

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23547
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (petitioner) protests the Notice of Deficiency Determination (NODD) issued by the auditor for the Idaho State Tax Commission (Commission) dated October 1, 2010, asserting additional liabilities for penalty in the amount of \$100 for each year for 2003 through 2008 for failure to file its Idaho partnership income tax returns.

One of the partners filed a protest which was deemed to have been a protest of the penalties asserted in the Notice of Deficiency Determination referred to above. The reason given for the failure to file the returns was that another partner was to have filed the returns and did not.

Idaho Code § 63-3045B provides the authority for the penalty asserted. It stated:

- Failure to file partnership return.** (a) Penalty. In addition to the penalty imposed by section 63-3075, Idaho Code, if any partnership required to file a return under section 63-3030, Idaho Code, for any taxable year:
- (1) Fails to file such return at the time prescribed therefor by section 63-3030, Idaho Code, (determined with regard to any extension of time for filing); or
 - (2) Files a return which fails to show the information required under section 63-3030, Idaho Code, such partnership shall be liable for a penalty determined under subsection (b) of this section for each month (or fraction thereof) during which such failure continues (but not to exceed five (5) months), unless it is shown that such failure is due to reasonable cause.
- (b) Amount per month. For purposes of subsection (a) of this section, the amount determined under this subsection for any month is the product of:
- (1) Ten dollars (\$10.00), multiplied by
 - (2) the number of persons who are partners in the partnership during any part of the taxable year, except that in the case of partnerships with no business activity in Idaho during the taxable year but with partners who are Idaho residents, multiply the amount in subsection (b)(1) of this section by the number

of partners who are either Idaho residents or are persons other than individuals who are transacting business in Idaho.

(c) Assessment of penalty. The penalty imposed in subsection (a) of this section shall be assessed against the partnership.

The petitioner has not shown that the returns in question were timely filed or that the computations of the penalties are incorrect. Accordingly, the Commission finds that the penalties are appropriate.

THEREFORE, the Notice of Deficiency Determination dated October 1, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following penalties:

<u>YEAR</u>	<u>PENALTY</u>	<u>TOTAL</u>
2003	\$100	\$100
2004	100	100
2005	100	100
2006	100	100
2007	100	100
2008	100	<u>100</u>
	TOTAL DUE	<u>\$600</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 _____ 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.
