

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 25961
)
)
Petitioner.) DECISION
)
_____)

BACKGROUND

On April 29, 2013, the Audit Bureau (Audit) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (Petitioner) proposing income tax, penalty, and interest for taxable years 2008 through 2011 in the total amount of \$149,906. On June 27, 2013, the Petitioner filed a timely protest. On October 3, 2013, the file was transferred to the Legal/Tax Policy Division for resolution. On February 3, 2014, the Commission sent a letter outlining the options for resolving a protested audit. The CPA, who had a Power of Attorney on file, asked for more time to respond, but no response has been made. A hearing was not requested. The Commission now makes this decision with the information available.

ISSUES

1. Whether the Petitioner is entitled to the Credits for New Employees claimed on his amended returns.
2. Whether the Petitioner is entitled to the Investment Tax Credits (ITC) claimed on his amended returns.
3. Whether the Petitioner is entitled to use the Credits for Research Expense in Idaho, passed through from the S-corp. and LLCs he owns.

DISCUSSION

The Petitioner is the sole shareholder of [Redacted], a Subchapter S Corporation (S-corp.). S-corps. are pass-through entities, the income, expense, and credits of which are reported directly on the owner's personal income tax returns. As such, any increases to income or change in tax credits allowed flow directly to the owner's personal income tax returns.

The Petitioner is also the sole member of a limited liability company (LLC), [Redacted]. The Petitioner is also the majority owner in [Redacted]. These LLCs have elected to be treated as partnerships for income tax purposes and are, therefore, pass-through entities. Changes to the LLCs' income or credits flow through to the Petitioner's personal income tax returns.

Issue 1. Whether the Petitioner is entitled to the Credits for New Employees claimed on his amended returns.

Those credits were passed through from [Redacted] to the Petitioner. Those credits were disallowed by the NODD. No documentation or substantiation was provided in support of these credits. See Docket No. 25962 for details.

Issue 2. Whether the Petitioner is entitled to the Investment Tax Credits claimed on his amended returns.

The ITC was also examined on the amended returns of both [Redacted] and [Redacted]. See Docket Nos. 25964 and 25963 for discussion of the issues. One of the ITC claims in Docket No. 25963 was accepted by the Commission. The 2010 tax liability was adjusted down by \$1,066. Those credits and, therefore, the adjustments, flow through [Redacted]. See Docket No. 25962 for details.

Issue 3. Whether the Petitioner is entitled to use the Credits for Research Expense in Idaho, passed through from the S-corp. and LLCs he owns.

According to the amended returns, the Petitioner conducted an internal study of [Redacted] and [Redacted] to determine the research credit and new employee credit. Amended returns were filed for all of the above listed tax years, claiming the business credits. A copy of the internal study was requested. After numerous emails from the representative, the Commission still has not received any information.

Idaho Code section 63-3029G allows for a 5 percent credit on Idaho income taxes for increasing research activities that take place within Idaho. These credits were disallowed in the NODD to [Redacted]. See Docket No. 25962 for the discussion of this issue.

THEREFORE, the NODD dated April 29, 2013, and directed to [Redacted] is hereby MODIFIED and AFFIRMED.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
12/31/08	\$ 6,696	\$1,004	\$ 1,698	\$ 9,398
12/31/09	6,387	958	1,300	8,645
12/31/10	78,480	11,772	12,306	102,558
12/31/11	29,035	4,355	3,385	<u>36,775</u>
			TOTAL	<u>\$157,376</u>

Interest is calculated through June 15, 2015, 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 _____ 2015.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2015, 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.
