

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25431
[Redacted],)	
)	
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 \$163,618 for taxable years 2005 through 2007. Petitioner disagreed with the Tax Discovery Bureau’s (Bureau) determination of her Idaho taxable income for each of the years. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

Petitioner is the sole shareholder of [Redacted] an S-corporation incorporated in Idaho. [Redacted] failed to file Idaho corporate income tax returns for taxable years 2005 through 2007. The Bureau determined [Redacted] had net distributable income for each of the years 2005 through 2007. The Bureau found that Petitioner did not report [Redacted] distributable income, nor did she file Idaho individual income tax returns. The Bureau prepared income tax returns for Petitioner for taxable years 2005 through 2007, and sent her a Notice of Deficiency Determination. The Bureau based Petitioner’s returns on the flow-through income from [Redacted], wages received from [Redacted], and other information obtained from the [Redacted].

Petitioner protested the Bureau’s determination. Petitioner stated that due to circumstances beyond her control, the information needed from [Redacted] to prepare accurate income tax returns was not presently available. Petitioner stated [Redacted] [Redacted] and

[Redacted] pillaged and fleeced its offices, leaving [Redacted] scrambling to recover its assets through court action. Petitioner stated [Redacted] was prevented from conducting normal business, causing its creditors to withdraw their support and eventually seize its assets. Petitioner stated the collusion of [Redacted] and [Redacted] effectively bankrupted [Redacted] and put it out of business. Petitioner stated she was hoping to recover [Redacted], but until such time, Petitioner is asking for consideration, forgiveness, and/or forbearance regarding her tax matters.

The Bureau acknowledged Petitioner's protest, but still asked Petitioner to file her income tax returns. The Bureau allowed Petitioner sufficient time to submit her 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

As previously stated, Petitioner is the sole shareholder of an Idaho S-corporation. Petitioner is also an Idaho resident. 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. [Redacted], the Tax Commission determined [Redacted] had net distributable income from its business operations in each of the taxable years 2005 through 2007, therefore, Petitioner was required to report on her individual income tax returns, the income from [Redacted].

Petitioner did not contest her requirement to file Idaho individual income tax returns. Petitioner's dispute seems to be the amount of taxable income as determined by the Bureau. However, Petitioner provided no information to support a different Idaho taxable income.

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 her 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 Petitioner failed to provide any information or support for any deductions, she must bear her 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 Petitioner and found them reasonable, based upon the information available.

CONCLUSION

Petitioner is an Idaho resident and a shareholder of an Idaho S-corporation. The S-corporation was found to have net distributable income that flows through to Petitioner. Petitioner did not provide anything contrary to the returns the Bureau prepared. Therefore, the Tax Commission upholds the Bureau's determination.

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	\$16,147	\$ 4,037	\$ 6,639	\$ 26,823
2006	74,502	18,626	25,957	119,085
2007	15,643	3,911	4,356	<u>23,910</u>
			TOTAL DUE	<u>\$169,818</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.
