

Idaho for 2021...” Revenue Operations accepted Petitioner’s protest and transferred the matter to the Commission’s Tax Appeals Unit (Appeals) for administrative review.

Appeals sent Petitioner a letter containing two methods for redetermining a protested Notice. Petitioner did not respond to the redetermination letter, nor did he provide any additional information. Therefore, the Commission decided the matter based upon available information.

LAW AND ANALYSIS

Idaho Code section 63-3002 states in part that the intent of the Idaho income tax act, insofar as possible, is to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, subject only to modifications contained in the Idaho law. Petitioner filed his federal income tax return reporting adjusted gross income of \$(1,261). However, included in that amount was a capital loss carryover deduction for a loss that occurred prior to him becoming a resident of Idaho.

Idaho Code section 63-3022(i) states in part that, in the case of persons other than corporations, the taxpayer must add back any capital loss or passive loss deducted that was incurred in activities not taxable by Idaho at the time such loss was incurred. Petitioner made this add back on his Idaho return but disagreed that he should be taxed on the add back.

The Internal Revenue Code allows Petitioner a capital loss carryover deduction up to the amount of his capital gains plus an additional \$3,000. However, since Idaho required Petitioner to add back his capital loss deduction incurred before he became an Idaho resident, Petitioner’s negative adjusted gross income became positive Idaho taxable income.

Appeals reviewed Petitioner’s tax return and found an error regarding the amount claimed for the capital loss carryover add back. Petitioner added back the full amount of his capital loss carryover; however, by doing so he overstated the add back by \$3,840. Appeals adjusted Petitioner’s capital loss carryover add back by lowering it to \$33,649 in compliance with the Idaho

Code. Petitioner was only required to add back \$33,649 to his Idaho tax return which is comprised of capital gains of \$30,649 plus the \$3,000 claimed as a long-term capital loss.

Accordingly, the Commission adjusted Petitioner's Idaho taxable income to \$20,138.

CONCLUSION

Petitioner protested that he owed tax to Idaho. Petitioner reported Idaho taxable income but omitted the tax when he filed his return. The Commission reviewed Revenue Operations' change to Petitioner's return and agreed that Petitioner owed tax on his taxable income. However, the tax as computed by Revenue Operations was overstated due to an error in the add back of Petitioner's capital loss carryover. Therefore, the Commission corrected the add back and upholds the Notice as modified by this decision.

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.
