

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of

██████ ██████████ ██████████ ██████████

Petitioners.

DOCKET NO. 1-474-618-368

DECISION

██████ ██████████ ██████████ (Petitioners) protested the Notice of Deficiency Determination (Notice) dated May 9, 2024, issued by the Income Tax Audit Bureau (Bureau). Petitioners disagreed with all the Bureau's adjustments¹, except for the adjustment to affected business entity credit. The Idaho State Tax Commission (Tax Commission), having decided the issue with the partnerships and for the reason stated below, modifies the Notice.

BACKGROUND

Petitioners are shareholders of the partnerships: ██████████ ██████████ and ██████████ ██████████. The Bureau adjusted these partnerships' returns³ and made flow-through adjustments of these in Petitioners' Notice. The partnerships disagreed with the Notices and provided additional information but did not request an informal hearing. The Tax Commission's decision on Docket Numbers 0-468-378-624 and 1-810-555-904 affirmed the Bureau's adjustments to the partnerships.

¹ The Bureau's adjustments include the flow-through adjustments from partnerships, Idaho capital gains deduction, and affected business entity (ABE) credit. The Bureau also adjusted the Schedule D gains based on the amount of gross proceed from the sale of properties.

² ██████████ owned an affected business entity (ABE)² for tax year 2021, and the Bureau allowed Petitioner to claim credit for ABE tax paid on their behalf in the Notice. For tax year 2023, because of the Bureau's adjustments to the ABE, the amount of the ABE tax has changed. The Bureau adjusted the amount of credit for the ABE tax paid on Petitioners' behalf on the Notice. Petitioners agreed with these adjustments; therefore, this decision will not address these adjustments any further.

³ The Bureau adjusted ██████████ Idaho returns for Idaho investment tax credit (ITC) and its recapture and ██████████ Idaho returns for net rental income, Idaho bonus depreciation addition and subtraction, and ITC.

In response to the Notice, Petitioners' representative disagreed with the Bureau's flow-through adjustments and disallowance of the Idaho capital gains deductions Petitioners claimed for tax year 2022. The Bureau acknowledged the protest and referred the matter to the Tax Commission's Appeals Unit (Appeals) for administrative review.

Appeals sent Petitioners a letter explaining the options available for redetermining a Notice. Petitioners responded and provided additional information but did not request an informal hearing. Having reviewed the matter, the Tax Commission hereby issues its final decision.

ISSUES

The issues on appeal are the pass-through adjustments from certain partnerships for all tax years under current review, inclusion of gains from the sale of properties (Schedule D gain) for tax years 2020 and 2021, and the disallowance of the Idaho capital gains deduction on the sale of an aircraft⁴ for tax year 2022.

LAW AND ANALYSIS

Pass-through adjustments

■■■■ and ■■■■ are partnerships, flow-through entities. All the partnerships' tax attributes flow-through to Petitioners at the percentage of their distributive share. As a result, any change to these partnerships' returns requires a change to the shareholders' returns. In this case, the Tax Commission upheld the changes to the partnerships' returns. Therefore, the Tax Commission also upholds the changes to Petitioners' 2020 through 2023 Idaho individual income tax returns.

⁴ The inclusion of the gain from the sale of the aircraft is not an issue; however, its Idaho capital gains deduction is.

Schedule D gain

The Bureau increased Petitioners' Idaho taxable income by including the gain from the sales of their properties, the [REDACTED] [REDACTED] property sold in 2020 and the [REDACTED] property sold in 2021. In the protest, the representative agreed that the gains from the sales of these properties should be included in Petitioners' Idaho taxable income. However, the representative disagreed with the amount of the gain shown in the Notice, arguing that the selling expenses Petitioners incurred should be excluded from the sales prices when calculating the gains. The representative provided details of the property sales⁵ which the Bureau reviewed and noted that they agreed with the representative's calculation; however, they did not modify the Notice. The Tax Commission also agrees with the representative's calculation of the gains from the property sales and therefore modifies the Schedule D.

Idaho capital gains deductions

[REDACTED] [REDACTED] property

Idaho Code section 63-3022H states in pertinent part under its subsection,

(3) Property held by an estate, trust, S corporation, partnership, limited liability company or an individual is "qualified property" under this section **if the property had an Idaho situs at the time of sale** and is:

(a) Real property held at least twelve (12) months;

Emphasis added.

In the present case, the Bureau allowed an Idaho capital gains deduction on the property located in Idaho. However, the amount of the deduction shown in the Notice is incorrect.

⁵ [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] Statement for both properties.

As previously mentioned, the Tax Commission reduced the amount of gain from the sale of Idaho property. Therefore, the Tax Commission must also adjust the amount of the Idaho capital gains deduction. The representative provided their calculation of the Idaho capital gain deduction. The Tax Commission finds that the representative's calculation is correct; therefore, the Tax Commission modifies the Notice.

2011 Cessna 525C

Idaho Code section 63-3022H (3)(b) states that the Idaho capital gains deduction can be allowed for a “[t]angible personal property used in Idaho for at least twelve (12) months by a “revenue-producing enterprise”. Idaho Code section 63-3022H (5) defines a “revenue-producing enterprise” as follows:

- (a) The production, assembly, fabrication, manufacture, or processing of any agricultural, mineral or manufactured product;
- (b) The storage, warehousing, distribution, or sale at wholesale of any products of agriculture, mining or manufacturing;
- (c) The feeding of livestock at a feedlot;
- (d) The operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing.

Petitioners claimed the Idaho capital gain deduction on the gain from the sale of “2011 Cessna 525C”, owned by [REDACTED] [REDACTED] [REDACTED] ([REDACTED] [REDACTED]) This pass-through entity sold the Cessna in 2022 and passed through the gain to Mr. [REDACTED] as he was a shareholder of them. The representative argued that [REDACTED] [REDACTED] was a revenue-producing enterprise as defined under Idaho Code section 63-3022H(5) and held the Cessna in question for at least twelve months; therefore, the representative argued that Mr. [REDACTED] claim for the Idaho capital gain deduction on his 2022 individual income tax return should be allowed.

██████████ formerly called ██████████ is an S-Corporation, who is a distributor of ██████████ products in ██████████. The representative explained in the protest that ██████████ conducted their business operations through ██████████. ⁷ (██████████ and ██████████ reprocesses the ██████████ that would otherwise be considered waste through a ██████████ process so that it can be recertified through their on-site laboratory, approved by the U.S. Environmental Protection Agency, to meet the market specifications required for resale. ██████████ physical location of operations is on ██████████ land in ██████████ Arizona, and its corporate headquarters are in ██████████, Idaho. ██████████ sells and transports ██████████, and ██████████ supply products to customers. ██████████ also operates “██████████ a controlled ██████████ access system designed for commercial and fleet vehicles to automate unattended ██████████ where drivers can access ██████████ via a secured card system⁹. ██████████ physical locations of operations are throughout Arizona, Colorado, Idaho, Nevada, New Mexico, Texas, Utah, and Oklahoma, and its corporate headquarters are in ██████████, Idaho. The representative argued that ██████████ used the Cessna within their business operations and held it in a hangar in ██████████ near the corporate headquarters for at least 12 months after they acquired on December 18, 2018. The representative provided ██████████’ by-state breakout of the apportionment factor, showing that they reported the Cessna as an Idaho property and included total cost of the Cessna

⁶ ██████████, doing business as ██████████ is a ██████████ distributor based in ██████████, Idaho.

⁷ ██████████ is a qualified subchapter S subsidiary (QSub), who was owned by ██████████, a QSub of ██████████. The representative provided federal Form 8869, filed by ██████████, electing Lupton Petroleum Products Inc as a QSub, effective January 1, 2021.

⁸ ██████████ is a disregarded entity, ultimately owned by ██████████. The representative provided federal Form 8832 filed by ██████████, electing ██████████ as a domestic disregarded entity, effective beginning July 18, 2019.

⁹ The representative explained that the secured card system, “██████████ allows fleet managers to monitor ██████████ and costs more accurately and effectively.

in the property numerator prior to the sale. The Tax Commission finds that [REDACTED], including [REDACTED] and [REDACTED], met the definition of a revenue-producing enterprise and the Cessna was in Idaho for at least 12 months. Therefore, the Tax Commission determines that the Idaho capital gain deduction is allowable for the gain from the sale of the 2011 Cessna 525C.

CONCLUSION

The Tax Commission upholds the Bureau's flow-through adjustments to Petitioners' individual returns based on its decision on Docket Numbers 0-468-378-624 and 1-810-555-904. As for the inclusion of Schedule D gains, the Tax Commission finds the Bureau's adjustment is appropriate; however, the Tax Commission finds that the amount of the gains needs adjusted as the gains should be the sales prices minus the related expenses. Therefore, the Tax Commission modifies the amount of the gains. The Tax Commission finds that the Idaho capital gain deduction is allowable for the gains from the sales of the [REDACTED] property as corrected by the representative and the 2011 Cessna 525C as originally reported on Petitioners' 2022 Idaho return.

The Bureau added interest and a five percent (5%) negligence penalty to Petitioners' Idaho tax due¹⁰. The representative requested the Tax Commission abate the negligence penalty as Petitioners timely filed their Idaho return, paid tax in full, and acted in good faith to report all taxable income.

Idaho Code section 63-3046(d)(7) provides,

The state tax commission may waive all or any part of the addition to tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement (or part thereof) and that the taxpayer acted in good faith.

¹⁰ No substantial understatement penalty added in the Notice.

Most of Petitioners' adjustments are due to the adjustments the Bureau made to the pass-through entities, in which Petitioners owned majority shares and had the controlling power to prevent the adjustments the Bureau made to the pass-through entities. Therefore, the Tax Commission found that the Bureau's addition of the negligence penalty is appropriate and in accordance with Idaho Code section 63-3046. The Tax Commission reviewed the addition of interest and found it in accordance with Idaho Code section 63-3045.

THEREFORE, the Tax Commission MODIFIES the Notice dated May 9, 2024, directed to Petitioners.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2020	\$67,995	\$3,400	\$7,302	\$78,697
2021	225,977	12,799	22,077	290,853
2022	38,096	1,905	1,922	41,923
2023	(5,689)	0	(165)	(5,854)
TOTAL DUE				<u>\$405,619</u>

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

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

DATED this _____ day of _____ 2025.

IDAHO STATE TAX COMMISSION

