

LAW AND ANALYSIS

Petitioner claimed a credit for a NOL carry forward on her 2021 Idaho return which was disallowed, creating a tax deficiency.

Idaho Code section 63-3045, states, “[i]nterest shall apply to deficiencies in tax” and “[i]nterest upon any deficiency shall be assessed at the same time as the deficiency[.]” Idaho Code section 63-3045(7)(a)–(b). The Idaho Supreme Court addressed whether a taxpayer is required to pay interest in *Union Pacific R. Co. v. State Tax Comm’n*, 105 Idaho 471, 670 P.2d 878 (1983), stating:

The general rule is that absent statutory authorization, courts have no power to remit interest imposed by statute on a tax deficiency. *American Airlines, Inc. v. City of St. Louis*, 368 S.W.2d 161 (Mo. 1963); see generally 85 C.J.S. Taxation, § 1031(c) (1954). We agree with the State that I.C. § 63-3045(c) is clear and unequivocal when it states that “interest ... shall be assessed” and “shall be collected.” This section is not discretionary, but rather, it is mandatory. Following the language of this section we hold that this Court, as well as the district court, lacks any power to remit the interest that is mandated by the statute.

Idaho Code section 63-3046(a) provides that a five percent (5%) negligence penalty shall be assessed if any part of any deficiency is due to negligence or disregard of rule but without intent to defraud. “Negligence” is defined by IDAPA 35.02.01.410.01 as “the breach of a duty or obligation, recognized by law that requires conformance to a certain standard of conduct.” The Tax Commission reviewed the application of interest and penalty and finds both appropriate.

CONCLUSION

Petitioner owed more tax than that shown on her originally filed return due to the disallowance of NOL carry forward. Petitioner paid the additional tax due, but has yet to pay the penalty and interest. Petitioner did not show any reason why the penalty and interest are not applicable. Therefore, the Tax Commission upholds the Notice of Deficiency Determination.

The Bureau added interest and penalty to Petitioner's 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 February 12, 2025.

THEREFORE, the Notice of Deficiency Determination dated July 16, 2024, and directed to [REDACTED] is AFFIRMED.

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

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 2021 | \$231 | \$12 | \$32 | \$275 |
| | | | Payment Rec'd | (231) |
| | | | TOTAL DUE | \$44 |

An explanation of Petitioner's 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.
