

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 25429
Petitioner.) DECISION
_____)

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated July 30, 2012, asserting income tax, penalty, and interest in the total amount of \$108 for taxable years 2005, 2006, and 2007. Petitioner disagreed with the Tax Discovery Bureau’s (Bureau) determination of its Idaho taxable income for each of the years. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

Petitioner is an S Corporation (S Corp) that was registered with Idaho’s Secretary of State in 2005 through 2011. 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 Petitioner failed to file corporate income tax returns for taxable years 2005 through 2007. The Bureau sent Petitioner letters about its requirement to file Idaho corporate income tax returns. Petitioner did not respond, so the Bureau obtained additional information from the [Redacted] and the Idaho Department of Labor, and prepared corporate income tax returns based upon a calculation of income determined from the wages Petitioner paid. However, since Petitioner is a flow-through entity, the deficiency determined by the Bureau consisted of only the minimum tax required by Idaho Code section 63-3025A, and the applicable penalty and interest for each year. The Bureau sent Petitioner a Notice of Deficiency Determination which Petitioner protested.

Petitioner stated that due to circumstances beyond its control, the information needed to prepare accurate income tax returns was not presently available. Petitioner stated that in August 2006, its CEO and COO pillaged and fleeced its offices, leaving Petitioner scrambling to recover its assets through court action. Petitioner stated the shocking events that occurred prevented it from conducting normal business, causing its creditors to withdraw their support and eventually seize its assets. Petitioner stated the collusion of its CEO and COO effectively bankrupted Petitioner and put it out of business. Petitioner stated it was hoping to recover, but until such time, Petitioner is asking for consideration, forgiveness, and/or forbearance in all its tax matters.

The Bureau acknowledged Petitioner's protest, but still asked Petitioner to file its income tax returns, seeing that Petitioner still had the resources and ability to make a substantial payroll through 2007. The Bureau allowed Petitioner sufficient time to submit its returns, but when no returns were provided, the Bureau referred the matter for administrative review.

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

LAW AND ANALYSIS

Petitioner is an S Corp, which is a flow-through entity for income tax purposes. Idaho Code section 63-3030(4) states a 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.

Petitioner was authorized to do business in Idaho and transacted business in Idaho as evidenced by its registration with Idaho's Secretary of State and the wages it reported to the Idaho Department of Labor. Petitioner also did not contest its requirement to file Idaho corporate income tax returns. Petitioner argued the coordinated improprieties of its CEO and COO prevented it from being able to prepare and submit its corporate income tax returns. Nevertheless, Petitioner was required to file Idaho corporate income tax returns for taxable years 2005 through 2007.

The Bureau's determination of Petitioner's Idaho taxable income was based upon the withholding returns Petitioner filed with the Tax Commission and the payroll information Petitioner reported to the Idaho Department of Labor. The Bureau's calculation of Petitioner's taxable income came from an industry average of the income reported for servicing the amount of Petitioner's payroll. As for deductions, they 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). Petitioner failed to provide any information or support for any business deductions; consequently, it must bear its misfortune that no deductions are allowed. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). Nevertheless, the Bureau did allow Petitioner's payroll as a deduction.

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).

Petitioner did not meet its burden. The Tax Commission reviewed the returns the Bureau prepared for Petitioner and found the returns are reasonable, considering the available information.

CONCLUSION

Petitioner transacted business in Idaho during the years in question. Petitioner was required to file Idaho corporate income tax returns. However, because Petitioner is an S Corp with Idaho resident shareholders, all of its income flows through to the shareholders and is taxed on the shareholders' individual income tax returns. However, Idaho Code section 63-3025A does require corporations to pay a franchise tax. The minimum tax required by the statute is \$20. Since Petitioner's taxable income is considered distributed to its shareholders, Petitioner is only required to pay the minimum tax for each of the years.

The Bureau added interest and penalty to Petitioner'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 July 30, 2012, and directed to [Redacted] is AFFIRMED.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$20	\$10	\$7	\$ 37
2006	20	10	5	35
2007	20	10	7	<u>37</u>
			TOTAL DUE	\$109
			AMOUNT PAID	<u>50</u>
			BALANCE DUE	\$ <u>59</u>

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 _____ 2014.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2014, 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.