

Petitioner responded on November 11, writing that he disagreed with the taxes due, the total deficiency, and the gross and taxable income for all the years in the Notice. He also stated that he had not received any income in 2021 from one of the sources cited in the Notice. He stated that his income during those years was from part-time sources. The Bureau sent Petitioner a letter on November 13, acknowledging the protest and providing Petitioner with a schedule for filing the missing returns (the first by December 9, then one every two weeks until all returns were filed).

On December 6, Petitioner sent the Bureau an email requesting an extension for completing the returns. After an exchange of emails, the Bureau sent a letter containing a new filing schedule. The first return was to be filed by February 1, 2025, then another return every two weeks until all returns were filed. Petitioner sent an email on January 29, requesting another extension to file the returns. The Bureau did not grant any additional time.

On February 14, Petitioner provided the Bureau with a federal income tax return for 2022, but no Idaho income tax return. The Bureau sent Petitioner a letter acknowledging receipt of the information and canceling the Notice for only tax year 2022. On March 11, Petitioner provided the Bureau with a federal income tax return for 2021. A week later, Petitioner provided the Bureau with an Idaho income tax return for 2021. The Bureau sent Petitioner a letter acknowledging receipt of the information and canceling the Notice for only tax year 2021. On April 8, Petitioner provided the Bureau with photos of a federal income tax return for 2018. Upon reviewing the photos Petitioner had uploaded, the Bureau determined they were illegible and could not be processed. The Bureau sent Petitioner a letter informing him of this and requested federal and Idaho returns in a different format. The Bureau also stated that Petitioner had not submitted returns in accordance with the filing schedule. The Bureau requested either returns or a signed protest withdrawal by April 24, or the issue would be forwarded to the Tax Commission's Appeals unit

(Appeals) for resolution. On April 29, Petitioner uploaded a blank, unsigned Idaho income tax return for 2019 and an incomplete federal return consisting of two Schedules C, a Schedule E, and Schedule 1. The Bureau did not respond to this submission as the file was already in preparation for transfer to Appeals.

On June 2, Appeals sent Petitioner a letter explaining the options available for redetermining a protested Notice. A response was requested by July 2. On July 2, Petitioner sent Appeals an email stating he intended to file missing returns for 2018 and 2019 as soon as possible. Appeals replied on July 3, stating that – based on the Notice and responses received so far – it appeared Petitioner needed to file federal and Idaho returns for 2016 through 2020. Appeals asked about setting a schedule for filing but did not set a deadline for response. On August 1, Appeals resent the July 3 email with a request for an estimated schedule of completing returns by August 11. On August 25, Appeals sent Petitioner a letter with copies of the July 3 and August 1 emails and requested a response by September 5. Petitioner has not provided any further response.

Law & Analysis

The Bureau's Notice included tax years 2016 through 2022. Before transferring the case to Appeals, the Bureau cancelled the Notice for tax years 2021 and 2022. This decision will not address those years further.

Idaho Code section 63-3030 establishes the requirements for filing Idaho individual income tax returns and states that every resident individual required to file a federal return is required to file an Idaho return. Idaho Code section 63-3068(d) states that a Notice may be issued, and the tax imposed by this chapter may be assessed, at any time when a required return is not filed.

If a taxpayer fails to file a return when required, the Tax Commission may prepare a return and issue a Notice based on its own information and on information it obtains by examining the

taxpayer's records, from testimony, or otherwise.¹ When a taxpayer's accounting records are inadequate, or when a taxpayer fails to produce records, the Tax Commission may reconstruct income by several different methods. However, the Tax Commission's methods of reconstructing income must be reasonable and defensible.

Typically, the Tax Commission requires the taxpayer to establish that the amount asserted in its Notice is incorrect. This is because a deficiency determination issued by the Tax Commission "is presumed to be correct, and the burden is on the taxpayer to show that the Commission's decision is erroneous."² However, the presumption of correction does not apply to a "naked" assessment—that is, an assessment without any foundation whatsoever. *United States v. Janis*, 428 U.S. 433, 441 (1976); *Erickson v. Comm'r*, 937 F.2d 1548, 1551 (10th Cir. 1991) ("Some reasonable foundation for the assessment is necessary to preserve the presumption of correctness."). In other words, a court will not uphold a tax deficiency based merely on the presumption of correctness where it has been shown that the amount of the deficiency is entirely arbitrary or based on no rational foundation.

In cases involving unreported income, as is the issue here for tax years 2016 through 2020, the taxing authority is given wide latitude in reconstructing or estimating the amount of the unreported income, and the presumption of correctness will apply unless the technique employed is manifestly irrational or arbitrary. *De Cavalcante v. Commissioner*, 620 F.2d 23, 28 (3d Cir.1980) (the presumption of correctness requires only "a minimal factual basis"); *U.S. v. Fior d'Italia, Inc.*, 536 U.S. 238, 243 (2002) (courts have consistently upheld estimates of an individual's tax liability as long as the method used is a "reasonable one"); *Erickson v. Comm'r*, 937 F.2d at 1555 (in testing

¹ Idaho Code section 63-3042; Idaho Tax Administration and Enforcement Rule IDAPA 35.02.01.200.

² *Parker v. Idaho State Tax Comm'n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (citing *Albertson's Inc. v. State Dep't of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)).

the minimum requirements of a notice of deficiency, there is only one rule, “that there be some rational underpinning”).

A tax deficiency is not “naked” if it is based on a reasonable estimate of the taxpayer’s income, or if the unreported income asserted in the deficiency can be linked back to the taxpayer. *Fior d’Italia, Inc.*, 536 U.S. at 241; *Day v. C.I.R.*, 975 F.2d 534, 537 (8th Cir. 1992). The Tax Commission is required only to produce “some evidentiary foundation linking the taxpayer to the alleged income-producing activity” before the deficiency determination will be accorded its usual presumption of correctness. *Weimerskirch v. Comm’r*, 596 F.2d 358, 362 (9th Cir. 1979). Although a determination that is unsupported by evidentiary foundation is clearly arbitrary and erroneous, the required showing is “minimal.” *Blohm v. Comm’r*, 994 F.2d 1542, 1549 (11th Cir. 1993).

After reviewing available information, the Tax Commission is unable to find any evidence that Petitioner was living or earning income in Idaho for any significant time prior to 2018. Therefore, the Tax Commission cannot confirm that Petitioner was required to file Idaho income tax returns for 2016 or 2017. Regarding tax years 2018 through 2020, based on available information and given Petitioner’s lack of response, the Tax Commission determined that the Idaho income tax calculated by the Bureau is a reasonable estimation of Petitioner’s actual tax liability for tax years 2018 through 2020.

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 is required to file Idaho income tax returns for 2018, 2019, and 2020. Petitioner has had ample time to do so and has received multiple extensions and reminders. The Bureau’s

Notice shows reasonable estimates of Petitioner’s tax liability for tax years 2018 through 2020. Petitioner does not appear to meet Idaho’s filing requirements for tax years 2016 and 2017.

THEREFORE, the Notice dated September 10, 2024, and directed to [REDACTED] [REDACTED] is hereby CANCELLED for tax years 2016 and 2017, UPHELD for tax years 2018, 2019, and 2020, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2018	\$4,787	\$1,197	\$1,185	\$7,169
2019	4,767	1,192	1,041	7,000
2020	4,748	1,187	935	<u>6,870</u>
				<u>\$21,039</u>

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.
