

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20902
[Redacted],)	
)	
Petitioner.)	DECISION
)	
_____)	

[Redacted] (taxpayer) protested the Notice of Deficiency Determination dated January 4, 2008, asserting income tax and interest in the total amount of \$6,094 for taxable years 2005 and 2006. The taxpayer disagreed with the application of Idaho Code section 63-3022L for one of its non-filing shareholders. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The taxpayer is an Idaho S-corporation with 100 percent of its activities in Idaho. On the taxpayer's 2005 and 2006 Idaho S-corporation returns, the taxpayer stated that all the taxpayer's income was reported on its shareholders' individual income tax returns. Included with the taxpayer's returns were schedules K-1 showing the distributive share of the taxpayer's income to each of its shareholders. The Income Tax Audit Bureau (Bureau) researched the Tax Commission's records and found that not all the taxpayer's shareholders filed Idaho income tax returns for taxable years 2005 and 2006. The Bureau determined which shareholders were required to file Idaho income tax returns and which shareholders failed to file Idaho income tax returns. The Bureau applied Idaho Code section 63-3022L, corrected the taxpayer's returns, and sent it a Notice of Deficiency Determination. Idaho Code section 63-3022L stated that if a shareholder of an S-corporation that is transacting business in Idaho fails to file an Idaho income tax return reporting his distributive share of the S-corporation income, the S-corporation shall be

liable for the tax at the applicable corporate rate. (Idaho Code section 63-3022L(3) (2006).) The deficiency determined by the Bureau was figured on the taxable income not reported to Idaho by the taxpayer's shareholders.

The taxpayer protested the Bureau's determination. The taxpayer stated the missing returns would be completed and filed by the shareholder. The Bureau allowed additional time for the shareholder to submit his individual Idaho income tax returns. The shareholder contacted the Bureau and stated the two returns would be provided by a certain date. The Bureau received the shareholder's return for taxable year 2005 but never received the return for taxable year 2006. The Bureau sent the taxpayer a letter stating its shareholder's 2005 return was received and that the Notice of Deficiency Determination for taxable year 2005 was cancelled. The Bureau also stated the matter was referred for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for having the Notice of Deficiency Determination redetermined. The taxpayer contacted the Tax Commission and stated the non-filing shareholder was no longer a shareholder of the taxpayer. The taxpayer stated it was unaware of the issue with the Tax Commission but would follow-up on the matter with the ex-shareholder. The ex-shareholder contacted the Tax Commission and requested additional time to file his 2006 Idaho income tax return. The shareholder stated he had been in a severe automobile accident that severely limited his ability to do anything.

Over the next couple of months, the Tax Commission remained in contact with the shareholder checking on his progress of getting his 2006 return submitted. On June 1, 2010, the Tax Commission received the shareholder's 2006 Idaho individual income tax return.

FINDINGS

The Tax Commission reviewed the shareholder's 2006 return and found that it correctly reported the flow-through income from the taxpayer. As a result, the S-corporation return as filed by the taxpayer for taxable year 2006 correctly reports that all its income is reported to Idaho on its shareholders' income tax returns. Since the taxpayer's income is reported on its shareholders' Idaho income tax returns for both taxable years 2005 and 2006, the Tax Commission finds Idaho Code section 63-3022L is not applicable and the Notice of Deficiency Determination should be cancelled.

WHEREFORE, the Notice of Deficiency Determination dated January 4, 2008, is hereby CANCELLED.

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

DATED this _____ day of _____ 2011.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2011, 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.
