

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 1-861-040-128
<span style="background-color: black; color: black;">[REDACTED]</span> ,	)	
	)	
Petitioner.	)	DECISION
_____	)	

On January 17, 2019, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination (Notice) to [REDACTED] [REDACTED] (Petitioner), an Idaho partnership with two partners. The Notice asserted a penalty for failing to file Idaho partnership returns for taxable years 2013 through 2016 in the total amount of \$400.

Petitioner filed a timely appeal and petition for redetermination of the Notice. As part of the appeals process, Petitioner was sent a letter giving them the option to request a hearing or submit additional documents. Petitioner did not respond. Therefore, a final decision was made based on the information available.

Every partnership that transacts business in Idaho is required to file a tax return (Idaho Code section 63-3030(9)). Such returns 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. If an entity fails to file a return when required, the Tax Commission may calculate tax based on information reported by third parties and issue a Notice (Idaho Code sections 63-3042 & 63-3068(d)). If any partnership required to file a return does not file a return, the partnership may be liable for a penalty of \$10 per month (but not to exceed five months) multiplied by the number of partners (Idaho Code section 63-3046B).

On June 29, 2018, the Bureau initiated a business non-filer audit of Petitioner for tax years 2013 through 2016. The initial letter sent to Petitioner advised it to file the past due tax returns.

Petitioner didn't respond. Therefore, the Bureau used the best information available to determine Petitioner's income, which was passed through to the owners.

The Bureau utilized Petitioner's sales and use tax returns to figure gross sales, Petitioner had gross sales of \$1,212,605, \$1,136,403, \$859,031, and \$539,006, for tax years 2013, 2014, 2015, and 2016, respectively. The Bureau utilized Petitioner's withholding tax returns to figure deductible wages, Petitioner reported wages of \$124,965, \$150,649, and \$137,765 for tax years 2013, 2014, and 2015, respectively. Petitioner did not file a withholding tax return for 2016 but made payments to their withholding account. For tax year 2016, \$99,316 was allowed based on what employees reported. The Bureau utilized Petitioner's 2012 partnership tax return to estimate business expenses and allowed a deduction of 70%.

On March 21, 2019, the Bureau received the 2013 partnership tax return. The return didn't include any late filing penalties. Also, on March 21, 2019, Petitioner filed an appeal acknowledging it had a filing requirement but disagreeing with the audit calculations. Petitioner, through their appointed representative, requested additional time to submit the remaining returns. It was agreed the next past due return would be submitted by April 30, 2019, and additional returns submitted every three to four weeks. The Bureau didn't receive the returns.

For several months the Bureau attempted to get the returns and communicated with the appointed representative on multiple occasions. In general, the appointed representative stated she was waiting on documentation from the owners to complete the returns. The Bureau also contacted and left messages for the owners. On July 15, 2019, the appointed representative stated she received the last of the documents and that all the returns would be completed and submitted within a month. The returns were not received. Therefore, the case was transferred for administrative review.

On appeal, a deficiency determination issued by the Tax Commission "is presumed to be correct, and the burden is on the taxpayer to show that the Commission's decision is erroneous." *Parker*

*v. Idaho State Tax Comm'n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (citing *Albertson's Inc. v. State Dep't of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). The Tax Commission requires the Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, the Petitioner did not provide adequate evidence. As a result, the Tax Commission will uphold the Notice.

THEREFORE, the Notice of Deficiency Determination dated January 17, 2019, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

IT IS ORDERED that the Petitioner pay the following penalty:

<u>YEAR</u>	<u>PENALTY</u>	<u>TOTAL</u>
2013	\$100	\$100
2014	\$100	\$100
2015	\$100	\$100
2016	\$100	\$100
		<u>\$400</u>

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

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2020 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.

\_\_\_\_\_