



The Bureau issued the Notice on June 9, 2025, asserting the same tax, penalty, and interest as the billing letter but allowing credit for the payment received. Mr. W. responded, specifically protesting the Notice under the premise that the deceased owner was not a resident of Idaho during 2022, that the business was not a resident of Idaho during 2022, and that neither the business nor the deceased owner had maintained a place of abode in Idaho during 2022. He went on to state that the other nonresident owner was now deceased and unable to represent herself or to pay anything. He asked how Idaho had a legal right to collect backup withholding from a nonresident entity.

The Bureau sent a letter acknowledging the protest and stated that the entity needed to pay the withholding amount because the withholding had already been claimed on individual returns for 2022. When no response was received, the Bureau sent a second copy of the letter. Mr. W. responded to this letter via email, requesting that the matter be transferred to the Tax Commission's Appeals unit (Appeals).

Appeals sent Mr. W. an email explaining the options available for redetermining a protested Notice and summarizing the facts of the case so far. Through a series of email communications, Appeals explained to Mr. W. that the business had reported the withholding but did not pay it as required by Idaho law. Therefore, the entity owed the tax, plus any associated penalty and interest. Mr. W. expressed that he understood and agreed to the tax due, but he would need to make payments over time. Appeals requested that Mr. W. withdraw his protest so that the matter could be closed and a payment arrangement could be set up. Mr. W. has not withdrawn his protest, so the Tax Commission must issue a decision instead.

## Law & Analysis

For the tax year in question, Petitioner was a limited liability company taxed as a partnership. Petitioner was a pass-through entity as defined in Idaho Code section 63-3006C. Petitioner filed a Form 65, *Idaho Partnership Return of Income*, electing to file a regular return, as opposed to filing a composite return or filing as an affected business entity. Petitioner reported two nonresident owners on Form PTE-12, *Schedule of Pass-through Owners*, and \$12,145 of income tax withheld by the entity. Forms ID K-1 – *Schedule of Partner's, Shareholder's, or Beneficiary's Share of Idaho Adjustments, Credits, etc.* – also reflected a total of \$12,145 of income tax withheld by the entity.

Idaho Code section 63-3036B reads in pertinent part:

63-3036B. PASS-THROUGH ENTITIES -- BACKUP WITHHOLDING.

(1) *A pass-through entity*, as defined in section 63-3006C, Idaho Code, that is transacting business in Idaho during a taxable year *shall withhold tax as prescribed in this section.*

(2) *For each nonresident individual* who has income described in subsection (2) of section 63-3022L, Idaho Code, *the pass-through entity shall withhold tax* on the individual's share of income from the pass-through entity required to be included in Idaho taxable income of the individual, at the highest marginal rate applicable for the taxable year under section 63-3024, Idaho Code.

...

(6) *... Amounts required to be withheld and paid over* to the state tax commission under this section *that are not withheld or paid over* at the time and in the manner required by the provisions of this section *shall be a deficiency in tax* as defined in section 63- 3044, Idaho Code. [*emphasis added*]

After reviewing Petitioner's return and accounts, the Tax Commission determined that Petitioner did not pay over the income tax reportedly withheld on behalf of the nonresident owners. Therefore, that amount is a deficiency in tax.

The Bureau added interest and penalty to Petitioner's 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**

Petitioner, a pass-through entity, did not withhold and pay over income tax for nonresident owners as required.

THEREFORE, the Notice dated June 9, 2025, and directed to [REDACTED] [REDACTED] [REDACTED] is hereby UPHeld and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2022	\$12,145	\$607	\$1,592	\$14,344
			Amount paid	<u>(251)</u>
				<u>\$14,093</u>

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

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.

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