

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 1-637-614-592
,	)	
	)	
Petitioner.	)	DECISION
<hr style="width: 45%; margin-left: 0;"/>	)	

The Revenue Operations Division (Division) of the Idaho State Tax Commission (Tax Commission) issued a Notice of Refund Determination (Notice) to \_\_\_\_\_ (Petitioner), a unitary business. The Division disallowed an \$83,110 refund claimed and assessed additional tax, penalty, and interest in the total amount of \$70,596 for the fiscal year ending June 30, 2020. Petitioner filed a timely appeal and petition for redetermination of the Notice. The Tax Commission has reviewed the file and hereby issues its decision.

**BACKGROUND**

For the fiscal year ending June 30, 2020, Petitioner reported Idaho taxable income of \$1,907,455, Idaho business income tax of \$39,826, and making \$122,956 in estimated tax payments. The Idaho business income tax rate for the year was a flat 6.925%. Therefore, Petitioner should have reported tax of \$132,091 ( $\$1,907,455 \times 6.925\% = \$132,091$ ). Tax Commission records showed Petitioner only made \$71,900 in estimated tax payments.

The Division requested Petitioner provide documentation supporting the income tax calculation and estimated payments but did not receive a response. Therefore, the Division adjusted Petitioner’s return and issued a Notice. Since Petitioner did not file or pay their tax on time, additional penalty and interest was assessed.

Petitioner appealed contending “the state's adjustment to compute tax on a consolidated basis is inconsistent with state law.” Petitioner conceded this issue and amended its appeal to request a penalty abatement. Therefore, the only issue for decision is the penalty abatement.

## **LAW**

Idaho Code section 63-3046(c) provides the Tax Commission may assess a late file penalty if a return is not filed on or before the due date (including extensions) and a late pay penalty if a return is filed but the tax is not paid. Idaho Code section 63-3046(c)(7) provides the 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. The taxpayer carries the burden of proving reasonable cause and good faith. The Tax Commission shall consider all factors when determining whether to waive the penalties. One (1) factor is the taxpayer's record for filing and paying state taxes. A good record for filing and paying tax on returns filed annually is not by itself a sufficient reason to waive the penalty.

## **PETITIONER'S POSITION**

Petitioner requested an abatement of penalties associated with the Notice. Petitioner submitted the following statement in its written request:

The adjustment made by the Idaho State Tax Commission relates to the amount reported on Line 38 of the Company's Form 41. Specifically, tax preparation software computed line 38 on a separate entity basis, as opposed to the unitary group basis, resulting in excess credit carryover being applied to the subsequent tax year.

The Company has historically remitted quarterly estimated and extension payments in accordance with Idaho law. As the Company has historically acted in good faith with regards to making estimated/extension payments, I respectfully request that any penalties be abated, including but not limited to those governed by Idaho Code § 63-3046.

## **ANALYSIS**

Petitioner has not shown reasonable cause for the understatement. In reaching its decision, the Tax Commission notes, for fiscal year ending June 30, 2019, Petitioner made the same tax

calculation error and filed late. Assuming their tax software did make a computational error, Petitioner should have corrected the error after receiving the Notice for fiscal year ending June 30, 2019. Furthermore, the form and instructions for Form 41, Line 38 are clear: “38. Idaho income tax. Multiply line 37 by 6.5%. Minimum \$20 for each corporation. (See instructions.)” Petitioner should have reviewed the return and discovered the mistake. Additionally, as of date, Petitioner has not paid the additional tax due and interest. Therefore, the Tax Commission finds Petitioner has not shown reasonable cause for the understatement.

Petitioner argues the Tax Commission should waive the penalty because of a good record for filing and paying tax on returns filed annually. As stated previously, a good record for filing and paying tax on returns filed annually is not by itself a sufficient reason to waive the penalty.

**CONCLUSION**

THEREFORE, the Notice of Refund Determination dated November 9, 2021 is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

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

<u>PERIOD</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
06/30/2020	\$60,974	\$12,702	\$3,167	\$76,843

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of Petitioner’s right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2022,  
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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