BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 1-382-430-720
)
)
Petitioners.) DECISION
)

(Petitioners) protested the Notice of Deficiency Determination dated September 8, 2021. The Income Tax Audit Bureau (Bureau) adjusted Petitioners' 2018 Idaho individual income tax return because the income reported to Idaho did not agree with the income reported by the Internal Revenue Service (IRS). Petitioners disagreed stating the IRS changed their return; however, the changes made were incorrect. Petitioners stated they were contesting the IRS changes. The Tax Commission reviewed the information Petitioners provided and the latest information from the IRS. Based on that information and other information available to the Tax Commission, the Tax Commission modifies the Notice of Deficiency Determination.

BACKGROUND

Petitioners timely filed their 2018 Idaho resident individual income tax return. During a review of Idaho income tax returns compared to the same returns sent to the IRS, the Bureau found Petitioners' income reported by the IRS was not the same as the income reported to Idaho. The Bureau reviewed Petitioners' return and determined the difference was the additional expenses Petitioners claimed relating to Assuming the correctness of the information received from the IRS, the Bureau corrected Petitioners' return so that their Idaho income was the same as that reported by the IRS.

The Bureau sent Petitioners a Notice of Deficiency Determination that Petitioners protested. Petitioners stated the IRS made changes to their 2018 federal income tax return.

Petitioners stated they disagreed with the IRS changes and notified the IRS of the errors in its analysis. Petitioners stated they provided data to support their return and asked the IRS to reverse its changes. Petitioners stated they were waiting for a response from the IRS.

The Bureau acknowledged Petitioners' protest and referred the matter to the Tax Commission's Appeals Unit (Appeals). Appeals contacted Petitioners asking that they provide information showing the IRS was reconsidering the adjustments made. Petitioners responded that they have not received a response from the IRS. Petitioners stated that they were advised the IRS may not begin its research of the issue for up to 90 days, due to its backlog. Petitioners stated they would send all correspondence they receive from the IRS to the Tax Commission.

Appeals agreed to set the matter aside awaiting the IRS' decision. Appeals checked in with Petitioners from time to time and other than a letter from the IRS stating they needed additional time to respond to Petitioners' inquiry, nothing else came from the IRS.

After a significant amount of time had passed with nothing new from the IRS, Appeals requested Petitioners' account transcript from the IRS. The information received showed no progress on Petitioners' case. Appeals contacted Petitioners and asked them about the items the IRS adjusted. Petitioners explained the disallowed deductions as unreimbursed partner expenses that Petitioners incurred due to start-up cash flow issues with their LLC. Appeals asked for a breakdown of the expenses claimed, which Petitioners provided. After Petitioners provided the breakdown of the expenses, Appeals requested another account transcript from the IRS. The account transcript showed action on Petitioners' case, and in fact it showed a reversal of the IRS' prior adjustment resulting in Petitioners' return returning to how it was originally filed.

In addition to the unreimbursed partner expenses, Appeals asked Petitioners to research and explain where they reported the income from a second flow-through entity, that Appeals found during its review of Petitioners' 2018 return. Petitioners stated they did not understand why was not reflected on their return. Petitioners stated the information from the K-1 was inputted into the software, and they assumed the income got reported. Petitioners do not know why the income does not show up on their return.

LAW AND ANALYSIS

Limited Liability Companies (LLC) are flow-through entities, meaning the tax attributes of the LLC flow-through to its members and are reported on the members' income tax returns. Petitioners are members of Petitioners reported pass-through income and section 179 depreciation on their individual income tax return as reflected on their Schedule K-1 from Petitioners also claimed "UPE" (unreimbursed partner expenses) on their return resulting from the business activity of

The IRS, upon receiving Petitioners' federal income tax return, apparently decided Petitioners could not claim the section 179 depreciation deduction and the deduction claimed for UPE. This created a mismatch when the Bureau compared Petitioners' Idaho income tax return with the records provided by the IRS. Eventually, this mismatch was cleared up so that Petitioners' Idaho and federal income tax returns reported the same income. Therefore, the adjustment the Bureau made should be cancelled.

However, during this process Appeals discovered that Petitioners did not report pass-through income from another LLC, Petitioners thought the income was reported, but it does not appear on their income tax return. Seeing that this income is required to be reported on Petitioners' 2018 return, the Tax Commission makes the adjustment to add the income. Petitioners' Schedule K-1 also reported section 179 depreciation flowing through to Petitioners. The Tax Commission includes that deduction as well in its adjustment to Petitioners' Idaho return.

CONCLUSION

Petitioners' federal income tax return was changed by the IRS which caused a mismatch of the income reported to Idaho versus the IRS. The Bureau adjusted Petitioners' Idaho return to agree with what the IRS reported. Petitioners provided information and documents showing they were contesting the change the IRS made. Petitioners provided the information they submitted to the IRS in support of their position. After more than a year's time of waiting for a decision from the IRS, the IRS reversed its previous adjustment. Therefore, there is no mismatch of the income reported to Idaho and the IRS.

However, during the appeal process, the Tax Commission found that Petitioners did not report all their income. The Tax Commission found that Petitioners' income from a pass-through entity, was not included on their return. Petitioners thought the income was included; however, it was not. Therefore, the Tax Commission adds the unreported income to Petitioners' 2018 Idaho income tax return.

Since Petitioners still have a deficiency in tax, the Tax Commission finds it appropriate that interest be added to Petitioners' tax in accordance with Idaho Code section 63-3045. Interest is calculated to May 31, 2023 and will continue to accrue until paid.

THEREFORE, the Notice of Deficiency Determination dated September 8, 2021, directed to is AFFIRMED as MODIFIED by this decision.

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

YEAR	TAX	INTEREST	TOTAL
2018	$ 804	$ 118	$ 922

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 __________________________ 2023.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this ________ day of ______________________________ 2023, 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.

____

____