

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 39206
[REDACTED],)	
)	
Petitioners.)	DECISION
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)	

[Redacted] (Petitioners) protested the Notice of Deficiency Determination dated August 22, 2014, issued by the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission proposing income tax, penalty, and interest for the taxable years 2007 through 2011 in the total amount of \$147,363. Petitioners were unsure of their requirement to file Idaho individual income tax returns and even more confused on how the Bureau determined their Idaho taxable income. The Tax Commission having reviewed the matter, hereby issues its decision.

BACKGROUND

Petitioners are nonresidents of Idaho. Petitioners own or owned an interest in a limited liability company (LLC), [Redacted], LLC, and a subchapter S-corporation (s-corp), [Redacted], Inc., that had business activities in Idaho during the taxable years 2007 through 2011. For tax reporting purposes, LLCs and s-corps are flow-through entities; meaning their income flows through to their owners.

In a Notice of Deficiency Determination dated August 22, 2014, the Bureau determined Petitioners' s-corp was required to file an Idaho corporate income tax return. The Bureau also obtained information from the Internal Revenue Service that showed Petitioners had significant flow-through income from Petitioners' LLC. Because Petitioners' flow-through entities transacted business in Idaho and it was either determined or reported that the entities had Idaho taxable income, Petitioners should have filed Idaho individual income tax returns. However, when the Bureau searched the Tax Commission's records it found that Petitioners had not filed

Idaho individual income tax returns for taxable years 2007 through 2011. The Bureau prepared income tax returns for Petitioners based upon the flow-through income and sent Petitioners a Notice of Deficiency Determination.

Petitioners protested the Bureau's determination. Petitioners were confused by the Bureau's returns and the income attributed to Idaho. Petitioners stated there may be liabilities and tax owed, and that they were committed to meeting any rightful obligation. Petitioners stated they would be seeking legal counsel and retaining an Idaho CPA to assist in preparing the proper income tax filings. Petitioners requested additional time to go through their records to insure all the information is complete and accurate.

The Bureau allowed Petitioners additional time to provide the needed returns but none were provided. Petitioners began talking about a settlement, which the Bureau replied it did not have authority to settle but that it would forward Petitioners' case to someone who could. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent Petitioners a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioners did not respond. The Tax Commission sent Petitioners a follow-up letter, but still Petitioners failed to respond. Therefore, the Tax Commission, believing Petitioners had ample time to provide additional information or to prepare and submit income tax returns, decided the matter based upon the information available.

LAW AND ANALYSIS

Petitioners were a member of an LLC and a shareholder of an s-corp that transacted business in Idaho during the years in question. Since both entities are flow-through entities for income tax purposes, Petitioners likely had a requirement to file Idaho individual income tax

returns. In its decision for Docket No. 39207, the Tax Commission found that Petitioners' s-corp had Idaho taxable income. Therefore, Petitioners were required to file Idaho individual income tax returns reporting their Idaho s-corp's flow-through income. *See* Idaho Code section 63-3026A. In addition, Petitioners' LLC reported taxable income. Therefore, Petitioners pro-rata share of the LLC's Idaho taxable income was required to be reported to Idaho on Petitioners' Idaho individual income tax return. *Id.*

In Idaho, a State Tax Commission deficiency determination is presumed to be correct and the burden is on the taxpayer 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). Petitioners failed to provide anything that would show the returns the Bureau prepared were incorrect. Petitioners did not meet their burden. The Tax Commission reviewed the returns the Bureau prepared and found them to be an accurate representation of Petitioners Idaho taxable income based on the information available. Since Petitioners did not present anything contrary to the returns the Bureau prepared, the Tax Commission upholds the Bureau's determination.

THEREFORE, the Notice of Deficiency Determination dated August 22, 2014, and directed to [Redacted] is AFFIRMED.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2007	\$81,423	\$20,356	\$29,023	\$130,802
2008	2,833	708	828	4,369
2009	4,239	1,060	1,027	6,326
2010	4,245	1,061	829	6,135
2011	4,198	1,050	651	<u>5,899</u>
			TOTAL DUE	<u>\$153,531</u>

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 _____ 2016.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2016, 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.
