

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-167-708-672
	)	
	)	
	)	
Petitioner.	)	DECISION

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[REDACTED] (Petitioner) protested the Notice of Deficiency Determination (Notice) dated March 13, 2019. Petitioner did not agree with the Idaho business returns the Tax Discovery Bureau (Bureau) prepared for it. The Idaho State Tax Commission (Commission) reviewed Petitioner’s case and this is our final decision. We modify the Notice. This means Petitioner **needs to pay \$67** of tax, penalty, and interest for tax years 2013 and 2017. The Commission now DEMANDS immediate payment of this amount.

Petitioner is an active Idaho S-corporation registered with the Idaho Secretary of State. The Registered Agent and President is [REDACTED]. For the years under review Tax Commission records show Petitioner registered as an S-Corporation but did not file Idaho corporate income tax returns. The Bureau notified Petitioner of the missing returns but received no response. Therefore, the Bureau prepared returns for Petitioner and issued the Notice.

Petitioner protested the Notice, not disputing the requirement to file returns but rather objecting to the amount of net income allocated to Shareholders for tax years 2015 through 2017. Petitioner stated the figures shown in the Notice for tax years 2013 and 2014 were correct and it would immediately pay the \$164 shown in the Notice.

The Bureau acknowledged Petitioner’s protest and again requested the Idaho corporate income tax returns. Petitioner did not respond, and the matter was referred for administrative

review. Petitioner did not request an informal hearing during the administrative review process but did file an Idaho S-Corporation return for tax years 2014 through 2016. Therefore, the Notice for tax these years is cancelled, and tax years 2014 through 2016 will not be mentioned further in this decision. Petitioner has yet to file an Idaho S-Corporation return for tax year 2013 or 2017.

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.

In the present matter, Petitioner does not contest its requirement to file Idaho corporate income tax returns, or its requirement to pay the \$20 minimum tax. *See Idaho Code §63-3025(2) and Idaho Code §63-3025(3)*. What Petitioner objects to is the way its 2017 tax was determined, by estimates. The Tax Commission acknowledges the Bureau's determination of Petitioner's net income for the year 2017 is an estimate. However, in the absence of actual returns submitted by Petitioner, the Tax Commission finds the Bureau's calculation of Petitioner's net income to be reasonable. The Bureau's calculation of Petitioner's net distributable income for tax year 2017 is an estimate based on the gross sales figures found on actual S-Corporation returns filed by Petitioner in previous years. The Bureau allowed a deduction for payroll expense, based on the amount of wages reported to the Tax Commission or Idaho Department of Labor. Additionally, the Bureau allowed a deduction from gross income for "other expenses" also based on an estimate from previously filed returns.

In Idaho, a Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. *See Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986) (citing *Albertson's Inc. v. State, Dept. of*

*Revenue*, 106 Idaho 810, 814 (1984)). Petitioner in this case has not met its burden. Petitioner disagreed with the amount of net distributable income but failed to provide anything to the contrary.

Petitioner transacted business in Idaho during the years in question. Petitioner is required to file Idaho corporate income tax returns. But, because Petitioner 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, Petitioner is still required to file a return and pay the minimum franchise tax. Therefore, the Commission upholds the Bureau's determination.

The Bureau added interest and penalty to Petitioner's tax deficiency. The 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 dated March 13, 2019, and directed to [REDACTED] is hereby MODIFIED, and as modified, APPROVED and MADE FINAL.

IT IS ORDERED that Petitioner pay the following tax, penalty, and interest computed to August 14, 2020.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2013	\$20	\$10	\$5	\$35
2017	20	10	2	<u>32</u>
			TOTAL DUE	<u>\$67</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of Petitioner's right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2020,  
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:

Receipt No.



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