

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 22997
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

The petitioner protests the Notice of Deficiency Determination dated April 19, 2010, asserting additional Idaho income tax, penalty, and interest totaling \$1,822 and \$308 for 2006 and 2007, respectively. A timely protest was filed, and the petitioner did not request a hearing.

The petitioner was issued a Notice of Deficiency Determination by the Idaho State Tax Commission (Commission) to reflect income attributed to him due to his ownership of an interest in [Redacted]. Given the information in the file, the Commission finds that the auditor correctly recomputed the petitioner’s tax liability.

Internal Revenue Code § 702 states in part:

Income and credits of partner.

(a) General rule.

In determining his income tax, each partner shall take into account separately his distributive share of the partnership's—

- (1) gains and losses from sales or exchanges of capital assets held for not more than 1 year,
- (2) gains and losses from sales or exchanges of capital assets held for more than 1 year,
- (3) gains and losses from sales or exchanges of property described in section 1231 (relating to certain property used in a trade or business and involuntary conversions),
- (4) charitable contributions (as defined in section 170(c) ),
- (5) dividends with respect to which section 1(h)(11) or part VIII of subchapter B applies,
- (6) taxes, described in section 901, paid or accrued to foreign countries and to possessions of the United States,
- (7) other items of income, gain, loss, deduction, or credit, to the extent provided by regulations prescribed by the Secretary, and
- (8) taxable income or loss, exclusive of items requiring separate computation under other paragraphs of this subsection.

The petitioner contends that the “[i]ncome was never received from the corporation [sic].” The petitioner has not denied that he was a member of the LLC or that the income was earned by the LLC. Accordingly, the Commission finds that, pursuant to Internal Revenue Code § 702, the petitioner was required to include his attributable share of the income of the LLC in his taxable income.

WHEREFORE, Notice of Deficiency Determination dated April 19, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that petitioner pay the following tax, penalty, and interest (computed to December 31, 2010):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2006	\$1,261	\$315	\$ 277	\$1,853
2007	224	56	34	314
			TOTAL DUE	<u>\$2,167</u>

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

An explanation of the petitioner’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.  
  
\_\_\_\_\_