

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 2-024-317-952
 [REDACTED])
)
)
)
) Petitioner.) DECISION
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)

The Tax Discovery Bureau (Bureau) sent [REDACTED] (Petitioner) a Notice of Deficiency Determination for tax years 2016 through 2021. Petitioner protested, disagreeing with the income and expense estimates the Bureau used to prepare their missing 2016 through 2021 returns. The Tax Commission has reviewed the matter and hereby upholds the Notice issued by the Bureau.

BACKGROUND

Petitioner is a 100% apportioned Idaho Partnership that registered with the Idaho Secretary of State on [REDACTED]. In review of Petitioner’s information, the Bureau discovered they had not filed their 2016 through 2021 returns. The Bureau then sent Petitioner correspondence requesting the missing returns or an explanation for why they don’t need to file. Petitioner did not respond, so the Bureau prepared the returns for them using estimates to calculate their Idaho apportionable income.

The Bureau used a combination of information available to the Tax Commission and forecasted estimates to prepare Petitioner’s missing returns. For tax years 2016 and 2017, the Bureau used IRS Form 1099-S and 1099-MISC to estimate Idaho apportionable income. Total income reported to the Tax Commission for those years were \$1,254,050 and \$1,237,680, respectively. The Bureau did not have access to similar information for tax years 2018 through 2021, so they averaged tax years 2016 and 2017, resulting in \$1,245,865 in estimated gross income

for tax years 2018 through 2021. The Bureau reviewed previously filed income tax returns to estimate business expenses, namely, tax years 2012 and 2014. In both of those years, Petitioner reported a profit margin of 6%. In the Notice, the Bureau allowed for a 6% profit margin for tax years 2016 through 2021. A breakdown of net Idaho apportionable income is shown below:

<u>Year</u>	<u>Estimated Gross Receipts</u>	<u>Profit Margin %</u>	<u>Estimated Net Income</u>
2016	\$1,254,050	6%	\$75,243
2017	1,237,680	6%	74,261
2018	1,245,864	6%	74,752
2019	1,245,864	6%	74,752
2020	1,245,864	6%	74,752
2021	1,245,864	6%	74,752

All estimated income was distributed to Petitioner’s owners to report on their individual tax returns.

Petitioner protested the Notice, stating the estimates are incorrect and they will be providing actual returns. Petitioner did not provide the returns in a timely fashion, so the Bureau transferred the case to the Tax Commission’s Appeals Unit (Appeals).

Appeals sent Petitioner a letter explaining the appeals process and their right to a hearing. Petitioner did not respond, so the Tax Commission must decide this matter based on the information currently available.

LAW AND ANALYSIS

Petitioner is a partnership which is a flow-through entity for income tax purposes. A partnership is required to file a return of income reporting its income or loss for its taxable year. Since a partnership’s income is passed down to its members, the partnership generally has no income tax liability. However, in Idaho, if a partnership fails to file a return and report the information required by Idaho Code section 63-3030, the partnership 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) states a tax return is required by: “Every partnership which transacts business in this state. Such return 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. Such return shall be signed by one (1) of the partners.” According to information available to the Tax Commission, Petitioner was an operating business which was required to file tax returns. When no returns were filed, the Bureau prepared tax returns for Petitioner with estimated Idaho apportioned income.

The Tax Commission realizes that Petitioner may have had different business income and expenses than those shown on the Notice. However, deductions are a matter of legislative grace,

and the taxpayer bears the burden of proving he is entitled to the deductions claimed. *New Colonial Ice Co., Inc. v. Helvering*, 292 US. 435, 440, 54 S.Ct. 788 (1934). Petitioner has failed to provide any substantial evidence or provide actual returns to prove the Notice is incorrect. Petitioner is a partnership, meaning the income flows through to its partners and the tax is paid on the individual level.

CONCLUSION

Petitioner was an operating business and received income in the taxable years 2016 through 2021 that exceeded the threshold for filing Idaho income tax returns. When no returns were filed, the Bureau prepared returns for them with information available to the Tax Commission. Petitioner requested time to file actual returns but failed to provide said returns after multiple extensions were granted. The Tax Commission reviewed the Notice and found it to be a reasonable representation of Petitioner’s Idaho apportioned income for tax years 2016 through 2021. The Bureau added the failure to file partnership return penalty to the Notice for each year. The Tax Commission reviewed this addition and found it to be appropriate and in accordance with Idaho Code section 63-3046B.

THEREFORE, the Notice of Deficiency Determination dated May 26, 2023, is hereby APPROVED by this decision and MADE FINAL.

IT IS ORDERED that Petitioner pay the following penalties:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2016	\$0	\$100	\$0	\$100
2017	0	100	0	100
2018	0	100	0	100
2019	0	100	0	100
2020	0	100	0	100
2021	0	100	0	100
			TOTAL DUE:	\$600

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.
