

penalty and issued a modified Notice. Petitioners continued their objections to the remaining penalties: late filing penalty and negligence, and the interest. The Bureau acknowledged Petitioners' 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. Petitioner responded but did not request an informal hearing nor did they provide additional information. Having reviewed all available information, the Tax Commission makes its decision on the penalties and interest.

LAW AND ANALYSIS

Extension penalty, or late filing penalty²

Idaho Code section 63-3033 provides extension of time for filing returns under its subsections (a) and (b),

(a) Taxpayers shall have an automatic extension of time for filing any return, declaration, statement or other document required by this chapter for a period of six (6) months if on or before the unextended due date the taxpayer has paid at least eighty percent (80%) of the total tax due on the income tax return when it is filed, or the total tax due on the income tax return for the prior year if a return was filed for the prior year.

(b) If, on the unextended due date, the payment required to meet the provisions of subsection (a) of this section, after consideration of any previous credits or payments applicable to the return, is fifty dollars (\$50.00) or less, such payment shall not be required in order to qualify for the extension. However, interest shall accrue as provided in subsection (g) of this section. Payment of any balance of tax is due on the earlier of the extended due date or the date the return is filed.

The late filing penalty is set forth in Idaho Code section 63-3033(f)(1),

If the amount of payment made under subsection (a) of this section^[3] is less than eighty percent (80%) of the total tax due under the provisions of this chapter and is

² The Bureau called the late filing penalty an "extension penalty" in the Notice.

³ Idaho Code section 63-3033(a) "Taxpayers shall have an automatic extension of time for filing any return, declaration, statement or other document required by this chapter for a period of six (6) months if on or before the

less than the amount of the total tax due on the income tax return for the prior year, except as permitted by subsection (b) of this section^[4], a penalty may be applied to the total of the balance due unless reasonable cause can be established. The penalty shall be:

(1) If the taxes for the taxable year are paid on or before the extended due date, two percent (2%) per month from the original due date to the date of payment.

In the present case, Petitioners argued in the protest that they made an estimated tax payment of \$100,000 through [REDACTED] [REDACTED] with the intent it be applied to their individual income tax liability. The Tax Commission did receive a \$100,000 payment from [REDACTED] [REDACTED] on January 4, 2022, and as directed, applied to the business income tax account of [REDACTED] [REDACTED]

The Tax Commission does not have the authority to move payments from one account to another without a request and consent from the taxpayer. As mentioned above, [REDACTED] [REDACTED] made the \$100,000 payment on January 4, 2022, after any of the due dates for 2020 estimated tax payments.⁵ The Tax Commission held the payment in [REDACTED] [REDACTED] business income tax account as a voluntary payment for tax year 2021. It was not until June 7, 2024, while processing [REDACTED] [REDACTED] late filed 2021 Idaho return that the payment was identified and subsequently refunded.

Petitioners' history of paying their Idaho individual income tax shows a consistent payment of their income tax on or before the due date of the return. The only exception is the tax year at issue here. The Tax Commission does not dispute Petitioners' statement regarding their intent to

unextended due date the taxpayer has paid at least eighty percent (80%) of the total tax due on the income tax return when it is filed, or the total tax due on the income tax return for the prior year if a return was filed for the prior year.”

⁴ Idaho Code section 63-3033(b) “(b) If, on the unextended due date, the payment required to meet the provisions of subsection (a) of this section, after consideration of any previous credits or payments applicable to the return, is fifty dollars (\$50.00) or less, such payment shall not be required in order to qualify for the extension. However, interest shall accrue as provided in subsection (g) of this section. Payment of any balance of tax is due on the earlier of the extended due date or the date the return is filed.”

⁵ The due dates for estimated tax payments for a 2020 Idaho return are, June 15, 2020, for the first and second quarters, September 15, 2020, for the third quarter, and January 15, 2021, for the fourth quarter.

make a payment towards their individual income tax liability; however, it is not clear whether there was a reasonable cause for their late filing.

Idaho Code section 63-3046 (7) states,

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**. (emphasis added)

Although the Idaho statute does not define reasonable cause, Idaho Income Tax Administrative Rule IDAPA 35.01.01.010.08 states that terms not defined in the Idaho Code have the same meaning as is assigned to them by the Internal Revenue Code (IRC). While the IRC also does not define reasonable cause, Treasury Regulation section 301.6651-1 does give guidance in what constitutes reasonable cause, and the Internal Revenue Service provides examples of valid reasons for failing to file on time. The valid reasons for failure to file include, but are not limited to, fire, natural disasters or civil disturbances, inability to get records, death, serious illness or unavoidable absence of the taxpayer or immediate family, and system issues that delayed a timely electronic filing or payment. The factors that do not qualify as valid reasons for failure to file or pay a tax on time are, reliance on a tax professional, lack of knowledge, mistakes and oversights, and lack of funds. The seminal U.S. Supreme Court case on “reasonable cause” in income tax law is *United States v. Boyle*, 105 S.Ct. 687, (1985), and the Court held that the duty to file a tax return on time is a personal, non-delegable responsibility of the taxpayer. Therefore, a taxpayer’s reliance on their tax preparer or attorney to meet the filing deadline does not constitute reasonable cause for late filing.

Petitioners provided no reason for late filing. Therefore, the Tax Commission determined that there was no reasonable cause for Petitioners’ late filing and the late filing penalty should not be abated.

Negligence penalty

Idaho Code section 63-3046(a) states,

If any part of any deficiency is due to negligence or disregard of rules but without intent to defraud, five percent (5%) of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected and paid in the same manner as if it were a deficiency.

Tax Administration and Enforcement Rule IDAPA 35.02.01.410.02., further clarifies that,

[a] five percent (5%) negligence penalty shall be imposed if the deficiency results from either negligence by the taxpayer or from disregard by the taxpayer or his agent of state or federal tax laws, rules of the Tax Commission, or Treasury Regulations.

The negligence penalty, or so-called accuracy-related penalty, applies to negligence or disregard of the rules or regulations. Negligence is when a taxpayer does not make a reasonable attempt to follow the tax laws, and disregard means a taxpayer carelessly, recklessly or intentionally ignored tax rules or regulation.

Petitioners indicated in the protest that the adjustment that resulted in the negligence penalty is the Idaho bonus depreciation addition passed through from tiered entities: [REDACTED] to [REDACTED] [REDACTED] and to Petitioners. [REDACTED] filed an amended return for tax year 2020 and issued amended federal and Idaho K-1s to [REDACTED] [REDACTED]. Because of the amended K-1s issued by [REDACTED] [REDACTED] [REDACTED] amended its 2020 return but did not incorporate [REDACTED] amended Idaho K-1 into its 2020 amended Idaho return. As a result, [REDACTED] [REDACTED] amended 2020 Idaho K-1 issued to Mr. [REDACTED] did not contain the correct amount of the Idaho bonus depreciation addition. Petitioners further explained in the protest that they recently changed accountants, and the new accountant inadvertently used an incorrect depreciation schedule for preparation of their 2020 Idaho return.

Petitioners' argument for abatement of the negligence penalty is that there is reasonable cause for the understatement of tax, and they relied on the accountant for application of the Idaho income tax law.

Idaho Code section 63-3046 (7) states,

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**. (emphasis added)

The Tax Commission agrees that Petitioners acted in good faith as they took the time and effort to hire an accountant with expectations that the accountant would prepare a complete and accurate return. As for the reasonable cause standard under IRC section 6664 and its Treasury Regulation, the Tax Commission now reviews the "three-prong test."

In *Neonatology v. Commissioner*, 115 TC 43 (2000), the Tax Court relied on the "three-prong test" in determining whether a negligence penalty is applicable:

In sum, for a taxpayer to rely reasonably upon advice so as possibly to negate a section 6662(a) accuracy-related penalty determined by the Commissioner, the taxpayer must prove by a preponderance of the evidence that the taxpayer meets each requirement of the following three-prong test:

- (1) The adviser was a competent professional who had sufficient expertise to justify reliance,
- (2) the taxpayer provided necessary and accurate information to the adviser, and
- (3) the taxpayer actually relied in good faith on the adviser's judgment.

Petitioners' original federal and Idaho returns were self-prepared; however, their amended return was prepared by [REDACTED].⁶ By engaging a tax professional,

⁶ Located in [REDACTED] Idaho.

Petitioners meet the first test. The primary cause for the additional tax asserted in the Notice was the flow-through Idaho bonus depreciation addition that should have been passed through from [REDACTED] to [REDACTED] [REDACTED] and then to Petitioners. However, Petitioners did not receive sufficient information from [REDACTED] [REDACTED] to include the pass-through adjustments in their individual income tax return. Petitioners provided all information, other than concerning the pass-through adjustments, to their accountant. Petitioners meet the second test. As for the third test, Petitioners filed the amended Idaho return as prepared by the accountant since they relied in good faith on the accountant. Therefore, they meet the third test. The Tax Commission found that they exercised ordinary business care and prudence in determining the tax liability by engaging the accounting firm to prepare their 2020 return. The Tax Commission determined that Petitioners met the reasonable cause standard and therefore the negligence penalty should be abated.

Interest

Idaho Code section 63-3045(7)(b) states in part,

Interest upon any deficiency shall be assessed at the same time as the deficiency, shall be due and payable upon notice and demand from the state tax commission and shall be collected as a part of the tax

The Idaho Supreme Court's decision in *Potlatch Corp. v. Idaho State Tax Comm'n*, 128 Idaho 387, 913 P.2d 1157 (1996) established that interest may be imposed as written in the Idaho statute, and that the Tax Commission is authorized to add interest to any tax deficiency in accordance with Idaho Code section 63-3045. The Tax Commission's decisions routinely affirm the addition of interest to deficiencies.

Petitioners referred to Idaho Code section 63-3046 and stated in the protest that "the Tax Commission has authority to waive penalties and interest when reasonable cause is demonstrated." As mentioned previously, the Tax Commission does have authority to waive penalties as provided

by Idaho Code section 63-3046.⁷ However, interest is defined under Idaho Code section 63-3045, and none of its subsections allow for an abatement of interest. As the court held in the Potlatch case, the Tax Commission found that the Bureau’s addition of interest is appropriate.

CONCLUSION

The Tax Commission abates the 5% negligence penalty. The Bureau added the 2% late filing penalty and interest to the tax due amount, and the Tax Commission finds these additions appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

THEREFORE, the Tax Commission MODIFIES the Notice dated July 15, 2025, 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	\$86,792	\$10,279	\$11,078	\$108,149
			Less: Refund Held	<u>(26,796)</u>
			Total Due	<u>\$81,353</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

⁷ Idaho Code section 63-3046 (7) states, “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.” (emphasis added) The part “by this section” means Idaho Code section 63-3046.

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.
