## BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of		) ) DOCKET !	NO. 0-257-517-	568
	Petitioner.	) DECISION )	1	
The Tax Discovery Bureau (Bureau) det		determined	(	was
required to file a	an Idaho informational income	e tax return for tax year	2017 and sent it	a Notice of
Deficiency Deter	rmination.	majority partr	ner, disagreed wi	ith the flow-
through income	determined by the Bureau. Ms	s. stated	was sold in 20	017 and that
the business ope	rated at a loss in 2017 during	their ownership. The Ta	x Commission r	reviewed the
matter and hereb	y upholds the Notice of Defici	iency Determination.		
	BACI	KGROUND		
	is a limited liability comp	pany (LLC) that files i	ts income tax 1	returns as a
partnership. Du	ring tax year 2017,	had two partners,		and
At the beginning of 2017,		had an 80% inter	rest in	while
had a	20% interest.			
	principal business activit	y was food and beverage	e. wa	as located in
the town of	Idaho. began	n operations in 2014 and	l ceased operation	ons in 2017,
per Ms.	filed Idaho part	nership income tax retu	irns for the tax	years 2014
through 2016.	also filed Idaho w	ithholding tax returns a	nd Idaho sales	and use tax
returns.	did not file an Idaho partne	ership income tax return	for tax year 201	17.
The Bure	eau discovered that	had not filed a 2017 in	ncome tax retur	n, so it sent
a lette	er asking for the return. When	n did not resp	oond, the Bureau	u prepared a

return for and sent it a Notice of Deficiency Determination. Since 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.

did not disagree that it was required to file an Idaho income tax return, Ms.

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 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

Therefore, the decision before the Tax Commission in this case is whether was required to file a 2017 income tax return and whether the penalty is appropriate.

## LAW AND ANALYSIS

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> 2017	PENALTY \$100	TOTAL \$100		
An explanation of Petitioner's right to appeal this decision is enclosed.					
DATED this	day of	2024.			
		IDAHO STA	TE TAX COMMISSION		

## **CERTIFICATE OF SERVICE**

I hereby certify that on thisa copy of the within and foregoing DECl mail, postage prepaid, in an envelope add	SION was served by send	2024, ing the same by United States
	Receipt No.	