

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-493-831-168
)	
Petitioner.)	DECISION
<hr style="width: 45%; margin-left: 0;"/>)	

Taxpayer Accounting sent (Petitioner) a Notice of Refund Determination (Notice) for tax year 2021. Petitioner protested, and the case was transferred to the Tax Commission’s Appeals Unit (Appeals). The Tax Commission has reviewed the case and hereby upholds the Notice.

BACKGROUND

Petitioner files as an S-Corporation with a less than 100% Idaho apportionment factor. Petitioner filed their Idaho Form 41S and claimed \$86 in estimated payments, line 60. Taxpayer Accounting could not verify the estimated payment, so they sent Petitioner a Notice removing the \$86 claimed. Petitioner protested, stating they had received an ID K-1 from showing \$86 withheld by the entity on behalf of the owner, line 39. Taxpayer Accounting acknowledged their protest and transferred the case to Appeals.

Appeals sent Petitioner correspondence explaining the appeals process and their right to a hearing. Petitioner did not respond. With no additional information, the Tax Commission must issue its decision based on the information currently available.

LAW AND ANALYSIS

Idaho Code section 63-3022L(5)-(6) describes the process in which a pass-through entity withholds tax for an individual, and states in part (**Emphasis added**):

“A pass-through entity that files a composite return as described in subsection (1) of this section shall include a statement with the return showing, and report on the

K-1 to each individual whose income is included in the return, each individual's share of the income reported on the return and the tax paid by the pass-through entity on each individual's share of the income reported on the return. The statement shall be made on a form prescribed by the state tax commission and shall contain any other information required by it. If the individual filed an Idaho return, the individual shall include the income shown on the K-1 to that individual and shall be entitled to a credit for the tax paid by the entity on such income shown on the K-1 to that individual.

(6) "Individual" for purposes of this section means a:

(a) Natural person;

(b) Grantor trust as described in sections 673 through 677 or section 678 of the Internal Revenue Code;

(c) Qualified subchapter S trust as described in section 1361(d)(3) of the Internal Revenue Code; or

(d) Single member limited liability company that has not elected to be classified as a corporation and is treated as a disregarded entity for federal income tax purposes."

According to Petitioner's tax returns, they do not fall under the definition of an "individual" and therefore cannot have tax withheld for them. Additionally, according to the Tax Commission's records, the \$86 of withholding was never remitted. With no response from Petitioner, the Tax Commission must review the relevant information to decide if the Notice is correct. Reviewing the facts and circumstances available, the Tax Commission hereby determines Taxpayer Accounting is correct for removing Petitioner's income tax withholding.

CONCLUSION

Taxpayer Accounting sent Petitioner a Notice removing income tax withheld on behalf of a pass-through entity. Even though Petitioner provided a K-1 showing the tax was withheld, the money was never remitted. Additionally, Petitioner does not qualify as an "individual" for a pass-through entity to withhold taxes for them.

THEREFORE, the Notice of Refund Determination dated February 10, 2023, is hereby APPROVED and MADE FINAL.

Interest is calculated through February 8, 2024.

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2021	\$20	\$2	\$22

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.
