

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 16365
[Redacted]	)	
Petitioner.	)	DECISION
	)	
	)	

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On January 28, 2002, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1997 and 1998 in the total amount of \$172,040.

On February 7, 2002, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer is a [Redacted] partnership that had an interest in an Idaho partnership, [Redacted] for the years 1997 and 1998. For each of these years, the taxpayer received a schedule K-1 showing its distributive share of the Idaho partnership's income. The Tax Discovery Bureau (Bureau) researched the Tax Commission's records and found that the taxpayer did not file Idaho income tax returns for 1997 and 1998. The Bureau sent the taxpayer a letter asking about its filing requirement with the state of Idaho, but the taxpayer did not respond.

The Bureau reviewed the information available and determined the taxpayer was required to file Idaho income tax returns. The Bureau prepared returns for the taxpayer and sent it a Notice of Deficiency Determination. The taxpayer protested the Notice of Deficiency Determination and provided the Bureau with copies of its Idaho income tax returns.

The Bureau reviewed the taxpayer's returns and found them incomplete. The Bureau contacted the taxpayer and requested complete copies of the taxpayer's [Redacted]. The taxpayer complied with the Bureau's request. The Bureau reviewed the [Redacted] and found that they did not agree with the information the Bureau had obtained. The Bureau contacted the taxpayer and asked about the discrepancies. [Redacted] The Bureau and the taxpayer discussed various items on the taxpayer's returns. The end result was that the Bureau modified the returns the taxpayer provided to account for the taxable income not reported to Idaho by the taxpayer's non-Idaho resident partners. Idaho Code section 63-3022L. The Bureau sent the taxpayer a modified Notice of Deficiency Determination, but the taxpayer did not respond.

Therefore, the Bureau referred the matter for administrative review. The Tax Commission sent the taxpayer a letter giving it two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. The Tax Commission sent a follow-up letter to the taxpayer, but still the taxpayer failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

Idaho Code section 63-3022L states that nonresident partners of a partnership transacting business in Idaho may elect to have their Idaho taxable income reported and taxed on the partnership's Idaho income tax return. This section further states that if no election is made and the nonresident partner fails to file an Idaho income tax return, the partnership shall include such partner's Idaho taxable income and be taxed at the rate applicable to corporations.

The taxpayer does not dispute that it was required to file Idaho income tax returns reporting its distributive share of [Redacted]. In fact, the taxpayer submitted returns showing its distributive share of [Redacted]. However, the taxpayer's returns showed all of its Idaho taxable income was reported to Idaho on its partner's income tax returns. The Bureau found that this was

not the case. The Bureau adjusted the taxpayer's returns to include the nonresident partners' income that was not reported to Idaho.

In determining who were the non-filing partners, the Bureau used a formula to calculate the percentage interest a partner needed to meet the filing requirements of Idaho Code section 63-3030. The Bureau found that 10 partners met the filing requirement in 1997 and that 12 partners met the requirement in 1998. The Bureau researched the Tax Commission's records and found that these partners did not file Idaho income tax returns. The Tax Commission reviewed the Bureau's method and the schedules K-1 provided with the taxpayer's returns. The Tax Commission found that the Bureau properly identified the partners required to file Idaho income tax returns.

Since these partners did not file Idaho income tax returns, Idaho Code section 63-3022L allows the Tax Commission to tax the partnership. This is what the Bureau did in its modified determination. Therefore, the Tax Commission finds that the Notice of Deficiency Determination should be reduced to the Bureau's modified determination.

WHEREFORE, the Notice of Deficiency Determination dated January 28, 2002, 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 taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1997	\$3,934	\$ 984	\$1,470	\$6,388
1998	120	30	36	<u>186</u>
			TOTAL DUE	<u>\$6,574</u>

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

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2003, 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]

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