

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-466-076-672
)	
Petitioner.)	DECISION
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(Petitioner) protested the Notice of Deficiency Determination (Notice) dated December 16, 2022. The Tax Commission reviewed the matter and hereby issues its final decision upholding the Notice as modified by the Bureau and issued March 31, 2023. This means Petitioner needs to pay \$2,224 of tax, penalty, and interest for tax years 2014, 2015, 2018, 2020 and 2021. The Tax Commission DEMANDS immediate payment of this amount.

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 2014 through 2018, 2020, and 2021. The Bureau determined that Petitioner met the requirements to file Idaho tax returns for these years and sent a letter on February 18, 2021, inquiring about missing tax returns. Petitioner responded with information about a business that lost money, but he did not provide actual returns. The Bureau prepared returns for him and issued a Notice. The Bureau calculated Petitioner’s Idaho taxable income based solely on wages. The Bureau did not include self-employment income from Petitioner’s business.

On February 17, 2023, Petitioner filed a timely protest of the Notice, stating that he operated a jewelry business at a loss. Petitioner also stated that a tax preparer had completed his 2016 and 2017 tax returns and that some income included in the Notice for tax year 2020 was included in error. In response, the Bureau sent a letter to acknowledge Petitioner’s protest and

make an additional request for his missing income tax returns. This letter also included a proposed timeline for submitting the missing returns between March 7 and May 16, 2023. On February 21, 2023, the Bureau issued a modified Notice after removing the disputed tax year 2020 income. After issuing this modified Notice, the Bureau reviewed and accepted Petitioner's 2016 and 2017 filed returns and issued another modified Notice on March 31, 2023, removing those years. When no further returns arrived after several months, the Bureau forwarded the matter to the Tax Commission's Appeals unit (Appeals) for administrative review.

On July 7, 2023, Appeals sent Petitioner a letter outlining his options for redetermining a protested Notice. Petitioner responded via email. He did not request an informal hearing, but instead asked for more time to prepare the missing returns. He stated that he would be due refunds like the 2016 and 2017 returns he filed. Appeals granted an extension until August 31, 2023.

Petitioner has had more than adequate time to submit his returns but has not done so. Therefore, the Tax Commission decided this matter 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. The information gathered by the Bureau and used to calculate Petitioner's Idaho taxable income clearly shows that Petitioner received gross income above the threshold amounts for filing returns.

In his protest, Petitioner stated that he operated a jewelry business, at a loss. Records available through the Idaho Secretary of State show that Petitioner filed articles of incorporation in 2005 and has regularly filed the necessary annual report to maintain status with the state. The business had a short period where it was administratively dissolved, but the requisite

documents were filed, and the corporation was reinstated. The entity has never filed an income tax return to claim any deductions for business expenses but did file sales and use tax returns for 2014-2019 and 2021, reporting minimal gross receipts (for the years in question, the highest annual total reported was \$790). When an individual – like the Petitioner – is a shareholder of an S-corporation, income and expenses are passed from the business to the owner as ordinary income or loss on Schedule K-1 proportional to the individual’s stock ownership percentage. Other than its standing as an S-corporation and the few years of sales reported, the Tax Commission has no information about the business (i.e., amounts incurred for ordinary and necessary expenses, the number of shareholders, each shareholder’s percentage of ownership, etc.). Because there is not enough information to determine it accurately, the Tax Commission will not include any business income or loss in its determination of Petitioner’s Idaho taxable income for the unfiled years.

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. *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)). The Tax Commission requires Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Petitioner has 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 2014, 2015, 2018, 2020, and 2021 are incorrect. Therefore, the Tax Commission finds that the returns prepared by the Bureau are a reasonable representation of Petitioner’s Idaho taxable income and related tax due.

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.

THEREFORE, the modified Notice dated March 31, 2023, and directed to
is hereby 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>
2014	317	79	104	500
2015	356	89	103	548
2018	52	13	9	74
2020	401	100	37	538
2021	426	107	31	564
			TOTAL DUE	\$2,224

Interest is calculated through January 2, 2024.

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.
