requirement for taxable years 2001 through 2007. The TDB initiated contact with the petitioner requesting it file an Idaho income tax return or, in the alternative, explain why the petitioner would not have a filing requirement.

The TDB provided the petitioner with several extensions of time in which to file the requested returns. Since the petitioner did not provide the Idaho returns as requested or provide an explanation for not having an Idaho filing requirement, the TDB issued the NODD.

In the petitioner's petition for redetermination, the petitioner does not deny that it had an Idaho filing requirement; instead, the petitioner requested additional time to work with their accountant in preparing the delinquent returns.

Interest was included in the NODD in accordance with Idaho Code section 63-3045. The Idaho Code section 63-3046(c)(1) penalty for failure to file an Idaho income tax return was included in the NODD. The penalty percentage is 5 percent per month with a maximum rate of 25 percent.

In 2010, the petitioner filed an Idaho S Corporation income tax return for taxable years 2001, 2002, and 2003. The Commission accepts the petitioner's late filed returns in lieu of the returns prepared on behalf of the petitioner as shown in the TDB's NODD dated January 29, 2009, for taxable years 2001, 2002, and 2003. The late filed returns for taxable years 2001, 2002, and 2003, are subject to the normal review and audit processes of the Commission.

Since the petitioner has not filed Idaho income tax returns for taxable years 2004, 2005, 2006, and 2007, the Commission sustains the TDB's calculation of petitioner's Idaho tax liability as follows:

	2004	2005	2006	2007
Sales per Idaho sales tax return	\$181,516	\$174,771	\$116,327	\$85,338
Payroll per Idaho withholding returns	-20,059	-29,090	-27,603	-18,733
Sales tax expense	-8,772	-7,171	-4,226	-3,067
Net income subject to apportionment	152,685	138,510	84,498	63,538
Idaho apportionment factor	100%	100%	100%	100%
Income apportioned to Idaho	152,685	138,510	84,498	63,538
Income allocated to Idaho	0	0	0	0
Income reportable at shareholder level	-152,685	-138,510	-84,498	-63,538
Idaho taxable income	\$0	\$0	\$0	\$0
Idaho income tax	20	20	20	20
Permanent building fund tax	0	0	0	0
Net tax due	\$20	\$20	\$20	\$20

It is the petitioner's burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State Dept. of Revenue, 106 Idaho 810, 814, (1984); Parsons v. Idaho State Tax Comm'n, 110 Idaho 572, 574 (Ct. App. 1986). Since the petitioner has not met this burden of proof of showing that the NODD prepared by the TDB for taxable years 2004, 2005, 2006, and 2007 is incorrect, the Commission upholds the TDB's determination as shown in the NODD.

WHEREFORE, the Notice of Deficiency Determination dated July 29, 2009, is hereby MODIFIED, APPROVED, AFFIRMED, and MADE FINAL.

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

Year	Tax	Penalty	Interest	Total
2004	20	\$10	\$7	\$37
2005	20	10	6	36
2006	20	10	4	34
2007	20	10	3	33
		Total Due		<u>\$140</u>

Interest has been updated and is calculated through January 31, 2011, and will continue to accrue at the rate set forth in Idaho Code section 63-3045.

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.

DATED this \_\_\_\_ day of \_\_\_\_\_ 2011.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2011, 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.

\_\_\_\_\_