

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 1-065-891-840
	)	
	)	
Petitioners.	)	DECISION
_____	)	

(Petitioners) protested the Notice of Deficiency Determination dated February 25, 2021. Petitioners disagreed that they received constructive dividends from ( ) because of purchase of household furnishings. The Tax Commission, having reviewed the matter issues its decision cancelling the Notice of Deficiency Determination.

**BACKGROUND**

is a shareholder of an S-Corporation. is the sole shareholder of a C-Corporation. In 2018, purchased household furnishings for a farmhouse where Petitioners lived. In an audit of the Bureau determined the purchase of the furnishings was for the personal use of Petitioners. The Bureau stated paid personal living expenses of Petitioners as the items purchased were specialty household items. The Bureau stated the furnishings are not business expenses. The Bureau determined the cost of the furnishings to be a constructive dividend to Petitioners. The Bureau added the constructive dividend to Petitioners' 2018 Idaho individual income tax return and sent them a Notice of Deficiency Determination.

Petitioners protested the Bureau's determination stating the auditor improperly concluded that the purchases were personal in nature rather than primarily used for business. Petitioners stated these same purchases were disallowed on income tax return that is also under protest.

Petitioners believe that once the Tax Commission reviews all the information regarding the purchases in the protest, the adjustment to their return will be moot. However, in the alternative, Petitioners argue if any of their personal expenses were paid by they would have intended them to be loans from

The Bureau acknowledged Petitioners' protest and referred the matter to the Tax Commission's Appeals Unit (Appeals). Appeals sent Petitioners a letter discussing the methods available for redetermining a protested Notice of Deficiency Determination. Petitioners requested a telephone hearing. Appeals scheduled the hearing and conducted it on May 5, 2022. The hearing was held in conjunction with the hearing for Regarding Petitioners, the hearing primarily focused on the business use of the purchases by and the fact that Petitioners are not shareholders of Thus, bringing up the question as to whether constructive dividends can even be attributed to Petitioners.

### **LAW AND ANALYSIS**

In its audit of the Bureau reviewed documentation of the furnishings purchased. Based on the fact that the items purchased are items generally considered to be personal living expense items, the Bureau determined them to be personal expenses of Petitioners.

argued and Petitioners echo that the furnishings were used to furnish the farmhouse owned by and provided to Petitioners as the farm manager. Petitioners stated the farm manager was required to live in the farmhouse as a condition of employment. The farm manager needs to be available 24/7 to oversee all the farm operations and to keep watch and secure the farm equipment and crops. Petitioners stated it was for the convenience of the employer to have living accommodations that would attract and keep a qualified farm manager.

In the Tax Commission review of \_\_\_\_\_ protest, Docket No. 0-529-020-928, the Tax Commission found the furnishings' primary purpose was for use in the trade or business of \_\_\_\_\_

The Bureau presented no evidence or even an argument other than stating the items purchased were personal household items. In its decision on Docket No. 0-259-020-928, the Tax Commission found that the farmhouse property is owned and is an asset of \_\_\_\_\_. The Tax Commission further found that \_\_\_\_\_ provided the farmhouse as a condition of employment to the farm manager in order to perform the duties of the farm manager. Based on those findings, the Tax Commission determined it was reasonable that \_\_\_\_\_ furnish the farmhouse and account for the furnishings as capitalized expenses of doing business.

Since the Tax Commission found the furnishings were \_\_\_\_\_ business expenses, the furnishings are not personal expenses of Petitioners and therefore, Petitioners did not receive a constructive dividend.

### **CONCLUSION**

The Bureau determined Petitioners received a constructive dividend for the purchase of farmhouse furnishings made by a C-Corporation that Petitioners indirectly owned through another entity. The Bureau asserted the furnishings were personal expenses of Petitioners.

Upon reviewing the facts surrounding the purchase of the furnishings, the Tax Commission determined they were purchased for and primarily used in the trade or business of \_\_\_\_\_. Because the furnishings are used in the trade or business of \_\_\_\_\_ the expense of the furnishings are a business expense of \_\_\_\_\_ and not a personal expense of Petitioners. Since constructive dividends occur when personal expenses are paid or a personal benefit is conferred on a shareholder, the determination that the furnishings are business assets removes them from the

realm of constructive dividends. Therefore, Petitioners did not receive a constructive dividend and there should be no addition to Petitioners' income for the tax year 2018.

THEREFORE, the Notice of Deficiency Determination dated February 25, 2021, and directed to \_\_\_\_\_ is CANCELLED.

An explanation of Petitioner's 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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