BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of [redacted] Petitioner.	))))))	DOCKET NO. 0-104-272-896 DECISION

[redacted] (Petitioner) protested the Notice of Deficiency Determination (Notice) dated September 25, 2024. This protest was carried forward to a modified Notice dated February 12, 2025. The Tax Commission reviewed the matter and hereby issues its final decision to uphold the modified Notice.

Background

During a review of taxpayer information, the Tax Commission's Tax Discovery Bureau (Bureau) could not locate Petitioner's Idaho individual income tax returns for tax years 2018, 2019, 2020, 2021, and 2022. The Bureau determined that Petitioner met the requirements to file Idaho tax returns for the years in question.

The Bureau first contacted Petitioner on July 24, 2024, inquiring about the missing returns. Petitioner did not respond to the Bureau's nonfiler letter, so the Bureau prepared returns for him and issued the Notice on September 25, 2024.

In calculating Petitioner's Idaho taxable income for the audit period, the Bureau included estimated self-employment income[1], wages[2], income from the sale of real property[3], gambling

---

[1] [redacted] 2018-2021; [redacted] 2019-2021
[2] 2021
[3] 2021 and 2022

winnings[4], and interest[5]. The Bureau determined that Petitioner was an Idaho resident, unmarried, and had no dependents for these years. The Bureau acknowledged the lack of definitive information about business income and deductible expenses and requested that Petitioner file actual returns if the estimates were incorrect.

The Bureau received a Power of Attorney naming [redacted] as Petitioner's attorney-in-fact (AIF) to the Tax Commission. AIF submitted a written response to the Notice on November 26, 2024, stating that the estimates in the Notice were not accurate and that he and Petitioner were working to create tax returns. Specifically, he stated that the estimated expenses for Petitioner's businesses were "lower that what actually happened" and that the real property sales were each "part of a valid 1031 exchange that will be substantiated." AIF estimated completion of all the returns by December 31, 2024.

The Bureau sent a letter on December 2, 2024, acknowledging the protest and confirming the estimated due date of the returns as December 31, 2024. By January 7, 2025, the Bureau had not received any of the promised returns so reached out to AIF to inquire as to their status and extend the deadline to January 31, 2025. The Bureau stated that if at least one return was not received by the new deadline, the case would be forwarded to the Tax Commission's Appeals unit (Appeals). AIF replied via email explaining that gaining access to bank records was proving more difficult than expected.

On February 4, 2025, AIF informed the Bureau that Petitioner had not been returning his phone calls or making any effort to receive assistance with preparing the missing returns. AIF

[4] 2022
[5] 2022

asked the Bureau to remove him as Petitioner's representative. AIF stated that he had left Petitioner messages informing him that he would be doing so.

After conducting additional research, the Bureau issued a modified Notice on February 12, 2025, to apply the Idaho Capital Gains Deduction to the proceeds included for the real property sale in 2021. In the modified Notice, the Bureau informed Petitioner that his protest continued from the original Notice and that if he did not respond by February 28, 2025, the matter would be forwarded to Appeals. Petitioner did not respond.

On April 8, 2025, Appeals sent Petitioner a letter explaining the options available for redetermining a protested Notice. Petitioner has not responded to this letter, so the Tax Commission must make a decision based on the information currently available.

Law & Analysis

Idaho Code section 63-3030(a)(1) requires each individual who is a resident of Idaho to file an Idaho income tax return if required to file a federal return. Internal Revenue Code section 6012 states that the requirement to file a federal return is based on gross income.

In the protest letter dated November 26, 2024, AIF did not express disagreement with the Bureau's conclusion that Petitioner was required to file Idaho returns for the years in question. Rather, he argued that the estimated business expenses were incorrect and that the property sales were part of tax-deferred transactions. The Bureau calculated 2019 through 2021 net income for [redacted] by using actual sales and payroll figures filed with the Tax Commission and then allowing a reasonable estimate of additional expenses at 25% of reported sales. The Bureau calculated 2018 through 2021 net income for [redacted] by using the same gross receipts and cost of goods sold figures filed in the previous year (2017). There is no evidence to suggest that Petitioner's real property sales were not transactions taxable in the year they occurred.

The Tax Commission reviewed the Bureau's allowance of the Idaho capital gains deduction for Petitioner's sale of Idaho property in 2021 and finds it to be appropriate.

The Tax Commission realizes that Petitioner may have had more business expenses than those shown on the Notice. However, deductions are a matter of legislative grace, and the taxpayer bears the burden of showing that each deduction is allowable by statute[6]. The burden rests upon the taxpayer to disclose its receipts and claim its proper deductions[7]. If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed, and the taxpayer must bear its misfortune[8].

In Idaho, it is well established that a Tax Commission Notice is presumed to be correct, and the taxpayer bears the burden of showing the deficiency is erroneous[9]. The Tax Commission requires Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Petitioner failed to do so. He has not filed actual returns or provided any substantive argument or documentation to show the individual income tax returns prepared by the Bureau for tax years 2018 through 2022 are incorrect.

The Bureau added interest and penalty to Petitioner's tax deficiency. The Tax Commission reviewed those additions and finds them to be appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

---

[6] *New Colonial Ice Co. v. Helvering*, 292 US. 435, 54 S.Ct. 788 (1934); *Higgins v. C.I.R.,* T.C. Memo. 1984-330, (1984)
[7] *United States v. Ballard*, 535 F.2d 400 (1976)
[8] *Burnet v. Houston*, 283 US. 223, 51 S.Ct. 413 (1931)
[9] *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))

Conclusion

Based on available information, Petitioner met the requirements to file Idaho income tax returns for tax years 2018 through 2022. The Bureau calculated reasonable estimates of his Idaho taxable income and related tax due for these years.

THEREFORE, the modified Notice dated February 12, 2025, and directed to [redacted] is hereby UPHELD and MADE FINAL.

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

YEAR	TAX	PENALTY	INTEREST	TOTAL
2018	$2,911	$728	$814	$4,453
2019	12,853	3,213	2,902	18,968
2020	13,679	3,420	2,687	19,786
2021	32,167	8,042	5,632	45,841
2022	5,783	1,446	805	8,034
				$97,082

The Tax Commission DEMANDS immediate payment of this amount. Interest is calculated in accordance with Idaho Code section 63-3045.

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

DATED this ________ day of ____________________ 2025.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this ________ day of ______________________________ 2025, 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.

____

____