

Appeals sent Petitioners a letter explaining the options available for redetermining a Notice. Petitioners responded but did not request an informal hearing nor did they provide additional information. Having reviewed all available information, the Tax Commission makes its decision on the penalties and interest.

LAW AND ANALYSIS

Negligence penalty

Idaho Code section 63-3046(a) states,

If any part of any deficiency is due to negligence or disregard of rules but without intent to defraud, five percent (5%) of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected and paid in the same manner as if it were a deficiency.

Tax Administration and Enforcement Rule IDAPA 35.02.01.410.02., further clarifies that,

[a] five percent (5%) negligence penalty shall be imposed if the deficiency results from either negligence by the taxpayer or from disregard by the taxpayer or his agent of state or federal tax laws, rules of the Tax Commission, or Treasury Regulations.

The negligence penalty, or so-called accuracy-related penalty, applies to negligence or disregard of the rules or regulations. Negligence is when a taxpayer does not make a reasonable attempt to follow the tax laws, and disregard means a taxpayer carelessly, recklessly or intentionally ignored tax rules or regulation.

Petitioners indicated in the protest that the adjustment resulting in the negligence penalty is the Idaho bonus depreciation addition passed through from tiered entities: [REDACTED] to [REDACTED] and to Petitioners. [REDACTED] filed an amended return for tax year 2020 and issued amended federal and Idaho K-1s to [REDACTED] [REDACTED]. Because of the amended K-1s issued by [REDACTED] [REDACTED] [REDACTED] amended its 2020 return but did not incorporate [REDACTED] amended Idaho K-1 into its 2020 amended Idaho return. As a result, [REDACTED] [REDACTED] amended 2020 Idaho K-1 issued to Mr. [REDACTED] did

not contain the correct amount of the Idaho bonus depreciation addition. Petitioners further explained in the protest that they recently changed accountants, and the new accountant inadvertently used an incorrect depreciation schedule for preparation of their 2020 Idaho return.

Petitioners' argument for abatement of the negligence penalty is that there is a reasonable cause for the understatement of tax, and they in good faith relied on the accountant for application of the Idaho income tax law.

Idaho Code section 63-3046 (7) states,

The state tax commission may waive all or any part of the addition to tax provided by this section on a showing by the taxpayer that **there was reasonable cause** for the understatement (or part thereof) and that the taxpayer **acted in good faith**. (emphasis added)

The Tax Commission agrees that Petitioners acted in good faith as they took the time and effort to hire an accountant with expectations that the accountant would prepare a complete and accurate return. As for the reasonable cause standard under IRC section 6664 and its Treasury Regulation, the Tax Commission now reviews the "three-prong test."

In *Neonatology v. Commissioner*, 115 TC 43 (2000), the Tax Court relied on the "three-prong test" in determining whether a negligence penalty is applicable:

In sum, for a taxpayer to rely reasonably upon advice so as possibly to negate a section 6662(a) accuracy-related penalty determined by the Commissioner, the taxpayer must prove by a preponderance of the evidence that the taxpayer meets each requirement of the following three-prong test:

- (1) The adviser was a competent professional who had sufficient expertise to justify reliance,
- (2) the taxpayer provided necessary and accurate information to the adviser, and
- (3) the taxpayer actually relied in good faith on the adviser's judgment.

Petitioners' original federal and Idaho returns were prepared by Eide Bailly LLP, an accounting firm, and their amended federal and Idaho returns were prepared by [REDACTED] [REDACTED]

██████████¹ Petitioners have consistently relied on tax professionals, therefore, they meet the first test. The primary cause for the additional tax asserted in the Notice was the flow-through Idaho bonus depreciation addition that should have been passed through from ██████████ to ██████████ and then to Petitioners. However, Petitioners did not receive sufficient information from ██████████ to include the pass-through adjustments in their individual income tax return. Petitioners provided all information, other than concerning the pass-through adjustments, to their accountant. Petitioners meet the second test. As for the third test, Petitioners filed the amended Idaho return as prepared by the accountant since they relied in good faith on the accountant. Therefore, they meet the third test. The Tax Commission found that Petitioners exercised ordinary business care and prudence in determining the tax liability by engaging the accounting firms to prepare their 2020 original and amended return. The Tax Commission determined that Petitioners met the reasonable cause standard and therefore the negligence penalty should be abated.

Interest

Idaho Code section 63-3045(7)(b) states in part,

Interest upon any deficiency shall be assessed at the same time as the deficiency, shall be due and payable upon notice and demand from the state tax commission and shall be collected as a part of the tax

The Idaho Supreme Court's decision in *Potlatch Corp. v. Idaho State Tax Comm'n*, 128 Idaho 387, 913 P.2d 1157 (1996) established that interest may be imposed as written in the Idaho statute, and that the Tax Commission is authorized to add interest to any tax deficiency in accordance with Idaho Code section 63-3045. The Tax Commission's decisions routinely affirm the addition of interest to deficiencies.

¹ Located in ██████████ Idaho.

Petitioners referred to Idaho Code section 63-3046 and stated in the protest that “the Tax Commission has authority to waive penalties and interest when reasonable cause is demonstrated.” As mentioned previously, the Tax Commission does have authority to waive penalties as provided by Idaho Code section 63-3046². However, interest is defined under Idaho Code section 63-3045, and none of its subsections allow for abatement of interest. As the court held in the Potlatch case, the Tax Commission found that the Bureau’s addition of interest is appropriate.

CONCLUSION

The Tax Commission abates the 5% negligence penalty. The Bureau added interest to the tax due amount, and the Tax Commission finds this addition appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

THEREFORE, the Tax Commission MODIFIES the Notice dated July 15, 2025, directed to Petitioners.

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>
2020	\$87,931	\$0	\$11,642	\$99,573
			Less: Refund Held	<u>(24,581)</u>
			Total Due	<u>\$74,992</u>

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

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

DATED this _____ day of _____ 2025.

IDAHO STATE TAX COMMISSION

² Idaho Code section 63-3046 (7) states, “The state tax commission may waive all or any part of the addition to tax provided by **this section** on a showing by the taxpayer that there was reasonable cause for the understatement (or part thereof) and that the taxpayer acted in good faith.” (emphasis added)The part “by this section” means Idaho Code section 63-3046.

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.
