

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
[Redacted])	DOCKET NO. 0-975-497-216
)	
Petitioners.)	DECISION
_____)	

[Redacted] (Petitioners) protested the Notice of Deficiency Determination dated April 12, 2017. Petitioners disagreed with the Tax Discovery Bureau’s (Bureau) determination of the additional income added to their Idaho individual income tax returns for the tax years 2013, 2014, and 2015. The Tax Commission reviewed the matter and for the reasons stated upholds the Notice of Deficiency Determination as modified by the Bureau.

BACKGROUND

Petitioners are 50 percent members of [Redacted] (Petitioners’ LLC) a limited liability company organized and operating in Idaho. Petitioners’ LLC did not file Idaho business income tax returns for the tax years 2013 through 2015. The Bureau determined Petitioners’ LLC had net distributable income for each of the years, 2013, 2014, and 2015. The Bureau found that Petitioners did not report their share of Petitioners’ LLC distributable income on their Idaho individual income tax returns.

The Bureau adjusted Petitioners’ Idaho income tax returns and sent them a Notice of Deficiency Determination. The Bureau’s adjustment was based solely on the flow-through income from Petitioners’ LLC. Petitioners responded to the Notice of Deficiency Determination by submitting a federal amended income tax form for tax year 2015 and a letter stating they thought they could report their business on a separate return. Petitioners stated the amendment added a Schedule C to report their business.

The Bureau reviewed the document Petitioners provided and found it lacked the necessary information to show how Petitioners determined the income from Petitioners' LLC. Petitioners merely added a small amount of income to their previously reported income, stating it was income from their business. Petitioners did not provide a Schedule K-1 or an income tax return of Petitioners' LLC justifying the amount added. The amount added was significantly less than the amount the Bureau determined when it made its determination of Petitioners' LLC income.

The Bureau sent Petitioners a letter recognizing their submission as a protest, and asked them for the backup forms and information on how the additional income was determined. Petitioners did not respond. The Bureau sent a follow-up letter that included a modification to Petitioners' 2014 tax deficiency. Still Petitioners did not respond. Therefore, the Bureau referred the matter to the Appeals Unit (Appeals).

Appeals sent Petitioners a letter asking them how they wanted to proceed with their protest. Petitioners did not respond. Seeing that Petitioners continued to be unresponsive, the Tax Commission determined Petitioners' income tax liability from the information available.

LAW AND ANALYSIS

Petitioners are members of an Idaho LLC. Petitioners are Idaho residents. Generally, LLC income flows through to the LLC's members in accordance with their ownership percentage. *See* Internal Revenue Code § 1366. The income in question is from Petitioners' LLC, an LLC treated as a partnership. Petitioners own a 50 percent interest in Petitioners' LLC. A partner's share of income from a partnership is taxable to the partner in the year that the partnership earns the income. This is true even though the income was neither known by the partner nor distributed to the partner. *See Stoumen v. C.I.R.* 208 F.2d 903, 906 (3rd Cir. 1953).

In a determination, which was not contested, the Bureau determined Petitioners' LLC had net distributable income from its business operations in each of the tax years, 2013, 2014, and 2015. Consequently, Petitioners were required to report on their individual income tax returns the flow-through income from Petitioners' LLC. Petitioners did not report any income from Petitioners' LLC.

It is well settled in Idaho that an Idaho State Tax Commission Notice of Deficiency Determination is presumed to be correct. *See Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986) (citing *Albertson's Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814 (1984)). Petitioners bear the burden to show that the deficiency is erroneous. *Id.* Petitioners did not meet their burden. The Tax Commission reviewed the adjustments the Bureau made and based upon the uncontested determination of Petitioners' LLC net distributable income, finds the modified tax deficiencies correct.

CONCLUSION

Petitioners were required to, but did not, include the income from Petitioners' LLC for the tax years 2013, 2014, and 2015. Petitioners did not provide anything to show the Bureau's determination of Petitioners' LLC income was incorrect. Finding no error in the Bureau's computations of Petitioners' individual income tax, the Tax Commission upholds the adjustments as modified.

THEREFORE, the Notice of Deficiency Determination as MODIFIED by the Bureau, is AFFIRMED.

IT IS ORDERED that Petitioners pay the following tax, penalty, and interest (computed to June 15, 2019):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2013	\$2,105	\$105	\$424	\$2,634
2014	1,461	73	236	1,770
2015	5,284	264	850	<u>6,398</u>
			TOTAL DUE	<u>\$10,802</u>

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

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

DATED this _____ day of _____ 2019.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2019,
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.

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2019,
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.
