

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of

██████████

Petitioner.

DOCKET NO. 0-872-476-600

DECISION

██████████ (Petitioner) protested the Notice of Deficiency Determination (Notice) dated February 26, 2024. Petitioner disagreed with the change the Income Tax Audit Bureau (Bureau) made to their 2021 Idaho S-Corporation income tax return. The Idaho State Tax Commission (Tax Commission) reviewed the matter and for the reason stated below upholds the Notice. Since Petitioner is a flow-through entity, Petitioner's shareholders are liable for any additional tax, penalty, and interest.

BACKGROUND

Petitioner is an Idaho S-Corporation (S-Corp) and filed an affected business entity (ABE) return for tax year 2021. Petitioner reported all business income to Idaho as they conducted their business activities solely in Idaho and paid Idaho income tax at 6.5 percent (%), instead of distributing the income to their shareholder. The Bureau reviewed Petitioner's 2021 Idaho return and found that they did not report the bonus depreciation addition passed through to them from ██████████. The Bureau also found that Petitioner did not recapture the Idaho investment tax credit (ITC) claimed on the aircraft that they acquired in 2017 and sold in 2021. The Bureau made these adjustments and issued a Notice.

¹ ██████████ (EIN ██████████) is an Idaho partnership, filed an Idaho Form 65, reporting all business income to Idaho as they conducted their business activities solely within Idaho (100% apportionment factor in Idaho). Petitioner is a shareholder, owning 1% of ██████████.

Petitioner protested the Notice, indicating that they would provide additional information and further discuss with the Bureau. The Bureau acknowledged Petitioner's protest and allowed additional time. When Petitioner provided no additional information, the Bureau referred the matter to the Tax Commission's Appeals Unit (Appeals) for administrative review.

Appeals sent Petitioner a letter explaining the options available for redetermining a Notice. Petitioner responded but did not provide additional information nor did they request an informal hearing. Having reviewed the matter, the Tax Commission hereby issues its final decision.

LAW AND ANALYSIS

Idaho Code section 63-3022O(1) states in pertinent part that depreciation of depreciable property acquired after December 31, 2009, shall be computed without regard to subsection (k) of section 168 of the Internal Revenue Code. IRC section 168(k) requires, unless elected out, an additional depreciation allowance on qualified property, commonly called bonus depreciation. Idaho law requires depreciation to be computed without regard to IRC section 168(k), therefore, Idaho taxpayers must make additions and subtractions to account for bonus depreciation on their Idaho returns when calculating Idaho taxable income.

In the present case, [REDACTED] [REDACTED] [REDACTED] of which Petitioner owned one percent (1%), reported bonus depreciation on its 2021 Partnership return as required by IRC section 168(k) and provided Idaho Forms (ID) K-1 to its shareholders. However, Petitioner did not report their share of the bonus depreciation as an addition on their S-Corp income tax return. The Tax Commission finds that the Bureau properly included the bonus depreciation addition in the Notice.

As for the ITC recapture, Idaho Income Tax Administrative Rule 715.01., states,

If a taxpayer is claiming or has claimed the investment tax credit for property sold or otherwise disposed of, or that ceases to qualify pursuant to Section 63-3029B, Idaho Code, prior to being held five (5) full years, a recomputation of the credit will be made.

Petitioner claimed an ITC based on the total cost of the aircraft when they purchased in 2017. However, Petitioner did not recapture the ITC when they sold it in 2021, the 4th year after the acquisition. The adjustment to the ITC is correct.

CONCLUSION

The Tax Commission found that the Bureau properly adjusted the Idaho bonus depreciation addition and the ITC recapture on the aircraft. These adjustments changed the total amount of tax due on the S-Corp's return which changed the credit for tax paid on the shareholder's behalf since Petitioner filed an ABE return for tax year 2021. The Bureau added interest to Petitioner's Idaho tax due. The Tax Commission reviewed the addition and found it appropriate and in accordance with Idaho Code section 63-3045.

THEREFORE, the Tax Commission AFFIRMS the Notice dated February 26, 2024, directed to Petitioner.

IT IS ORDERED that Petitioner pay the following tax and interest:

| <u>YEAR</u> | <u>TAX</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|-----------------|--------------|
| 2021 | \$1,131 | \$97 | \$1,228 |

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

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

DATED this _____ day of _____ 2025.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2025,
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.

[REDACTED]

[REDACTED]

