



## PETITIONER'S POSITION

Petitioner disagreed with the Bureau's determination and provided the following statements:

Incorrect. I never received or handled either of these loans. These 2 belong to Tax liability should be assessed upon that company only. These were company loans, 100% of funds were used to pay company payroll, equipment loan payments, equipment rental payments, and operating expenses for company trucks, trailers. No personal expenses were paid with these business loan funds, and no personal income was received from this funding. Therefore, no personal income tax due on my part for the 2 loans.

The amounts of \$13,234 for year 2017, and \$259 for year 2018 are taxes assessed on a loan from in 2017 and a loan from in 2018. Funds for both of these loans were deposited directly into the bank account for All funds were used for business expenses including employee payroll, subcontractor payments, fuel, truck rental payments, trailer rental payments, office expenses, truck maintenance and repairs, yard rent, and company travel expenses. None of the funding received from the 2 loans was used for any personal expenses whatsoever, so to be taxed on a personal level, as one cannot be taxed on a dollar amount or asset that was never received by the individual.

## ANALYSIS

The Tax Commission notes the following: (1) is an S corporation; (2) Petitioner was a 50% shareholder and principal officer of as of December 31, 2015. (3) Neither Petitioner nor reported a liquidating distribution in 2015; (4) did not file S corporation tax returns for tax years 2016 through 2018; and (5) Petitioner did not report any tax attributes from for tax years 2016 through 2018.

Under Subchapter S of the Internal Revenue Code, an S corporation is generally not taxed on its income because it is a pass-through entity, and thus the shareholders report their share of the corporation's income, loss, deductions, and credit items and are responsible for the resulting tax

liability. In order to determine the taxability of the items passed through to the shareholders, the S corporation's transactions are grouped in two categories:

- **Separately stated items** – Items that are potentially subject to special rules at the shareholder level.
- **Non-separately stated items** – Items that do not need to be stated separately to each shareholder, commonly referred to as ordinary income/(loss).

Petitioner argues the CODI belongs to \_\_\_\_\_ However, he has not provided any evidence to support his claim. Stating the CODI belongs to \_\_\_\_\_

\_\_\_\_\_ is not valid unless Petitioner provides adequate evidence to support it. The Tax Commission requires Petitioner to provide the following documentation to support his claim.

- Tax returns for \_\_\_\_\_ for tax years 2016, 2017, and 2018. The tax returns should include all books, journals, ledgers, and bank statements for the tax years in question.
- Loan documents for the loans associated with the CODI.
- Shareholder agreements and shareholder stock and debt basis calculations.
- All Court documents for CV-2016-4636,

The Tax Commission notes the characterization of the CODI, the applicable law, and deficiency may change based on any additional information received. However, based on the currently available information we find no basis on which to reverse the Bureau's determination.

### CONCLUSION

The Tax Commission's determination of a deficiency is presumed correct, and the taxpayer bears the burden of proving it incorrect. *Albertson's Inc. v. State Dep't of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The Tax Commission requires Petitioner provide adequate

evidence to support the CODI does not belong to him. Petitioner has not provided the requested information. Therefore, the Tax Commission will affirm the Bureau's Notice.

The Bureau added interest and penalty to the income tax deficiency. The Tax Commission reviewed those additions, found both to be appropriate per Idaho Code sections 63-3045 and 63-3046, and has updated interest accordingly. Interest is calculated through April 25, 2023, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

THEREFORE, the Notice of Deficiency Determination dated September 16, 2022, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

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>
2017	\$9,353	\$2,338	\$1,742	\$13,433
2018	189	47	27	263
				<u>\$13,696</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 \_\_\_\_\_ 2023.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2023,  
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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