

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 24564
[Redacted])
)
Petitioner.)
) DECISION
)
_____)

BACKGROUND

The Income Tax Audit Bureau (Audit) issued a Notice of Deficiency Determination (NODD) dated August 29, 2011, asserting income tax, penalty, and interest in the total amount of \$87,787 for taxable years ending September 30, 2007, 2008, and 2009. [Redacted] under the Petitioner’s Limited Power of Attorney (POA), protested the NODD on October 31, 2011. The protest letter explained that the owners had experienced some difficult health challenges and had been unable to respond to the Audit requests for the substantiation for business expenses claimed on the [Redacted]. (Petitioner). On August 31, 2012, the Commission sent a letter to the POA explaining the Redetermination process and the Petitioner’s rights to a hearing, including the right to provide additional information to be considered. The Tax Commission reviewed the matter and sent the taxpayers a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination.

During the audit process, the POA delivered three large file boxes to the [Redacted] office of the Tax Commission. The boxes contained unorganized receipts, cancelled checks, empty envelopes, catalogs, and numerous invoices for personal items in addition to the purported business expenses. The documents were unsorted, included items outside the audit period, and had no discernible reconciliation to specific deductions claimed on the tax returns. Audit sent a letter to the POA explaining that the accounting records had still not been received and that the

supposed support documents had to be organized into a usable condition by the Petitioner or the POA. It is not the responsibility of the Tax Commission employees to organize taxpayer records or to do their bookkeeping for them.

On February 17, 2012, the POA provided the general ledgers and general journals for taxable years ending September 30, 2007, 2008, and 2009.

ISSUES

1. Whether Audit was correct to disallow business expenses claimed on the Petitioner's tax returns for lack of substantiation.

2. Whether Audit was correct to disallow business expenses claimed on the Petitioner's tax returns because of the personal nature of the items.

During the protest period, the POA requested more time to deliver the information that he claimed had been gathered. A meeting was scheduled at the [Redacted] office. Audit reviewed the information the taxpayers provided and modified its audit report to include the accepted items.

On April 1, 2013, Audit issued a Modified NODD in the amount of \$78,513, accepting some of the expenses claimed for the September 30, 2008, tax year.

Adjustments were made to the original tax returns to increase sales based on sales records, cancelled checks, and deposit statements. Business expenses were adjusted for lack of substantiation or the personal nature of the purchase or expense. Based on the receipts and cancelled checks provided, it was apparent that the Petitioner was paying personal bills and expenses of friends and family members. Some were adjusted to the correct taxable year for a taxpayer using the accrual method of accounting.

Cost of goods sold was adjusted from the cash basis to accrual where possible. The vender invoices indicated a large number of returns and credits in subsequent years making it difficult to match the expense to the proper time period.

LAW AND DISCUSSION

Idaho Code § 63-3042. “Examination of books and witnesses. For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any tax payable under this act or the liability at law or in equity of any person in respect to any tax provided in this act or collecting any such liability, the state tax commission or its duly authorized deputy is authorized--

(a) To examine any books, papers, records, or other data which may be relevant or material to such inquiry; ...”

Idaho Income Tax Administrative Rule 201. EXAMINATION OF RECORDS: RECORDKEEPING AND PRODUCTION REQUIREMENTS (RULE 201). Sections 63-3042 and 63-3043, Idaho Code. (3-29-10)

01. In General.

a. A taxpayer shall maintain all records that are necessary to a determination of the correct tax liability. Required records must be made available on request by the Tax Commission or its authorized representatives. The time and place for production shall be reasonable and shall occur during regular business hours. When books and papers are requested they will be relevant and reasonable documentation for the issues under examination. The request for information is relevant if it is germane to or applicable to an audit issue.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayers 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).

CONCLUSION

The original NODD was issued due to a lack of substantiation, incorrect sales and cost of goods sold amounts, and claiming expenses that were personal in nature. The Petitioner was given close to two years including the protest period to provide additional information. The

additional information was reviewed and where adequate it was accepted. The NODD was modified accordingly. As modified, the Tax Commission upholds the NODD.

THEREFORE, the Notice of Deficiency Determination dated August 29, 2011, Modified on April 1 2013, and directed to [Redacted]. is AFFIRMED by this decision.

IT IS ORDERED that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
9/30/2007	20,453	5,113	5,259	30,825
9/30/2008	17,176	4,294	3,315	24,785
9/30/2009	13,968	2,095	1,997	<u>18,060</u>
				<u>73,670</u>

The interest is calculated through November 29, 2013, and will continue to accrue at the rate set forth in Idaho Code § 63-3045.

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 _____ 2013.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2013, 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.
