

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of \_\_\_\_\_ )  
 )  
 , ) DOCKET NO. 0-625-784-832  
 )  
 Petitioners. ) DECISION  
 \_\_\_\_\_ )

This case is regarding the protest of a Notice of Deficiency Determination (Notice) issued to \_\_\_\_\_ (Petitioners) for taxable years 2017 and 2018. The Idaho State Tax Commission (Commission) after a thorough review of the matter upholds the modified Notice issued to Petitioners.

THEREFORE, the Notice dated November 3, 2020, modified August 31, 2021, and directed to Petitioners is AFFIRMED.

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>
2017	\$3,850	\$193	\$617	\$4,660

Interest computed through September 22, 2022.

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

The Commission upholds the modified Notice for the reasons discussed below.

**BACKGROUND**

The Income Tax Audit Bureau (Audit) during the normal processing of returns determined Petitioners filed their Form 40, Idaho Individual Income Tax Return for taxable year 2017 lacking substantiated basis to claim losses from \_\_\_\_\_. In addition, it was determined that Petitioners did not file an Idaho income tax return for tax year 2018. Audit using both Commission and third-party information determined Petitioners were required to file an Idaho individual income tax return for year 2018. Audit sent Petitioners letters

regarding the missing return for 2018 and the unsubstantiated deduction for tax year 2017. Audit issued a Notice to Petitioners when they did not respond. Petitioners protested the issuance of the Notice and submitted additional information regarding the years in question. The information Petitioners provided for tax year 2017 was mainly unpaid invoices and expenses deemed to be of a personal nature. No information was provided that established or increased basis in

. Upon a review of the information, Audit modified the Notice removing tax year 2018 and transferred the matter for administrative review.

The Commission sent Petitioners a letter outlining two methods for redetermining a protested Notice. Petitioners responded to the hearing rights letter by phone challenging the Notice. Petitioners were encouraged to exercise their right to an informal hearing. An informal hearing was held where Petitioners only referenced information previously submitted that did not substantiate their position. The Commission after a thorough review decided the matter based upon available information.

### **LAW AND ANALYSIS**

Deductions/expenses are a matter of legislative grace and only as there is clear provision therefore can any particular deduction be allowed. *New Colonial Ice Co., Inc. v. Helvering*, 292 U.S. 435, 54 S.Ct. 788 (1934).

Internal Revenue Code section 1367 states in part that the basis of each shareholder's stock in an S corporation shall be increased for any period by the sum of the following items determined with respect to that shareholder for such period: for items of income, any nonseparately computed income, or excess of the deductions for depletion over the basis of the property subject to depletion.

Petitioners have not provided a shareholder basis calculation to show that they have sufficient basis to claim any losses from the entity. Numerous requests were made to Petitioners

for documents to substantiate their basis in the entity to no avail. Audit, when Petitioners did not provide adequate substantiation of basis, used information available to the Commission from 2012 through 2017 which confirmed Petitioners' lack of basis to claimed losses.

### CONCLUSION

The Commission upholds the adjustment made by Audit to Petitioners' Idaho individual income tax return for taxable year 2017. On appeal, a deficiency determination issued by the Commission "is presumed to be correct and the burden is on the taxpayer to show that the Commission's decision is erroneous." *Parker v. Idaho State Tax Comm'n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (citing *Albertson's Inc. v. State Dep't of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). The Commission requires Petitioners to provide adequate evidence to establish the amount asserted in the Notice is incorrect. Here, Petitioners did not provide adequate evidence.

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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