

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22880
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted]. (taxpayer) protested the Notice of Deficiency Determination dated March 4, 2010, asserting income tax, penalty, and interest in the total amount of \$201 for taxable years 2003 through 2008. The taxpayer disagreed with the Tax Discovery Bureau’s (Bureau) determination of its net distributable income for each of the years. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

As part of the Tax Commission’s discovery process, the Bureau found, from a review of the various business returns filed with the Tax Commission, that the taxpayer failed to file corporate income tax returns for taxable years 2003 through 2008. The Bureau sent the taxpayer letters about its requirement to file Idaho corporate income tax returns. The taxpayer did not respond, so the Bureau obtained additional information [Redacted], and prepared income tax returns for the taxpayer. The Bureau sent the taxpayer a Notice of Deficiency Determination which the taxpayer protested.

The taxpayer stated it would file returns, but due to computer problems and health issues, it needed additional time to prepare the returns. The Bureau acknowledged the taxpayer’s protest and allowed sufficient time for the taxpayer to submit its returns. The Bureau contacted the taxpayer about the returns, but no returns were provided. Therefore, the Bureau referred the matter for administrative review.

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

LAW AND ANALYSIS

The taxpayer is an Idaho S-corporation that incorporated in Idaho [Redacted]. The last corporate income tax return the taxpayer filed with the Tax Commission was for taxable year 2002. Idaho Code section 63-3030(4) states a tax return is required by:

Every corporation reporting as an S corporation pursuant to Internal Revenue Code sections 1361 through 1379 to the federal government, which is transacting business in this state, or is authorized to transact business in this state.

The taxpayer did not contest its requirement to file Idaho corporate income tax returns. The taxpayer contested the amount of net distributable income as determined by the Bureau. The taxpayer stated it would provide income tax returns but, as of this writing, no returns have been received.

The Bureau's determination of the taxpayer's net distributable income was determined from the sale/use tax returns the taxpayer filed with the Tax Commission, the withholding returns the taxpayer filed with the Tax Commission, and the payroll information the taxpayer reported [Redacted]. The Bureau also estimated the taxpayer's cost of goods sold based upon the corporate income tax return the taxpayer filed for taxable year 2002.

Deductions are a matter of legislative grace, and taxpayers bear the burden of proving that 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 taxpayer failed to provide any information

or support for any business deductions, it must bear its misfortune that no deductions are allowed. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931).

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 taxpayer did not meet its burden. The Tax Commission reviewed the returns the Bureau prepared for the taxpayer and found they are a reasonable representation of the taxpayer's net distributable income.

Since the taxpayer is an S-corporation, its income flows through to its shareholders, therefore, any income tax owed is paid by the shareholders. However, Idaho Code section 63-3025A does require corporations to pay a franchise tax. The minimum tax required by the statute is \$20. Therefore, the taxpayer was required to pay the minimum tax for each of the years.

CONCLUSION

The taxpayer transacted business in Idaho during the years in question. The taxpayer was required to file Idaho corporate income tax returns. But, because the taxpayer is an S-corporation with resident shareholders, all its income flows through to the shareholders and is taxed on their individual income tax returns. Nevertheless, the taxpayer is still required to file returns and pay the minimum franchise tax. The taxpayer disagreed with the net distributable income but failed to provide anything contrary. Therefore, the Tax Commission upholds the Bureau's determination.

The Bureau added interest and penalty to the taxpayer's 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 [Redacted]. is AFFIRMED.

IT IS ORDERED 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>
2003	\$20	\$10	\$9	\$ 39
2004	20	10	8	38
2005	20	10	6	36
2006	20	10	5	35
2007	20	10	4	34
2008	20	10	3	<u>33</u>
			TOTAL DUE	<u>\$215</u>

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.

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.
