

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 30566
[Redacted],)	
)	
Petitioners.)	DECISION
)	
)	
_____)	

On March 25, 2013, the staff of the Income Tax Audit Bureau (Audit) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] and [Redacted] (petitioners) proposing income tax, penalty, and interest for taxable years 2008 through 2010, in the total amount of \$70,390. A timely protest and petition for redetermination was filed by the petitioners. An informal hearing has not been requested. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NODD.

[Redacted] is a 50-50 partner in a Limited Liability Partnership, [Redacted]. As such, 50 percent of income or losses from the partnership would flow through to the petitioners' individual income tax returns. For taxable years 2008 through 2010 the partnership returns for [Redacted] were adjusted by Audit, the result being an increase in profits, half of which was attributable to the petitioners on their individual returns. The NODD issued to the petitioners for taxable years 2008 and 2010 was based on the adjustments to the petitioners' self-filed Idaho individual income tax returns, to include additional income in the amount of \$159,673 and \$386,745, respectively. For taxable year 2009, the petitioners did not file an Idaho individual income tax return. Therefore, Audit prepared a return for them that included their percentage of the partnership profits, \$141,396, along with K-1 income from [Redacted] in the amount of

\$19,390 and W-2 wages of \$17,000. Withholding in the amount of \$187 was allowed to offset the amount of Idaho income tax due.

The petitioners' protest, submitted by their appointed representative at the time, states that the NODD issued to the petitioners is incorrect because it is based on adjustments made to [Redacted] that are also incorrect. The appeal letter stated the disallowed business expenses for [Redacted] were ordinary and necessary and they requested that additional time be allowed so that both petitioner and counsel could review the case. Several extensions of time to provide additional information were granted by Audit, but when the documentation requested was not provided, the petitioners' file was transferred to the Legal/Tax Policy Division for continuation of the appeals process.

The Commission sent the petitioners' appointed representative a letter advising her of her client's alternatives for redetermining a protested deficiency determination. The representative did not respond. The Commission, therefore, has decided this matter on the information available.

To date, no changes have been made to the NODD for [Redacted], therefore, no changes have been made to the NODD for the petitioners. The petitioners have not provided the Commission with a contrary result to the determination of their income for taxable years 2008 through 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). Having presented no information in support of their argument, the taxpayers have failed to meet their burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984). Therefore, the Commission must uphold the

deficiency. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3033(f), 63-3045 and 63-3046.

THEREFORE, the Notice of Deficiency Determination dated March 25, 2013, and directed to [Redacted] and [Redacted] is hereby AFFIRMED and MADE FINAL.

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

YEAR	TAX	PENALTY	INTEREST	TOTAL
2008	\$12,286	\$2,335	\$3,018	\$17,639
2009	10,511	2,628	2,054	15,193
2010	29,441	7,275	4,375	<u>41,091</u>
			TOTAL DUE	<u>\$73,923</u>

Interest is calculated through March 31, 2015.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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

DATED this _____ day of _____ 2015.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2015, 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.
