

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 2-042-787-840
	)	
Petitioners.	)	DECISION
_____	)	

The Tax Discovery Bureau (Bureau) at the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination (Notice) to \_\_\_\_\_ (Petitioner) asserting a combined income tax deficiency of \$92,224 for tax years 2013 through 2019. Petitioner filed a timely appeal and petition for redetermination of the Notice. Petitioner did not request a hearing or submit additional documentation during the appeals process. The Tax Commission has reviewed the file and hereby issues its decision to affirm the Notice.

**BACKGROUND**

Petitioner is the sole proprietor of \_\_\_\_\_ Petitioner did not file Idaho individual income tax returns for the referenced tax years. The Bureau requested Petitioner file his past-due tax returns but did not receive a response. Therefore, the Bureau determined Petitioner’s income, deductions, and credits based on the information available and issued a Notice. In pertinent part, the Bureau reconstructed Petitioner’s business income based on income information reported to the Tax Commission by third parties. Petitioner appealed contending entitlement to additional business expenses.

## LAW

If a taxpayer fails to file a return when required, the Tax Commission can prepare a return and issue a Notice based on the information available. The Tax Commission determination of a deficiency is presumed correct, and the taxpayer bears the burden of proving it incorrect.<sup>1</sup>

Following federal case law, where the taxpayer's method of accounting, or accounting records, are inadequate, inaccurate, or fraudulent, the Tax Commission has the right to reconstruct the taxpayer's true taxable income by several different methods. If no records are kept, the Tax Commission has the right to use other available methods to arrive at the income of the taxpayer.<sup>2</sup> In doing so, it may use whatever method it believes clearly reflects the taxpayer's income.<sup>3</sup> It may use one method for one year and another method for a different year.<sup>4</sup> However, the Tax Commission may not base its determination on estimates which are without foundation or arbitrary.<sup>5</sup>

## CONCLUSION

On appeal, a deficiency determination issued by the Tax Commission is presumed to be correct, and the burden is on the taxpayer to show that the Tax Commission's decision is erroneous.<sup>6</sup> The Tax Commission finds Petitioner, having not filed his tax returns, having not introduced any documentary evidence, and minimal testimonial evidence, has failed to prove the Notice is incorrect. Therefore, the Tax Commission will uphold the Notice.

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<sup>1</sup> *Parker v. Idaho State Tax Comm'n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010)

<sup>2</sup> *Briesacher, Fred*, (1979) TC Memo 1979-43, PH TCM ¶79043, 38 CCH TCM 162; Hedrick, Robert Jr., (1980)

<sup>3</sup> *Shuman, Jack Est.*, (1995) TC Memo 1995-327, RIA TC Memo ¶95327, 70 CCH TCM 114 .

<sup>4</sup> *Selig, Ben*, (1978) TC Memo 1978-249, PH TCM ¶78249, 37 CCH TCM 1078.

<sup>5</sup> *Thomas, Anthony v. Com.*, (1959, CA6) 3 AFTR 2d 1094, 266 F2d 297, 59-1 USTC ¶9360, revg (1955, CA6) 47 AFTR 1170, 223 F2d 83, 55-1 USTC ¶9509, revg (1953) PH TCM ¶53350, 12 CCH TCM 1258

<sup>6</sup> *Parker v. Idaho State Tax Comm'n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010)

The Bureau added interest and penalty to the income tax deficiency. The Tax Commission reviewed those additions, found both to be appropriate per Idaho Code sections 63-3045 and 63-3046, and has updated interest accordingly. Interest is calculated through November 2, 2022 and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

THEREFORE, the Notice of Deficiency Determination dated October 5, 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>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2013	\$8,999	\$2,250	\$2,823	\$14,072
2014	7,218	1,805	1,976	10,999
2015	10,934	2,734	2,555	16,223
2016	8,068	2,017	1,586	11,671
2017	11,870	2,968	1,944	16,782
2018	12,477	3,119	1,509	17,105
2019	5,389	1,347	397	7,133
			TOTAL DUE	<u>\$93,985</u>

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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