

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22879
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

[Redacted] (taxpayers) protested the Notice of Deficiency Determination dated March 4, 2010, asserting income tax, penalty, and interest in the total amount of \$62,826 for taxable years 2003 through 2008. The taxpayers disagreed with the Tax Discovery Bureau’s (Bureau) determination of their Idaho taxable income for each of the years. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The taxpayers are the sole shareholders [Redacted] an S-corporation incorporated in Idaho. [Redacted] failed to file Idaho corporate income tax returns for taxable years 2003 through 2008. The Bureau determined [Redacted] had net distributable income for each of the years 2003 through 2008. The Bureau found that the taxpayers did not report [Redacted] distributable income nor did they file Idaho individual income tax returns. The Bureau prepared income tax returns for the taxpayers for taxable years 2003 through 2008 and sent them a Notice of Deficiency Determination. The Bureau based the taxpayers’ returns on the flow-through income from [Redacted] and other information obtained [Redacted].

The taxpayers protested the Bureau’s Notice of Deficiency Determination stating they would file the appropriate returns; however, due to computer problems and health issues, they needed additional time to prepare the returns. The Bureau acknowledged the taxpayers’ protest

and allowed sufficient time for the taxpayers to submit their returns. When the taxpayers failed to submit any returns, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayers a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayers did not respond, so the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

As previously stated, the taxpayers are shareholders of an Idaho S-corporation. The taxpayers are also Idaho residents. Generally, S-corporation income flows through to the S-corporation's shareholders in accordance with their ownership percentage. *See* Internal Revenue Code section 1366. In its decision for Docket No. 22880, the Tax Commission determined [Redacted] had net distributable income from its business operations in each of the taxable years 2003 through 2008. Therefore, the taxpayers were required to report on their individual income tax returns the income [Redacted].

The taxpayers did not contest their requirement to file Idaho individual income tax returns. The taxpayers dispute the amount of taxable income as determined by the Bureau. The taxpayers stated they would provide income tax returns but, as of this writing, no returns have been received.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayers did not meet their burden. In addition, deductions are a matter of legislative grace, and taxpayers bear the burden of proving they are entitled to the deductions

claimed. INDOPCO, Inc. v. Commissioner, 503 U.S. 79, 84, 112 S. Ct. 1039, 117 L.Ed.2d 226 (1992); New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440, 54 S. Ct. 788, 78 L. Ed. 1348 (1934). Since the taxpayers failed to provide any information or support for any deductions, they must bear their misfortune that no deductions are allowed. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931).

The Tax Commission reviewed the returns the Bureau prepared for the taxpayers and found them to be a reasonable representation of the taxpayers' Idaho taxable income.

CONCLUSION

The taxpayers are Idaho residents and shareholders of an Idaho S-corporation. The S-corporation was found to have net distributable income that flows through to the taxpayers. The taxpayers did not provide anything contrary to the returns prepared by the Bureau. Therefore, the Tax Commission upholds the Bureau's determination.

The Bureau added interest and penalty to the taxpayers' tax deficiency. The Tax Commission reviewed those additions and found them to be appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

THEREFORE, the Notice of Deficiency Determination dated March 4, 2010, and directed to [Redacted] is AFFIRMED.

IT IS ORDERED that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$6,678	\$1,670	\$2,924	\$11,272
2004	9,561	2,390	3,611	15,562
2005	7,141	1,785	2,270	11,196
2006	7,937	1,984	2,025	11,946
2007	4,919	1,230	910	7,059
2008	6,335	1,584	766	8,685
			TOTAL DUE	<u>\$65,720</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.

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.