

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 1-232-503-808
	)	
	)	
	)	DECISION
Petitioner.	)	

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(Petitioner) protested the Notice of Deficiency Determination dated March 21, 2022. Petitioner disagreed with the Tax Discovery Bureau’s (Bureau) determination of its income for the tax years ending 12/31/2014 through 12/31/2020. The Tax Commission reviewed the matter and for the reasons stated below upholds the Bureau’s determination.

**BACKGROUND**

In reviewing the Tax Commission’s database, the Bureau found Petitioner stopped filing Idaho business income tax returns after filing its return for tax year ending 12/31/2012. The Bureau researched the information available to the Tax Commission and found Petitioner filed federal income tax returns for tax years ending 12/31/2013, 12/31/2015, and 12/31/2016. The Bureau also found Petitioner received 1099 miscellaneous income for the tax years ending 12/31/2013, and 12/31/2015 through 12/31/2020. In addition, the Bureau found Petitioner paid wages during the tax years ending 12/31/2015 through 12/31/2018. Based on this information, the Bureau determined Petitioner should have filed income tax returns with the Tax Commission for the tax years ending 12/31/2014 through 12/31/2020.

The Bureau sent Petitioner a letter asking about its requirement to file Idaho income tax returns. Petitioner did not respond. The Bureau, using Petitioner's federal return information for 2015 and 2016, prepared Idaho income tax returns for Petitioner. The Bureau also estimated

Petitioner's Idaho taxable income for 2014, 2017, 2018, 2019, and 2020 from the information available and Petitioner's 2015 and 2016 federal income tax returns.

The Bureau sent Petitioner a Notice of Deficiency Determination which Petitioner protested. Petitioner stated the assessment was in error. Petitioner stated 2019 was one of its worst business years and it did not make anywhere near the Bureau's estimated total income. Petitioner stated the Bureau's estimate for the other years was closer, but Petitioner still believed them to be off. The Bureau contacted Petitioner telling them if they believed the estimates were wrong, the best solution was to file its own returns. Petitioner stated that it would try to find a CPA to get its returns filed.

The Bureau acknowledged Petitioner's protest and allowed it time to provide the missing returns. When no returns were received, the Bureau forwarded the matter to the Tax Commission's Appeals Unit (Appeals).

Appeals reviewed the matter and sent Petitioner a letter describing the methods for redetermining a protested Notice of Deficiency Determination. Petitioner did not respond. Appeals sent a follow-up letter to Petitioner, but still received no response. Seeing that Petitioner had the opportunity to provide its returns or any other information it wanted considered, the Tax Commission decided the matter based on the information available.

### **LAW AND ANALYSIS**

Petitioner began business operations in Idaho in November 2010. On January 3, 2011, Petitioner filed its Certificate of Organization with the Idaho Secretary of State as an Idaho limited liability company (LLC). Petitioner filed its 2011 and 2012 income tax return as a partnership. For tax year 2013, Petitioner filed its federal income tax return as an S-corporation (S-corp). Petitioner's subsequently filed returns, 2015 and 2016, were also filed as an S-corp. Since

Petitioner converted to an S-corp for federal purposes, Petitioner was required to file Idaho S-corp income tax returns. *See* Idaho Code section 63-3030(4).

Petitioner did not contest its requirement to file Idaho income tax returns. Petitioner disagreed with the Idaho taxable income the Bureau determined. Petitioner stated it would look for assistance to prepare and submit income tax returns. However, Petitioner never provided any returns, nor did Petitioner make any further contact.

The Bureau's determination of Petitioner's income was from Petitioner's federal income tax returns, Petitioner's withholding returns, and the payroll information Petitioner reported to the Idaho Department of Labor. The Bureau also estimated business expenses as a percentage of gross receipts derived from Petitioner's 2016 federal income tax return.

Deductions are a matter of legislative grace, and taxpayers bear the burden of proving that they are entitled to the deductions claimed. *INDOPCO, Inc. v. Commissioner*, 503 U.S. 79, 84, 112 S. Ct. 1039, 117 L.Ed.2d 226 (1992); *New Colonial Ice Co. v. Helvering*, 292 U.S. 435, 440, 54 S. Ct. 788, 78 L. Ed. 1348 (1934). Since Petitioner failed to provide any information or support for any business deductions, it must bear its misfortune. *Burnet v. Houston*, 283 U.S. 223, 51 S.Ct. 413 (1931).

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). Petitioner did not show that either the income or the expenses the Bureau determined were incorrect. Petitioner did not meet its burden. The Tax Commission reviewed the returns the Bureau prepared for Petitioner and found they are a reasonable representation of Petitioner's income.

Since Petitioner is an LLC, its income flows through to its members, therefore, any income tax owed is paid by the members. However, because Petitioner is treated as an S-corp, Petitioner is required to pay the franchise tax of Idaho Code section 63-3025A. The minimum tax required by the statute is \$20. Therefore, Petitioner was required to pay the minimum tax for each of the years.

**CONCLUSION**

Petitioner transacted business in Idaho during the years in question. Petitioner was required to file Idaho S-corp income tax returns. But because Petitioner is an LLC, all its income flows through to Petitioner’s members and is taxed on their individual income tax returns. Nevertheless, Petitioner is still required to file income tax returns and pay the minimum franchise tax. Petitioner disagreed with the income the Bureau determined but failed to provide anything contrary. Therefore, the Tax Commission upholds the Bureau’s determination.

The Bureau added interest and penalty to Petitioner’s tax deficiency. The Tax Commission reviewed those additions and found them to be appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

THEREFORE, the Notice of Deficiency Determination dated March 21, 2022, and directed to is AFFIRMED.

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>
2014	\$20	\$10	\$7	\$ 37
2015	20	10	6	36
2016	20	10	5	35
2017	20	10	4	34
2018	20	10	3	33
2019	20	10	3	33
2020	20	10	2	<u>32</u>
			TOTAL DUE	<u>\$240</u>

Interest is computed to December 15, 2023.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2023,  
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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