

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 25627
)
)
Petitioner.) DECISION
)
_____)

BACKGROUND

On March 28, 2013, the Taxpayer Accounting Division (Taxpayer Accounting) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (Petitioner) denying a requested refund of \$920. On May 10, 2013, the Petitioner filed a timely protest.

ISSUE

Whether the 2009 payment of a sales tax liability for an LLC that was an accrual basis taxpayer should be allowed as a deduction on the cash basis individual member’s tax return for the time period it related to, or when it was paid.

DISCUSSION

The Petitioner was a fifty percent owner of a limited liability company that operated [Redacted], Idaho. [Redacted] was audited by the Sales Tax Division of the Commission during 2008, which covered the period of August 1, 2004 through July 31, 2007. At the completion of the audit the final liability was settled for a total of \$25,000. That included \$19,844 of tax, \$922 penalty, and \$4,164 of interest. The Petitioner paid his 50 percent or \$12,500 on October 8, 2009. The Petitioner then filed an amended 2005 Idaho income tax return to claim a deduction for the amount paid. [Redacted] had been filing returns on an accrual basis. Taxpayer

Accounting denied the refund because the Petitioner filed his individual returns on the cash basis, and told the Petitioner that the deduction should be claimed in 2009 when it was paid.

CONCLUSION

Since the LLC was an accrual basis taxpayer, and both the 2005 partnership return and the Petitioner's 2005 individual returns were amended prior to the three year statute of limitations, the payment of sales taxes and interest is an allowable deduction. The penalty paid is not deductible. However, the audit period covered 36 months including all of 2005. Therefore only one third of the tax and interest is deductible in 2005. The other years involved are now closed to statute. The tax paid was \$19,844 and the interest was 4,164, for a total of \$24,008. One third of the tax and interest ($\$24,008 / 3 = \$8,002$) is properly accrued to the 2005 taxable year of the LLC. The Petitioner is entitled to deduct 50 percent of that or \$4,001, on his 2005 individual income tax return. At the top marginal rate of 7.8 percent for Idaho individual income tax that was in effect in 2005, the reduction in tax is \$312.

THEREFORE, the Notice of Deficiency Determination dated March 28, 2013, and directed to [Redacted] is hereby MODIFIED.

<u>YEAR</u>	<u>REFUND CLAIMED</u>	<u>REFUND ALLOWED</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
12/31/05	\$902	(\$312)	\$0	\$0	\$0	(\$312)

An explanation of the taxpayer'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.
