BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-375-732-224
	)	
	)	
	)	DECISION
Petitioners.	)	

The Income Tax Audit Bureau (Bureau) at the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination (Notice) to (Petitioners) asserting a combined income tax deficiency of $219,241 for tax years 2018 and 2019. Petitioners filed a timely appeal and petition for redetermination. The issue in this case is whether Petitioners can claim a qualified business income (QBI) deduction on their Idaho returns that were greater than the QBI deduction claim on the federal returns. The Tax Commission has reviewed the file and hereby issues its decision to affirm the Notice.

BACKGROUND

Petitioners, residents of Idaho, claimed the QBI deduction. Petitioners claimed a QBI deduction on their Idaho returns that were greater than the QBI deduction claimed on their federal income tax returns. The Bureau adjusted Petitioners' Idaho QBI deduction to match their federal QBI deduction. Petitioners appealed.

PETITIONERS' POSITION

Petitioners' principal argument on appeal is they calculated the QBI deduction for their Idaho personal income tax return based on income computed under relevant Idaho laws. They noted Idaho laws contain several modifications, including the disallowance of bonus depreciation.

These modifications will result in Idaho income that is either less than or greater than federal income. Thus, resulting in modifications to the QBI.

LAW & ANALYSIS

Internal Revenue Code section 199A provides noncorporate taxpayers may claim an income tax deduction on their qualified business income (QBI) in tax years 2018–2025. The pass-through deduction is generally 20% of a taxpayer's QBI from a partnership, S corporation, or sole proprietorship, plus 20% of the taxpayer's qualified real estate investment trust (REIT) dividends and qualified publicly traded partnership (PTP) income. QBI is defined as the net amount of items of income, gain, deduction, and loss with respect to a trade or business. QBI doesn't include certain investment-related items, such as capital gains or losses, dividends, and interest income (unless the interest is properly allocable to the business). Employee compensation and guaranteed payments to a partner are also excluded. Taxpayers whose taxable income exceeds a threshold amount are subject to limitations on the deduction based on W-2 wages paid by the business and the unadjusted basis in acquired qualified property of the business. Special deductions are allowed to agricultural and horticultural cooperatives and their patrons.

Idaho Code section 63-3002 provides Idaho’s individual income tax law is identical in effect to the provisions of the Internal Revenue Code relating to the measurement of taxable income subject only to the modifications contained in the Idaho law. It further states to achieve this result by the application of the various provisions of the Federal Internal Revenue Code relating to the definition of income, exceptions therefrom, deductions, accounting methods, taxation of trusts, estates, partnerships and corporations, basis and other pertinent provisions to gross income as defined therein, resulting in an amount called "taxable income" in the Internal

Revenue Code, and then to impose the provisions of the Idaho Income Tax thereon to derive a sum called "Idaho taxable income".

Idaho Code sections 63-3022, 63-3022A through 63-3022U allows and explains the additions and subtracts allowed in computing Idaho taxable income.

In *Potlatch Corp. v. Idaho State Tax Comm'n,* 128 Idaho 387, 389, 913 P.2d 1157, 1159 (1996), the Idaho Supreme Court held:

> While I.R.C. § 404 allowed Potlatch a deduction for ESOP contributions, I.R.C. § 44G(c)(5) disallowed this deduction to the extent of any credit taken for the same contributions. These are both portions of Chapter 1 of the Internal Revenue Code. Therefore, the deductions for ESOP contributions claimed by Potlatch were not "allowed" by Chapter 1 and were not subtracted from federal gross income in arriving at federal taxable income, as "defined" in I.R.C. § 63. Idaho taxable income means the same as federal taxable income, subject to adjustment as provided in the subsections of I.C. § 63-3022. There is no subsection of I.C. § 63-3022 that would adjust taxable income by allowing the ESOP contributions as deductions.
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> Likewise, while I.R.C. § 174 allowed ESI to deduct a portion of R D expenses, I.R.C. § 280C(c) disallowed this deduction to the extent of any credit determined under I.R.C. § 41(a). All of these sections are part of Chapter 1 of the Internal Revenue Code. Therefore, the deductions for R D expenses claimed by ESI and denied by the Commission were not "allowed" by Chapter 1 and were not subtracted from federal gross income in arriving at federal taxable income as "defined" in I.R.C. § 63. There is no subsection of I.C. § 63-3022 that would adjust taxable income by allowing these R D expenses as deductions.

In this case, the Tax Commission follows the same reasoning as in *Potlatch Corp. v. Idaho State Tax Comm'n.* While Internal Revenue Code section 199A provides for a QBI deduction, Idaho Code section 63-3022 provides Idaho taxable income means the same as federal taxable income, subject to adjustments as provided in subsections of Idaho Code section 63-3022. While Idaho Code section 63-3022O requires Idaho taxable income be computed without regard to bonus depreciation, there is no subsection of Idaho Code section 63-3022 that would adjust Idaho taxable income by allowing a different QBI calculation.

CONCLUSION

The Tax Commission determination of a deficiency is presumed correct, and the taxpayer bears the burden of proving it incorrect. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The Tax Commission requires Petitioners to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, Petitioners did not provide adequate evidence. As a result, the Tax Commission will uphold the Notice.

The Bureau added interest and penalty to the income tax deficiency. The Tax Commission has 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 December 22, 2022 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 August 25, 2021, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

IT IS ORDERED that Petitioners pay the following tax, penalty, and interest.

YEAR	TAX	PENALTY	INTEREST	TOTAL
2018	$25,249	$1,262	$3,156	$29,667
2019	147,757	36,939	11,493	196,189
				$225,856

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

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

DATED this ________ day of _________________________ 2022.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this ________ day of ______________________________ 2022, 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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