

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 16010 |
| [Redacted] |) | |
| Petitioners. |) | DECISION |
| |) | |
| |) | |

On August 8, 2001, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable year 1999 in the total amount of \$4,103.

On October 10, 2001, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather chose to provide additional information. The taxpayers did not provide any information by the time they stated or in the additional time given by the Tax Commission. Therefore, the Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information [Redacted] that showed the taxpayers might have a filing requirement with the state of Idaho. The Bureau researched the Tax Commission's records and found that the taxpayers did not file an Idaho income tax return for the taxable year 1999. The Bureau sent the taxpayers a letter asking them about their filing requirement with Idaho, but the taxpayers did not respond.

The Bureau reviewed the information received [Redacted] and determined the taxpayers did have a requirement to file a 1999 Idaho income tax return. The Bureau prepared a return for the taxpayers and sent them a Notice of Deficiency Determination. The taxpayers protested the Bureau's determination. The taxpayers stated the Bureau did not include the loss they sustained from their limited liability company (LLC), [Redacted] The Bureau corresponded with the taxpayers by letter and telephone; however, no additional information was obtained from the

taxpayers. The Bureau searched the Tax Commission's records and found the filing of the taxpayers' LLC. The LLC's return showed information that needed to be included on the taxpayers' return, so the Bureau included the LLC's return with the taxpayers' file and referred the matter for administrative review.

The Tax Commission sent the taxpayers a letter giving them two options for having the Notice of Deficiency Determination redetermined. [Redacted] responded for the taxpayers stating that they separated in 1999 and that each had his or her own income to report. [Redacted] stated his income came from a LLC and a partnership both of which were dissolved on unfriendly terms. [Redacted] stated he disagreed with some of the accounting conclusions the LLC's accountant made and he needed 45 days to straighten them out and to get copies of the accounting.

The Tax Commission allowed the taxpayers more time than the additional time they requested. Nevertheless, the taxpayers failed to provide anything additionally for the Tax Commission to consider. Therefore, the Tax Commission decided the matter based upon the information presently available.

[Redacted] was a partner in a LLC, which transacted business in Idaho. [Redacted] share of the LLC's gross income was well in excess of the filing requirement as provided for in Idaho Code section 63-3030. In addition, [Redacted] received either taxable distributions or non-employee compensation in excess of the filing requirement of Idaho Code section 63-3030. Therefore, the taxpayers had an Idaho filing requirement.

The taxpayers did not contest their requirement to file. They stated the Bureau did not include [Redacted] loss [Redacted]. The Tax Commission reviewed the 1999 income tax return [Redacted] and found that the taxpayers did have a flow-through loss from the LLC that should

have been included on their return. However, in addition to the flow-through loss, [Redacted] received a guaranteed payment from [Redacted]C that was also not included in the return the Bureau prepared. The Tax Commission found that both these items should be included in the determination of the taxpayers' taxable income. Therefore, the Tax Commission hereby adjusts the return prepared by the Bureau to include the reportable items [Redacted].

The taxpayers stated [Redacted] was also involved in another partnership called [Redacted]s. The Tax Commission did not find any information on this partnership and the taxpayers provided no information regarding this partnership. The taxpayers stated they had a loss from the partnership; however, nothing has been provided to substantiate a loss or that the partnership existed. Therefore, the Tax Commission did not add or subtract anything from the taxpayers' taxable income for [Redacted].

The taxpayers did not provide any additional information to show that the income the Bureau used to determine their Idaho income tax liability should not be included. The taxpayers did not meet their burden of proof. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846 (1984). The Tax Commission reviewed the income included and found that it should be part of the taxpayers' taxable income.

The Bureau added interest and penalty to the taxpayers' income tax deficiency. The Tax Commission reviewed those additions and found they were appropriate, correctly applied, and followed Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated August 8, 2001, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest:

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 1999 | \$4,610 | \$1,153 | \$ 988 | \$6,751 |

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

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

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this ____ day of _____, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]