

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---|---|--------------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 0-416-924-672 |
| |) | |
| Petitioners. |) | DECISION |
| <hr style="width: 45%; margin-left: 0;"/> |) | |

(Petitioners) protested the Notice of Deficiency Determination dated September 27, 2022. Petitioners disagreed with the adjustments made by the Internal Revenue Service (IRS). Petitioners stated that the IRS’s changes to their tax returns do not reflect the reality of their income and have asked the IRS for a reconsideration. The Tax Commission reviewed the matter and for the following reason upholds the Notice of Deficiency Determination.

BACKGROUND

The Income Tax Audit Bureau (Bureau) received information from the IRS that adjustments were made to Petitioners’ 2005 through 2011 federal income tax returns. The Bureau reviewed the adjustments and found that the changes made to Petitioners’ federal returns also needed to be made on Petitioners’ Idaho individual income tax returns. The Bureau adjusted Petitioners’ Idaho income tax returns and sent them a Notice of Deficiency Determination.

Petitioners protested the Bureau’s determination. Petitioners stated they have asked for a reconsideration with the IRS. Petitioners stated the IRS did not allow all of their legally recognizable business expenses. Petitioners stated they owned a restaurant during the years in question which is not adequately represented in the returns the IRS prepared. Petitioners stated the Tax Commission is premature in its determination since the matter with the IRS is not final.

Petitioners asked that the Tax Commission put its proceedings on hold until the IRS has its final say on their returns.

The Bureau acknowledged Petitioners' protest and asked them to provide documentation that the IRS was reconsidering their case. Petitioners' representative (Representative) contacted the Bureau a couple of times but did not provide anything to show the IRS was still working on Petitioners' case. Because Petitioners did not show their audit was still pending with the IRS, the Bureau referred the matter to the Tax Commission's Appeals Unit (Appeals).

Appeals reviewed the matter and sent Representative a letter stating the options available for redetermining a protested audit. Representative did not respond. Appeals sent a follow-up letter directly to Petitioners, which yielded a response from Representative. Representative stated the IRS did not accept any of Petitioners' changes to its determination. Representative stated the matter with the IRS appears to be final. Representative stated he was not sure how the state wanted to proceed, but the best Petitioners could hope for now is some kind of settlement with the state.

The Tax Commission has the ability to settle cases. See Idaho Code sections 63-3047 and 63-3048. The Tax Commission can settle a case if one or more of the following circumstances exist: 1) disputed liability, 2) doubt as to collectability, 3) economic hardship of the taxpayer, or 4) promotion of effective tax administration. In this case, the liability could be in dispute, but with a final federal determination, the dispute has already been decided by the IRS. Since Petitioners' taxable income has already been established through a federal audit and the effective tax administration would be to collect the amount in full, any further determination for settlement based on collectability or economic hardship is better left to the Tax Commission's collection division. Therefore, seeing that Petitioners have apparently exhausted their appeal rights with the IRS, the Tax Commission makes its decision based on the information available.

LAW AND ANALYSIS

Idaho Code section 63-3002 states that Idaho taxable income is to be identical to federal taxable income, subject to certain modifications contained in Idaho law. The IRS changed Petitioners' federal taxable income to account for income that was not reported by Petitioners on their federal income tax returns. The Bureau reviewed Petitioners' Idaho returns and found that that same income was not reported to Idaho.

Petitioners stated they disagreed with the IRS findings because of additional legitimate business expenses the IRS did not consider. Petitioners wanted the Tax Commission to wait until the matter was fully settled with the IRS before making any adjustments to their Idaho return. The Tax Commission asked Petitioners to provide evidence that the IRS was reconsidering the adjustments. Petitioners did not provide that evidence.

However, well after Appeals first contacted Petitioners, Representative contacted the Tax Commission and stated that the IRS denied all the changes proposed by Petitioners. Representative stated the IRS audit appears to be final, so the Tax Commission can proceed with its determination.

Generally, the Tax Commission follows a federal determination on a taxpayer's taxable income. In this case, Petitioners have apparently acquiesced to the changes made to their federal income tax returns. Therefore, the Tax Commission finds it appropriate that the federal changes to Petitioners' taxable income be made to Petitioners' Idaho income tax returns.

CONCLUSION

The IRS audited and adjusted Petitioners' 2005, 2006, 2007, 2008, 2009, 2010, and 2011 federal income tax returns. Because the Idaho return uses federal adjusted gross income as a starting point, the Bureau reviewed the audit information and made the applicable adjustments to Petitioners' respective Idaho income tax returns. Petitioners disputed the changes with the IRS to

no avail. Therefore, in accordance with the Idaho statutes, the Tax Commission upholds the Notice of Deficiency Determination.

The Bureau added the penalty of Idaho Code section 63-3069 to Petitioners' tax deficiency. The Tax Commission reviewed Petitioners' federal account transcript and found that the IRS closed its examination of Petitioners' returns in August 2021. After closing the examination, the only actions recorded are collection actions and the appointing of a representative. There is no indication that the IRS was reconsidering its audit of Petitioners' income tax returns. Since Petitioners provided no evidence of an IRS reconsideration, the Tax Commission finds the addition of the penalty appropriate.

The Bureau also added interest to Petitioners' tax. The Tax Commission reviewed that addition and found it appropriate. *See* Idaho Code section 63-3045.

THEREFORE, the Tax Commission AFFIRMS the Notice of Deficiency of Deficiency Determination dated September 27, 2022, directed to

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

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|------------------|
| 2005 | \$11,284 | \$564 | \$8,858 | \$ 20,706 |
| 2006 | 4,840 | 242 | 3,495 | 8,577 |
| 2007 | 10,566 | 528 | 6,889 | 17,983 |
| 2008 | 7,616 | 381 | 4,478 | 12,475 |
| 2009 | 13,443 | 672 | 7,231 | 21,346 |
| 2010 | 16,979 | 849 | 8,333 | 26,161 |
| 2011 | 11,090 | 555 | 4,998 | <u>16,643</u> |
| | | | TOTAL DUE | <u>\$123,891</u> |

Interest computed to March 15, 2024.

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

DATED this _____ day of _____ 2024.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2024,
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.
