

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 25777
[Redacted],)
)
)
Petitioner.) DECISION
)
_____)

BACKGROUND

On January 11, 2013, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (Petitioner) proposing a penalty of \$100 for not filing taxable year 2010. On March 11, 2013, the Petitioner filed a timely protest. On June 26, 2013, the file was transferred to the Legal/Tax Policy Division for resolution.

ISSUE

Whether the Petitioner is subject to the penalties under Idaho Code section 63-3046B for not filing an Idaho partnership income tax return for taxable year 2010.

DISCUSSION

The Petitioner did not submit an Idaho Partnership income tax return for taxable year 2010. The TDB sent the Petitioner a letter dated August 31, 2012, informing the partners about the missing return. Sales tax returns were filed for the months beginning May 2010 through the end of that year. Total gross sales reported for the year were \$55,490. No sales were reported after the month of December 2010.

LAW

63-3030. Persons required to make returns of income. (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

...

(9) Every partnership which transacts business in this state. Such return shall be a supplemental information return and shall include the names and addresses of the persons who would be entitled to share in the net income of the partnership if distributed and the amount of the distributive share of each person. Such return shall be signed by one (1) of the partners.

63-3046B. 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 penalty was calculated as ten dollars (\$10) times the 2 partners for 5 months for a total of one hundred dollars ($\$10 \times 2 \times 5 \text{ mos.} = \100).

CONCLUSION

On July 25, 2013, the Commission sent the Petitioner a letter that explained the methods available for redetermining an NODD, instructing them to respond by no later than

August 25, 2012. No response has been made by the Petitioner. No Idaho partnership income tax return has been filed for taxable year 2010.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show the deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

Having presented no information in support of their position, the Petitioner did not meet their burden of proving error on the part of the deficiency determination. The TDB had information that showed the existence of the partnership, the number of partners, and that they had some gross sales that would require filing an income tax return. To date, there has been no partnership return filed by the Petitioner for the 2010 taxable year. The Commission accepts the TDB's calculation of the penalty for not filing a partnership income tax return for that year.

THEREFORE, the NODD dated January 11, 2013, and directed to [Redacted] is hereby AFFIRMED.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2010	\$ 0	\$ 100	\$ 0	<u>\$ 100</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 _____ 2014.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2014, 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.
