

applicable to s-corps and the associated penalty and interest for failing to file Idaho income tax returns.

Petitioner protested the Bureau's determination stating it was uncertain about its requirement to file Idaho income tax returns. Petitioner stated it would be consulting legal representation and an Idaho CPA to assist with the filings and any details required. Petitioner asked for additional time to sort it all out.

The Bureau allowed Petitioner additional time to submit whatever additional information or returns it was planning to, but when nothing was received and Petitioner started talking settlement, 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. The Tax Commission sent Petitioner a follow up letter but still Petitioner failed to respond. Therefore, the Tax Commission, believing Petitioner had ample time to provide additional information or to prepare and submit its income tax returns, decided the matter based upon the information available.

LAW AND ANALYSIS

Idaho Code section 63-3030 states, every corporation which is transacting business in this state, authorized to transact business in this state, or having income attributable to this state, unless exempt from the tax imposed in this chapter shall file an Idaho income tax return. Petitioner did not contest having business activities in Idaho. Petitioner was unsure of its filing requirement and the amount if any of its Idaho taxable income. Petitioner stated it would provide additional information and/or income tax returns, but as of this writing nothing has been received.

In Idaho, a State Tax Commission deficiency determination is presumed correct and the burden is on the taxpayer to show 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 failed to meet its burden. Petitioner transacted business in Idaho as evidenced by the wages it reported to the Idaho Department of Labor, the withholding permit it obtained from the Tax Commission, and W-2 wage and tax statements it filed with the Tax Commission. The Bureau used this information to determine Petitioner's taxable income from industry standards. Petitioner provided nothing contrary to the Bureau's computation.

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 Petitioner 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). The Tax Commission reviewed the returns the Bureau prepared for Petitioner and found they are a reasonable representation of Petitioner's taxable income based upon the information available.

Since Petitioner is an s-corp, which is a flow-through entity for income tax purposes, all Petitioner's taxable income flows through to its shareholders. However, in Idaho, s-corps are required to file income tax returns reporting their Idaho income and showing the proportional amount attributable to each of its shareholders. The s-corp is also required to pay a minimum tax on the Idaho s-corp return. This is the tax the Bureau asserted in the Notice of Deficiency Determination to Petitioner.

CONCLUSION

Petitioner transacted business in Idaho during the years in question. Petitioner was required to file Idaho s-corp income tax returns. Petitioner failed to provide anything to show it was not required to file Idaho income tax returns or that the Bureau's determination of its taxable income was incorrect. Therefore, absent information to the contrary, 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 appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

THEREFORE, the Notice of Deficiency Determination dated August 22, 2014, and directed to [Redacted], Inc. 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>
2008	\$20	\$10	\$6	\$36
2009	20	10	5	35
2010	20	10	4	34
2011	20	10	3	<u>33</u>
			TOTAL DUE	<u>\$138</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 _____ 2016.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2016, 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.
