

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

In the Matter of the Protest of	)	
██████████	)	DOCKET NO. 1-508-676-608
██████████	)	
██████████	)	
Petitioner.	)	DECISION
_____	)	

On January 20, 2025, ██████████ (Petitioner), protested the Notice of Deficiency Determination (Notice) issued on October 25, 2024 by the Tax Discovery Bureau of the Idaho State Tax Commission (Tax Commission). The Tax Commission reviewed the matter and hereby issues its final decision to uphold the Notice.

**Background**

Copies of employee W-2 forms indicated Petitioner had been withholding Idaho income tax for two employees in the amount of \$8,736 for tax year 2023. However, Petitioner did not have a valid Idaho withholding tax account for tax year 2023. Petitioner also failed to report Idaho income tax withholding for tax year 2023. Therefore, the Tax Discovery Bureau issued the Notice of Deficiency contested here, finding Petitioner was liable for the unremitted tax withholding. The amount consisted of \$8,736 in tax due, \$2,184 in penalties, and \$475 in interest, for a total of \$11,395. The Notice also informed Petitioner that it was required to register for an Idaho withholding account if it had an employee working in Idaho or withheld Idaho income tax. The Notice stated, “If you currently have employees earning income in Idaho or withhold Idaho income taxes for an employee and haven’t registered for an Idaho withholding account, you’re subject to a penalty of \$100 per day.” Information related to Petitioner’s right to protest the Notice’s determination within sixty-three days was included.

Petitioner attempted to file a protest of the Notice on December 20, 2024, but failed to include any reason for the protest, and it was found invalid. After a notification from the Tax Commission that the protest was not accepted, Petitioner filed a valid protest on January 20, 2025. The individual filing the protest on behalf of Petitioner contended he should only be liable for the income tax withheld per his personal W-2. Additional facts related to this protest are discussed below.

A letter from the tax appeals specialist to Petitioner on April 30, 2025, informed Petitioner of the options to schedule a hearing or submit additional evidence, and informed Petitioner that if a response was not received, a decision may be issued based on the existing information. A second letter from the tax appeals specialist to Petitioner on June 5, 2025, again informed Petitioner of his options to schedule a hearing, submit evidence, and, if no response was received by July 7, 2025, that the Tax Commission may issue a decision based on the information already in the Tax Commission's possession.

No response was received from Petitioner.

## **Law & Analysis**

### ***Procedure***

When the Tax Commission discovers a tax deficiency, a notice of said deficiency is sent pursuant to Idaho Code section 63-3045(1)(a). The taxpayer has sixty-three days to file a written protest requesting a redetermination. *Id.* If a perfected protest is filed in a timely manner, “the taxpayer has the right to an independent administrative redetermination of the originating division’s determination before the state tax commission, including a hearing.” Idaho Code section 63-3045(2)(a). To be perfected, a protest must contain the information listed in IDAPA 35.02.01.320.01. If the protest is not perfected, the taxpayer will receive an additional 28 days to

perfect the protest, counting from the date notice of the inadequacies are sent to the taxpayer. Idaho Code section 63-3045(1)(b). Following a perfected protest, the taxpayer may submit additional evidence or documentation during the redetermination process subject to the provisions of section 63-3045B(3)(a), Idaho Code. Idaho Code section 63-3045(5).

If the taxpayer does not request a hearing, “The Tax Commission may issue a decision after forty-two (42) days from the date the notification of right to request a hearing is mailed to the taxpayer.” IDAPA 35.02.01.325.06.a.

Here, Petitioner filed an invalid protest within sixty-three days of the Notice of Deficiency and filed a perfected protest within 28 days after notice of the inadequacies was sent. Petitioner did not request a hearing in its protest letter, and forty-two days have passed since Petitioner was informed of the right to request a hearing, which occurred no later than April 30, 2025. Therefore, a decision may now be issued without a hearing.

### ***Payment of Tax Withholding***

Under Idaho Code section 63-3035(a) “Every employer who is required under the provisions of the Internal Revenue Code to withhold, collect and pay income tax on wages or salaries paid by such employer to any employee . . . shall . . . deduct and retain therefrom an amount substantially equivalent to the tax reasonably calculated by the state tax commission to be due from the employee.” Every employer making payments for wages earned in Idaho “[s]hall be liable to the state of Idaho for the payment of the tax required to be deducted and withheld . . .” Idaho Code section 63-3035(a)(1). The employer must timely pay the tax and is required to register with the Tax Commission to establish a withholding account number. Idaho Code section 63-3035(a)(2)-(3).

Here, the W-2 forms for two of Petitioner's employees state that Petitioner withheld income tax. For the first employee, Petitioner withheld \$3,404. For the second employee, Petitioner withheld \$5,332. Although Petitioner has disputed the accuracy of these statements, no documentation or evidence has been provided to contradict the evidence from the W-2 forms. Similarly, no documentation has been provided indicating that Petitioner remitted Idaho income tax payments to the Idaho State Tax Commission.

In the protest, Petitioner has argued that the only tax owing is individual state income tax calculated on the personal W-2 form of the person who filed the protest on behalf of Petitioner. This argument is irrelevant and does not explain how Petitioner could be justified in withholding income tax for two other individuals. The tax withheld from Petitioner's employees must be remitted to the Tax Commission.

Therefore, the Tax Commission finds that Petitioner withheld \$8,736 in income tax that was not remitted to the Idaho State Tax Commission, and it is a tax deficiency pursuant to Idaho Code section 63-3044(3).

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 failed to remit income tax withheld from its employees, and the Notice correctly required that tax be remitted with interest and penalty. THEREFORE, the Notice dated October 25, 2024, and directed to [REDACTED] [REDACTED] [REDACTED] is hereby AFFIRMED and MADE FINAL.

IT IS ORDERED that Petitioner pay the following tax, penalty, and interest (computed to December 10, 2025):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2023	\$8,736	\$2,184	\$975	\$11,895
			<b>Total Due</b>	<b>\$11,895</b>

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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