

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 22474 |
| [Redacted] |) | |
| |) | DECISION |
| Petitioners. |) | |
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[Redacted] (petitioners) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated October 10, 2009, asserting an additional liability for Idaho income tax, penalty, and interest in the total amount of \$3,946 for 2008.

The petitioners did not file an Idaho income tax return for 2008 [Redacted] held an interest both in [Redacted]. [Redacted] (the partnership) during 2008. Both the corporation and the partnership reported Idaho apportionment factors of 100 percent.

The auditor contacted the petitioners regarding their failure to file an Idaho income tax return. The petitioners did not respond, therefore the Notice of Deficiency Determination was issued. After the auditor issued the Notice of Deficiency Determination, the petitioners submitted a return on which they reflected [Redacted] respective portion of the income from the partnership. The petitioners did not reflect [Redacted] respective portion of the income of the corporation as required by Internal Revenue Code § 1366(a) on either their [Redacted] income tax return or on their Idaho income tax return. They cited no authority for their omission of this income.

Idaho Code § 63-3026A stated, in part:

Computing Idaho taxable income of part year or nonresident individuals, trusts and estates. (1) For nonresident individuals, trusts, or estates the term "Idaho taxable income" includes only those components of Idaho taxable income as computed for a resident which are derived from or related to sources within Idaho. This is to be computed without the deductions for either the standard deduction or itemized deductions or personal exemptions except as provided in subsection (4) of this section.

* * *

- (3) For the purposes of subsections (1) and (2) of this section:
 - (a) Income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from:
 - (i) Any business, trade, profession or occupation conducted or carried on in this state, including the distributive share of partnership income and deductions, and the pro rata share of S corporation income and deductions;

The Commission finds that the auditor properly included both the income from the partnership and the income from the corporation. Accordingly, the Commission finds that the auditor's determination of the petitioners' Idaho taxable income and tax liability should be affirmed.

The return filed by the petitioners did not include penalty or interest. The auditor asserted the delinquency penalty and interest. The authority for the penalty asserted by the auditor is provided by Idaho Code § 63-3046(c)(1):

In the event the return required by this chapter is not filed on or before the due date (including extensions) of the return, there may be collected a penalty of five percent (5%) of the tax due on such returns for each month elapsing after the due date (including extensions) of such returns until the return is filed.

Authority for the interest imposed is set out in Idaho Code § 63-3045(6)(b):

Interest upon any deficiency shall be assessed at the same time as the deficiency, shall be due and payable upon notice and demand from the state tax commission and shall be collected as a part of the tax at the rate per annum determined under the provisions of subsection (6)(c) of this section from the date prescribed for the payment of the tax.

The Commission finds that the penalty and interest were properly asserted by the auditor.

WHEREFORE, the Notice of Deficiency Determination dated October 10, 2009, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest (computed to June 30, 2010):

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|----------------|
| 2008 | \$3,077 | \$ 769 | \$ 104 | \$3,950 |
| | | Less payment | | <u>(3,040)</u> |
| | | Amount Due | | <u>\$ 910</u> |

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

An explanation of the petitioners' 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.