

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21542
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On September 10, 2008, 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 taxable years 2000 through 2006 in the total amount of \$68,102.

On November 7, 2008, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer requested a hearing which was scheduled for June 10, 2010, but was later cancelled because the taxpayer's returns were not completed. The taxpayer subsequently provided one year's return but has since provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer is a member partner [Redacted]. The Tax Discovery Bureau (Bureau) determined the taxpayer received income [Redacted] and found that the taxpayer did not file Idaho individual income tax returns for taxable years 2000 through 2006. The Bureau prepared income tax returns for the taxpayer based upon its determination of [Redacted] flow-through income and sent the taxpayer a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. The taxpayer stated the Bureau's returns did not reflect an accurate picture of her tax liability. The taxpayer stated she had considerable information pertaining to her personal deductions, actual income, and company

losses and gains that need to be factored into her tax liability. She stated that, due to a variety of reasons, her returns were not filed but she was now at a point where she could provide all her documents and information to her accountant to have the proper returns prepared.

The Bureau allowed the taxpayer additional time to provide the needed returns but no returns were provided. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer requested a hearing, but when the time came for the hearing, the taxpayer's representative and the Tax Commission staff concluded the hearing would be fruitless if the taxpayer did not have any returns to provide. The taxpayer's representative stated she would have at least one year's return to the Tax Commission by the middle of the following week. So the hearing was cancelled in favor of having a return submitted the following week.

The Tax Commission did not receive the return as stated. It was not until a month later that the taxpayer hand delivered her 2000 Idaho individual income tax return and a copy of [Redacted] federal partnership return. Since that time, the taxpayer's representative and the Tax Commission traded phone messages, but no other returns were provided. The Tax Commission sent the taxpayer a letter giving her a final date to provide the remaining returns. The taxpayer did not respond or provide the returns. The Tax Commission, believing the taxpayer has had ample time to prepare and submit her income tax returns, hereby issues its decision.

The taxpayer is a member of a limited liability company (LLC) that transacted business in Idaho during the years in question. LLCs are flow-through entities for income tax purposes. In its decision for Docket No. 21540, the Tax Commission found that [Redacted] had income that flowed through to its member partners. The taxpayer is a 51 percent owner/partner

[Redacted]. Therefore, 51 percent of [Redacted] income or loss flows through to the taxpayer and is required to be reported on her individual income tax return.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayer provided an income tax return for taxable year 2000 that reported the flow through [Redacted] and her other income. The Tax Commission reviewed the taxpayer's 2000 return and found it better represented the taxpayer's Idaho taxable income than the 2000 return prepared by the Bureau. Therefore, Tax Commission accepts the taxpayer's 2000 return subject to the normal review processes of the Tax Commission.

However, with regard to the taxpayer's 2001 through 2006 income tax returns, the taxpayer has not met her burden. Therefore, the Tax Commission finds that the returns the Bureau prepared for 2001 through 2006 are a reasonable representation of the taxpayer's Idaho taxable income, with the exception that the flow-through income [Redacted] should be 51 percent of the income rather than 50 percent.

WHEREFORE, the Notice of Deficiency Determination dated September 10, 2008, 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>
2000	\$ 228	\$ 57	\$ 137	\$ 422
2001	3,910	978	2,050	6,938
2002	3,712	928	1,707	6,347
2003	4,645	1,161	1,888	7,694
2004	7,406	1,852	2,565	11,823
2005	8,383	2,096	2,398	12,877
2006	16,381	4,095	3,659	<u>24,135</u>
			TOTAL DUE	<u>\$70,236</u>

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

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

DATED this _____ day of _____ 2010.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2010, 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:

[Redacted]

Receipt No.
