

return for [redacted] and sent it a Notice of Deficiency Determination. Since [redacted] is a flow-through entity, the Notice of Deficiency Determination consisted of the application of the penalty for failing to file informational returns as provided in Idaho Code section 63-3046B.

[redacted] did not disagree that it was required to file an Idaho income tax return, Ms. [redacted] the majority partner, disagreed with the flow-through income the Bureau determined and passed down to the partners. Because the pass-through income was contested as part of another audit, the Bureau included [redacted] case with the protest of the other audit and referred both for administrative review.

The Tax Commission reviewed the matter and found that the Bureau subsequently modified the pass-through income to the partners effectively eliminating any pass-through income or loss from [redacted]. Therefore, the decision before the Tax Commission in this case is whether [redacted] was required to file a 2017 income tax return and whether the penalty is appropriate.

LAW AND ANALYSIS

[redacted] is an LLC which is a flow-through entity for income tax purposes. An LLC is required to file a return of income reporting its income or loss for its taxable year. Since an LLC's income is passed down to its members, the LLC generally has no income tax liability. However, in Idaho, if an LLC fails to file a return and report the information required by Idaho Code section 63-3030, the LLC is subject to the penalty provided in Idaho Code section 63-3046B. Idaho Code section 63-3046B states,

[I]f 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.

Idaho Code section 63-3030(9) requires that every partnership that transacts business in Idaho file a supplemental information return. transacted business in Idaho as evidenced by the wages it reported to the Idaho Department of Labor and the sales and use tax returns filed with the Tax Commission. Therefore, based on the sales/use tax information alone, was required to file an Idaho supplemental information return.

did not contest its requirement to file Idaho returns. In fact, filed partnership returns for the three previous years it transacted business in Idaho. On 2016 return, it identified the number of partners it had at the end of 2016 and therefore the beginning of 2017. Because did not file an Idaho partnership return for 2017 as required, the penalty of Idaho Code section 63-3046B is applicable. Therefore, the Tax Commission finds the application of the penalty appropriate and upholds the Bureau's determination. The penalty is computed based on two partners at the rate of \$10 each for the maximum number of months of continued failure to file, five (5).

THEREFORE, the Tax Commission AFFIRMS the Notice of Deficiency Determination dated November 13, 2019, directed to LLC.

IT IS ORDERED that _____ pay the following penalty:

<u>YEAR</u>	<u>PENALTY</u>	<u>TOTAL</u>
2017	\$100	\$100

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

DATED this _____ day of _____ 2024.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2024,
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:

Receipt No.
