

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 1-322-927-104
	)	
Petitioners.	)	DECISION
<hr style="width: 45%; margin-left: 0;"/>	)	

The Idaho State Tax Commission’s (Tax Commission) Tax Discovery Bureau (Bureau) sent (Petitioner) a Notice of Deficiency Determination (Notice) for tax year 2020. Petitioner protested, and the case was transferred to the Tax Commission’s Appeals Unit (Appeals). The Tax Commission has reviewed the matter and hereby upholds the Notice issued by the Bureau.

**BACKGROUND**

Petitioner is a 100% Idaho apportioned partnership forming in 2006. There are three shareholders, all of which are nonresidents of Idaho. For tax year 2020, the Bureau sent Petitioner a Notice, requesting payment for unremitted backup withholding, and adjustments related to Idaho bonus depreciation. Petitioner protested, stating that, according to their records, they had remitted Idaho backup withholding and the adjustments to the Idaho bonus depreciation were incorrect.

In a conversation with the Bureau, the preparer of Petitioner’s 2020 return stated even though he agrees with the Bureau’s adjustments, Petitioner “does not want to pay the additional tax.” The protest was acknowledged, and the case was transferred to Appeals for redetermination. Appeals reached out to both Petitioner and their representative but received no response. The Tax Commission now issues its decision based on the information currently available.

## LAW AND ANALYSIS

### Issue 1: Idaho Backup Withholding

Idaho Code describes the requirements for tax withholding by pass-through entities in Idaho Code sections 63-3022L and 63-3036B. In general, pass-through entities are required to withhold Idaho income tax for nonresident owners in receipt of Idaho taxable distributions over \$1,000. One exemption to this rule is if the owners sign an “Idaho Nonresident Owner Agreement.” According to the records currently available, the owners did not sign such agreement. Therefore, the rules laid out in Idaho Income Tax Administrative Rule 877.04(a) apply, which state:

The pass-through entity must withhold amounts from the pass-through income of nonresident individuals at the highest marginal rate applicable for the taxable year under Section 63-3024, Idaho Code. The amount withheld for a taxable year must be remitted to the Tax Commission annually on or before the fifteenth day of the fourth month following the end of the taxable year, unless one of the exceptions under Subsection 877.02 of this rule apply to the owner or beneficiary. The amount withheld must be remitted on the appropriate return as required by the Tax Commission.

There is no record of Petitioner remitting Idaho backup withholding. Therefore, Petitioner is obliged to pay the missing tax on behalf of the owners.

### Issue 2: Idaho Bonus Depreciation

Idaho does not conform to Internal Revenue Code section 168(k) regarding additional first-year depreciation deductions also known as “bonus depreciation.” To be in regulation with Idaho statute and rules, a taxpayer must be consistent in making the Idaho adjustments required for all the taxpayer’s years in which federal bonus depreciation is claimed. When a taxpayer acquires an asset and claims federal bonus depreciation, they must make an Idaho addition in the first year. In the subsequent years the taxpayer is entitled to the Idaho subtractions for the additional depreciation computed for Idaho income tax purposes that exceed the amount of depreciation claimed for federal income tax purposes.

In 2018, Petitioner acquired an asset and claimed federal bonus depreciation on their return. Subsequently, they reported a \$20,858 Idaho addition to comply with Idaho rules and regulations. In the years 2019 and 2020, Petitioner claimed a total of \$32,063 in Idaho bonus depreciation subtractions. The Bureau added the overstated bonus depreciation on the Notice, increasing Idaho distributable income and therefore increasing the total amount of backup withholding required to be remitted by the entity. The Tax Commission finds the adjustment a reasonable assessment of Petitioner's Idaho taxable income and withholding requirements.

**CONCLUSION**

The Bureau sent Petitioner a Notice adjusting backup withholding and bonus depreciation. Petitioner protested but did not provide any documentation or information to show the Notice is incorrect. The Tax Commission has reviewed the Notice issued by the Bureau and determined it was an appropriate assessment of Petitioner's Idaho tax liability.

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.

THEREFORE, the Notice dated August 2, 2022, and directed to \_\_\_\_\_ is hereby APPROVED and MADE FINAL.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2020	\$9,013	\$451	\$580	\$10,044

Interest is calculated through June 8, 2023.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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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