

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

|   |   |                          |
|---|---|--------------------------|
| In the Matter of the Protest of             | ) |                          |
| ██████████ ██████████ ██████████ ██████████ | ) | DOCKET NO. 0-940-729-344 |
|   | ) |                          |
| Petitioners.                                | ) | DECISION                 |
| _____                                       | ) |                          |

██████████ ██████████ ██████████ ██████████ (Petitioners) protested the Notice of Deficiency Determination (Notice) for tax years 2019 through 2021 dated January 25, 2024. Petitioners disagreed with the flow-through adjustments made to the 2020 Idaho return of ██████████ ██████████ ██████████ ██████████ by the Tax Commission’s Income Tax Audit Bureau (Audit). The Tax Commission reviewed the matter and hereby issues its final decision to modify the Notice.

**Background**

Mr. ██████████ was a 50% partner in ██████████ ██████████ ██████████ (██████████ ██████████) from 2016 through 2020. ██████████ ██████████ placed assets into service during these years that qualified the business to earn investment tax credit (ITC). The ITC flowed through the entity, which assigned Mr. ██████████ his distributive share on Form ID K-1.

██████████ ██████████ filed its 2020 return as a final return. Audit reviewed this return and recaptured a portion of the investment tax credit (ITC) earned during 2016 through 2020. Since ██████████ ██████████ was a flow-through entity, Audit assigned Petitioners Mr. ██████████ distributive share of the ITC recapture. Petitioners protested the adjustments, as did ██████████ ██████████

██████████ ██████████ went through the Tax Commission’s administrative appeal process. The Tax Commission ruled on Audit’s adjustments to the ██████████ ██████████ return for 2020 in its decision on Appeals Docket Number 1-925-030-912. The Tax Commission upheld the Notice in that case.

Petitioners' protest addressed only the adjustment for ITC recapture made to [REDACTED] [REDACTED] return. It did not specifically address any issue on Petitioners' Notice for tax years 2019 through 2021.

### **Law & Analysis**

[REDACTED] [REDACTED] filed partnership returns of income for tax years 2016 through 2020. As a partnership, [REDACTED] [REDACTED] was a flow-through entity, meaning that the tax attributes of the partnership flow to the partners to be reported on each partner's individual income tax return. As a result, any changes to a [REDACTED] [REDACTED] partnership return requires a change to the partner's return.

The Tax Commission determined that [REDACTED] [REDACTED] was required to recapture ITC in tax year 2020 when the partnership ceased. The Tax Commission makes the same adjustment to Petitioners' 2020 return for Mr. [REDACTED] distributive share of the recapture.

Petitioners must repay recaptured ITC for any amounts they used to offset tax on their returns. Any amount recaptured for unused ITC serves to reduce carryforward of excess credit. Petitioners used all ITC that flowed through from [REDACTED] [REDACTED] for tax years 2016 and 2018, and a portion of the amount flowed through for 2020, but they did not claim any of the \$12,280 of ITC that flowed through from [REDACTED] [REDACTED] in tax year 2019. Based on their Idaho income tax return, the Tax Commission allows Petitioners to use \$2,796 in ITC for 2019. The resulting overpayment will be used to offset additional tax due in the final calculations below.

Based on all available information, Petitioners must repay the following amounts of ITC recaptured in tax year 2020:

| Year ITC earned | ITC earned but unused | Recapture from partnership | Amount to repay |
|-----------------|-----------------------|----------------------------|-----------------|
| 2016            | \$0                   | \$150                      | \$150           |
| 2018            | 0                     | 3,330                      | 3,330           |
| 2019            | 0                     | 9,824                      | 9,824           |
| 2020            | \$16,291              | \$17,004                   | <u>\$713</u>    |
|                 |                       |                            | \$14,017        |

Because of the ITC recapture, Petitioners did not have any ITC to carry forward to tax year 2021, so the amount they claimed on their return must be repaid.

The Bureau added interest and penalty to Petitioners' 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.

### Conclusion

Mr. [REDACTED] was a 50% owner of [REDACTED] [REDACTED] which filed returns as a partnership from 2016 through 2020. Petitioners were required to report the flow-through items from [REDACTED] [REDACTED] on their individual returns. The Tax Commission adjusted [REDACTED] [REDACTED] 2020 return, resulting in corresponding changes to Petitioners' returns for 2020 and 2021. The Tax Commission also adjusted Petitioners' 2019 return to allow available unclaimed credit.

THEREFORE, the Notice dated January 25, 2024, and directed to [REDACTED] [REDACTED] [REDACTED] [REDACTED] is hereby MODIFIED and MADE FINAL.

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>    |
|-------------|------------|--------------------------|-----------------|-----------------|
| 2019        | \$0        | \$0                      | \$0             | \$0             |
| 2020        | 14,017     | 701                      | 1,297           | 16,015          |
| 2021        | 2,482      | 0                        | 177             | 2,659           |
|             |            | Credit forward from 2019 |                 | <u>(2,796)</u>  |
|             |            |                          |                 | <u>\$15,878</u> |

The Tax Commission DEMANDS immediate payment of this amount. Interest is calculated in accordance with Idaho Code section 63-3045.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2024,  
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]