

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 1-884-718-080
)	
)	
Petitioners.)	DECISION
)	

(Petitioners) protested the Notice of Deficiency Determination dated November 26, 2021. Petitioners disagreed with the Tax Discovery Bureau’s (Bureau) determination of their Idaho taxable income for tax years 2013 through 2019. Petitioners stated they would file returns reporting their actual Idaho taxable income. The Tax Commission reviewed the matter and hereby modifies the Notice of Deficiency Determination.

BACKGROUND

During a review of Petitioners’ filing history with the Tax Commission, the Bureau found Petitioners stopped filing Idaho income tax returns after filing their 2003 individual income tax return. The Bureau sent Petitioners a letter asking about their requirement to file Idaho income tax returns for the tax years 2013 through 2019. Petitioners responded that they were required to file income tax returns and anticipated having their returns filed by October 15, 2023. This date was more than two years after the Bureau’s letter, so the Bureau sent Petitioners another letter requesting the returns by October 15, 2021. Petitioners contacted the Bureau stating they were planning on submitting one return every six months until they were caught up. The Bureau explained that their plan was not acceptable and that if the returns were not submitted in 2-3 weeks, the Bureau would prepare returns and send them a Notice of Deficiency Determination. Petitioners’ returns were not received within three weeks, so the Bureau, using W-2 information, 1099 information, and an estimate of income from a business registered with the Idaho Secretary

of State in Mr. [redacted] name, prepared income tax returns for Petitioners for the tax years 2013 through 2019. The Bureau sent Petitioners a Notice of Deficiency Determination which they protested.

Petitioners' protest consisted of a protest letter and their 2015 income tax return. Petitioners disagreed with the Bureau's returns and stated that they believed the other years' returns would be comparable to their 2015 return with the exception of 2013 when they sold property and took distributions from an IRA. Petitioners stated they are in the process of gathering their tax information for 2013 and 2014 and hope to have those returns filed in the next month or so. Petitioners stated they are determined to file their delinquent returns as soon as possible.

The Bureau reviewed Petitioners' 2015 return and sent it to be processed. The Bureau acknowledged Petitioners' protest and asked that Petitioners provide the remaining returns within a specific timeframe. Petitioners did not meet the Bureau's timeframe, so the matter was transferred to the Tax Commission's Appeals Unit to begin the appeal process.

Appeals reviewed the matter and sent Petitioners a letter that discussed the methods available for redetermining a Notice of Deficiency Determination. Petitioners' representative (Representative) contacted Appeals and said that Petitioners were trying to get their bank statements from the bank. Petitioners were told that it would take six weeks to get their bank statements. Appeals agreed to allow Petitioners additional time and asked Representative to stay in contact and give updates on the progress of getting the returns prepared.

After a couple of months with no follow-up from Representative, Appeals contacted him for an update. Representative stated he had not heard from Petitioners but that he would contact them and let Appeals know where Petitioners were in gathering their information. A couple of months later with no response from Representative, Appeals sent Petitioners another letter giving

them a deadline to provide their returns or to contact the Tax Commission. Petitioners responded that they had been dealing with Covid and the complications from the virus. In addition, Petitioners stated [redacted] had major surgery in December 2022 that caused significant delays, and in January 2023, [redacted] father passed away which left them dealing with his estate in California. Petitioners asked that the deadline be extended to March 31, 2023, to file their returns.

Appeals extended the time and gave Petitioners significantly more time, but no returns were received. Appeals sent Petitioners a letter giving them a final date to have their returns to the Tax Commission. Petitioners submitted their 2013 income tax return within the timeframe, but no other returns were received. Appeals gave Petitioners a few more months to provide the remaining returns but no returns were received. Seeing that Petitioners have had more than adequate time to prepare and submit their returns, the Tax Commission decided the matter based on the information available.

LAW AND ANALYSIS

Idaho Code section 63-3030 provides the income thresholds for filing Idaho income tax returns. The information the Bureau gathered clearly shows Petitioners' income exceeded the threshold for each of years. Petitioners were required to file Idaho income tax returns.

Petitioners did not deny they were required to file Idaho income tax returns. Petitioners wanted to file their own returns believing their taxable income was far less than what the Bureau determined. Petitioners did provide income tax returns for the tax years 2013 and 2015 but failed to provide returns for tax years 2014 and 2016 through 2019. The Tax Commission reviewed Petitioners' 2013 and 2015 returns and found them to be a better representation of Petitioners' taxable income. Therefore, the Tax Commission accepts Petitioners' 2013 and 2015 returns,

subject to the Tax Commission's normal review and subject to the statute of limitations beginning on the date the returns were received, in lieu of the returns prepared by the Bureau.

As for tax years 2014 and 2016 through 2019, generally, the Tax Commission affirms returns the Bureau prepared when a taxpayer does not submit actual returns. In this case, the Tax Commission reviewed the returns the Bureau prepared and noted in addition to W-2 and 1099 information, the Bureau used a third-party website, Manta.com, to determine the income from Mr.

construction business. For each year, the Bureau used the amount of \$127,935 as the income generated from Mr. construction business. After reviewing Petitioners' returns for 2013 and 2015, the Tax Commission believes this amount is excessive. On Petitioners' 2013 and 2015 returns, they reported two sole proprietorships, one for construction services and the other for piping. Both sole proprietorships had combined gross receipts of approximately \$9,800 and \$14,500 for 2013 and 2015, respectively. Therefore, based on that information alone, the Tax Commission believes the Bureau's estimate of Petitioners' income is overstated.

However, also included in Petitioners' 2013 and 2015 returns is rental income from six rental properties. The total rents received each year were \$90,827 and \$97,705, respectively. Petitioners' adjusted gross income for the two years also varied greatly, \$145,809 for 2013 and \$63,356 for 2015. Taking these unknowns into consideration that the Bureau did not include in its estimates, the Tax Commission is reluctant to change the returns the Bureau prepared even though the construction business income is likely overstated.

Deductions are a matter of legislative grace. *New Colonial Ice Co., Inc. v. Helvering*, 292 US. 435, 440, 54 S.Ct. 788 (1934). Taxpayers are required to maintain records to enable the determination of their tax liability. See IRC § 6001; Treasury Regulation § 1.6001-1(a). The burden is on the taxpayer to claim his proper deductions. *United States v. Ballard*, 535 F.2d 400,

404 (1976). Therefore, since Petitioners have not shown the returns the Bureau prepared for them for the tax years 2014 and 2016 through 2019 are incorrect, the Tax Commission upholds the Bureau's determination of their taxable income for those years.

CONCLUSION

Petitioners received income in 2013 through 2019 that was over the threshold for filing Idaho individual income tax returns. Petitioners were required to file Idaho income tax returns. Petitioners submitted income tax returns for the tax years 2013 and 2015. The Tax Commission found Petitioners' 2013 and 2015 returns better represent their taxable income for those years than the returns the Bureau prepared. Therefore, the Tax Commission accepts Petitioners' 2013 and 2015 returns, in lieu of the same returns prepared by the Bureau.

Petitioners did not provide income tax returns for tax years 2014 and 2016 through 2019. Furthermore, Petitioners have not shown the returns the Bureau prepared are incorrect. Therefore, the Tax Commission upholds the Notice of Deficiency Determination as it pertains to those tax years.

The Bureau added interest and penalty to Petitioners' Idaho tax. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046. Interest is computed to June 30, 2024.

THEREFORE, the Notice of Deficiency Determination dated November 26, 2021, and directed to _____ is AFFIRMED as MODIFIED by this decision.

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>
2013	\$777	\$194	\$275	\$1,246
2014	8,803	2,201	3,154	14,158
2015	2,077	519	497	3,093
2016	8,660	2,165	2,435	13,260
2017	7,726	1,932	1,919	11,577
2018	6,811	1,703	1,399	9,913
2019	7,215	1,804	1,094	<u>10,113</u>
			TOTAL DUE	\$63,360
			LESS PAYMENT	<u>4,339</u>
			BALANCE DUE	<u>\$59,021</u>

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

DATED this _____ day of _____ 2024.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2024,
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.
