IN THE

SUPREME COURT OF THE UNITED STATES

STANDING AKIMBO, LLC, A COLORADO LIMITED LIABILITY COMPANY; PETER HERMES, AN INDIVIDUAL; KEVIN DESILET, AN INDIVIDUAL; SAMANTHA MURPHY, AN INDIVIDUAL; AND JOHN MURPHY, AN INDIVIDUAL, Petitioners,

v.

UNITED STATES OF AMERICA, THROUGH ITS AGENCY OF THE INTERNAL REVENUE SERVICE Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

SUPPLEMENTAL BRIEF

JAMES D. THORBURN
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(303) 646-3482

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SUMMARY OF ARGUMENT

Attached hereto is a true and correct copy of the IRS tax assessment, presented to the Petitioner by the Respondent IRS on July 29, 2021, shortly after certiorari was denied in this case. The IRS denied all expenditures, including costs of goods sold, and is taxing the Petitioner based upon gross receipts. This clearly shows that the IRS intends to further its abuse of power under the Sixteenth Amendment.

ARGUMENT

On its returns, Standing Akimbo reported income of \$109,294.00 and 244,546.00, for tax years 2014 and 2015 respectively. However, the IRS rejected the exclusion of all Standing Akimbo's expenditures including costs of goods sold, and upwardly revised the taxable income to \$1,113,825.00 and \$1,423,488.00, respectively. The liability will flow down to the individual business owners. There is no interpretation of the Sixteenth Amendment which would allow the IRS to proceed in this manner (impose income tax on gross receipts) – but it is doing so anyway.

Some of the principals in *Speidell v. United States*, 20-1332, received a like assessment. Taxation was likewise based upon gross receipts. Those assessments will be filed in the *Speidell* docket.

The IRS's actions are a not-so-veiled attempt at retaliation. This is simply another example of the Government exercising the power to destroy against cannabis.

In the Petitioners' Petition for Rehearing Brief, on page 5, the Petitioners state that a delay in hearing this case will lead to devastating consequences. In our view, this additional submission supports our argument that these issues cannot wait for further percolation.

CONCLUSION

The Government clearly feels emboldened by this Court's denial of certiorari and will now take the power to destroy to even a greater extreme. The damage done, to so many, cannot be understated. The Petitioners respectfully request the Court reconsider and grant certiorari.

Dated: August 13, 2021

Respectfully submitted,
JAMES D. THORBURN

CERTIFICATE OF SERVICE

The undersigned does hereby certify that the foregoing has been served via the Supreme Court of the United States electronic filing system, on this 13th day of August, 2021 to each of the following:

Elizabeth B. Prelogar Acting Solicitor General United States Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530-0001 SupremeCtBriefs@USDOJ.gov

JAMES D. THORBURN

Examination Changes - Partnerships, Fiduciaries, S Corporations, and Interest Charge Domestic International Sales Corporations

Name and address	Employer Identification N	Number	Form number	
Standing Akimbo LLC			1065	
	Person Examination	Name James Thorburn		
	Changes Were Discussed With	Title Representative		
Adjustments to ordinary, distributable net, or taxable income	Period End 12/31/2014	Period End 12/31/2015	Period End	
a. Total adjustments (See Form 4549-B)	1,004,531.00	1,178,942.00		
b.				
C.				
d.				
e.				
f.				
g.				
2. Total adjustments to ordinary, distributable net, or taxable income	1,004,531.00	1,178,942.00		
3. Ordinary, distributable net, or taxable income as reported	182,156.00	407,577.00		
4. Corrected ordinary, distributable net, or taxable income	1,186,687.00	1,586,519.00		
5. Other adjustments				
a. Charitable contributions 50 percent				
(1) Adjustment		716.00		
(2) As Reported		716.00		
(3) Corrected		0.00		
b. Net earnings (loss) from self-employment				
(1) Adjustment	1,004,531.00	1,178,942.00		
(2) As Reported	109,294.00	244,546.00		
(3) Corrected	1,113,825.00	1,423,488.00		

Remarks

This form only reflects Schedule K items adjusted by this report.

This report Supersedes all previously issued reports.

Examiner's signature	Employee ID	Area office	Date
Lynn Johnson	0923040	Western- Lakewood SBSE	07/29/2021

axpayer Standing Akimbo LLC	TIN		Page of
i. Other adjustments (continued)	Period End 12/31/2014	Period End 12/31/2015	Period End
c. Gross nonfarm income			
(1) Adjustment	(653,202.00)	(561,493.00)	
(2) As Reported	653,202.00	561,493.00	
(3) Corrected	0.00	0.00	
d. Nondeductible expenses			
(1) Adjustment	(926,115.00)	(1,179,658.00)	
(2) As Reported	173,894.00	146,881.00	
(3) Corrected	1,100,009.00	1,326,539.00	
(1) Adjustment	Annual desiration desi	1201122	
(2) As Reported			
(3) Corrected			, , , , , , , , , , , , , , , , , , ,
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(3) Corrected			7
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(2) As Reported			
(3) Corrected		The second	A

Date 07/29/2021

Page

of

Form **4549-B** (August 2019)

Department of the Treasury - Internal Revenue Service

Report of Income Tax Examination Changes

Name and address of taxpayer Standing Akimbo LLC Taxpayer identification number

		Period Ended	Period Ended	Period Ended
	Income – ISSUE NUMBER	12/31/2014	12/31/2015	1 0.100 21100
Standing Akimb	o LLC			
			670 600 00	
Α.	Cost of Goods Sold	98,017.00	650,698.00	
В.	Salaries & wages	465,736.00	195,000.00	
C.	Repairs & maintenance	25,167.00	12,565.00	
O.	Rent	99,686.00	55,937.00	
Ξ.	Taxes & licenses	50,886.00	52,875.00	
F.	Depreciation	78,416.00	28,722.00	•
G.	Other deductions	186,623.00	183,145.00	
otal Adjustmer	nts	1,004,531.00	1,178,942.00	

Page 1 of 1 Schedule Number Department of the Treasury — Internal Revenue Service Form **886-S** 1065 Partners' Share of Income, Deductions, and Credits (June 2016) Name of Partnership Taxable Year Ended Partnership TIN 12/31/2014 Standing Akimbo LLC Gross nonfarm Nondeductible expenses Ordinary income Net earnings (loss) Name of Each Partner Partner TIN (loss) from trade or from self-employment income business (5) (2) (4) (6)(1) (3)a. John G Murphy Status: General 356,006.00 356,006.00 0.00 330,003.00 b. Peter Hermes 0.00 0.00 440,004.00 Status: General 474,675.00 c. Kevin Desilet 356,006.00 356,006.00 0.00 330,003.00 Status: General Total 1,186,687.00 712,012.00 0.00 1,100,010.00 Continuation Partner TIN (10)(8)(9)(11)(12)(7)

This form only reflects Schedule K-1 items adjusted by the report dated:

Total

07/28/2021

Page 1 of 1

Form 886-S (June 2016)	Department Partners' Share	of the Treasury — Inte		Credits	Schedule Number 1065
Name of Partnership			Partnership TIN		Taxable Year Ended
Standing Akimbo LLC					12/31/2015
Name of Each Partner	Partner TIN	Ordinary income (loss) from trade or business	Charitable contributions 50 percent	Net earnings (loss) from self-employment	
(1)	(2)	(3)	(4)	(5)	(6)
a. John G Murphy Status: General		475,956.00	0.00	475,956.00	0.00
b. Peter Hermes		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,			
Status: General		634,608.00	0.00	0.00	0.00
c. Kevin Desilet Status: General		475,956.00	0.00	475,956.00	0.00
	Total	1,586,520.00	0.00	951,912.00	0.00
	1001	Continuatio		351,312.00	0.00
Partner TIN (7)	Nondeductible expenses (8)	(9)	(10)	(11)	(12)
047-76-1145	397,962.00		(10)	(11)	(12)
318-80-5654	530,616.00				
521-27-2972	397,962.00				
То	otal 1,326,540.00				

This form only reflects Schedule K-1 items adjusted by the report dated:

07/28/2021

Standing Akimbo LLC

Examiner:

Pringle, Tyler

Towne, Nathan

Johnson, Lynn

Tax Form:

TIN:

1065

Date:

10/31/2018

7/28/2021

Tax Year (s):

201412, 201512

1aA-	Cost	of	Goods	Sold	(COGS)
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Tax Period	Per Return	Per Exam	Adjustment	Reference
201412	98,017.00	0.00	98,017.00	See Below
201512	650,698.00	0.00	650,698.00	See Below

Conclusion:

Taxpayer is subject to IRC 280E and has not fully substantiated COGS, as required by IRC section 6001. COGS is disallowed. Additionally, expenditures that are not includable in inventory costs have been disallowed, and inventory costs that were prematurely moved into COGS have been disallowed.

Facts:

The taxpayer did not provide all requested documentation, and the documents provided were heavily redacted. POA states they will not provide the requested records unless the IRS gives them absolute immunity to prosecution under federal criminal drug laws.

Law:

IRC Section: § 162, 280E, 471, 6001

Argument:

The taxpayer operates a marijuana dispensary, and IRC 280E is applicable. Business expenses should be limited to Costs of Goods Sold (COGS) under IRC 471

In the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. §801–971 (1970), ("Controlled Substances Act" or "CSA"), Congress created a regime to curtail the unlawful manufacture, distribution, and abuse of dangerous drugs ("controlled substances"). Congress assigned each controlled substance to one of five lists (Schedule I through Schedule V). See §812 of the CSA. Schedule I includes: (a) opiates; (b) opium derivatives (e.g., heroin; morphine); and (c) hallucinogenic substances (e.g., LSD; marihuana (a/k/a marijuana); mescaline; peyote).

Though a medical marijuana business is illegal under federal law, it remains obligated to pay federal income tax on its taxable income because §61(a) does not differentiate between income derived from legal sources and income derived from illegal sources. See, e.g., James v. United States, 366 U.S. 213, 218 (1961). Under the Sixteenth Amendment of the United States Constitution ("Sixteenth Amendment"), Congress is authorized to lay and collect taxes on income. In a series of cases, the United States Supreme Court has held that income in the context of a reseller or producer means gross income, not gross receipts. In other words, Congress may not tax the return of capital. See, e.g., Doyle v Mitchell Bros. Co., 247 U.S. 179, 185 ("As was said in Stratton's Independence v. Howbert, [citation omitted], 'Income may be defined as the gain derived from capital, from labor, or from both combined.'"); New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440 (1934) ("The power to tax income like that of the new corporation is plain and extends to the gross income. Whether and to what extent deductions shall be allowed depends upon legislative grace; and only as there is clear provision therefor can any particular deduction be allowed.").

Section 61(a) defines "gross income" broadly using 15 examples of items that are includible in gross

Standing Akimbo LLC

Examiner:

Pringle, Tyler

Towne, Nathan

Johnson, Lynn

Tax Form:

TIN:

1065

Date:

10/31/2018 7/28/2021

Tax Year (s):

201412, 201512

1aA- Cost of Goods Sold (COGS)

to §§1.471-3(c) and 1.471-11 ("full-absorption regulations").

Four years after enacting §280E, Congress enacted the Tax Reform Act of 1986, which added the uniform capitalization rules of §263A to the Code. Under §263A(a), resellers and producers of merchandise are required to treat as inventoriable costs the direct costs of property purchased or produced, respectively, and a proper share of those indirect costs that are allocable (in whole or in part) to that property. Flush language at the end of §263A(a)(2) provides, "Any cost which (but for this subsection) could not be taken into account in computing taxable income for any taxable year shall not be treated as a cost described in this paragraph."

The flush language at the end of §263A(a)(2) was added by §1008(b)(1) of the Technical and Miscellaneous Revenue Act of 1988 ("TAMRA")1 (P.L. 100-647), reprinted in 1988 U.S.C.C.A.N. 4621, as a retroactive, technical correction. Under Explanation of Provision, the Senate Report reads as follows:

The bill also clarifies that a cost is subject to capitalization under this provision only to the extent it would otherwise be taken into account in computing taxable income for any taxable year. Thus, for example, the portion of a taxpayer's interest expense that is allocable to personal loans, and hence is disallowed under section 163(h), may not be included in a capital or inventory account and recovered through depreciation or amortization deductions, as a cost of sales, or in any other manner. S. Rep. No. 100-445, at 104 (1988).

Section 162 generally allows a taxpayer to deduct ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. Section 280E, however, is an exception to the general rule of section 162. It provides that no deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted.

The application of section 280E rests on the presence of three key elements:

(1) a controlled substance; (2) trafficking; and (3) trade or business.

I. Controlled Substance

Drug Enforcement Administration regulations list marijuana as a schedule I controlled substance for purposes of the CSA. 21 C.F.R. sec. 1308.11(d)(22). "Marijuana is a controlled substance as defined in section 280E." Sundel v. Commissioner, T.C. Memo 1998-78. Marijuana was a controlled substance during the years at issue. "The only question Congress allows us to ask is whether marijuana is a controlled substance 'prohibited by Federal law. If Congress now thinks that the policy embodied in § 280E is unwise as applied to medical marijuana sold in conformance with state law, it can change the statute. We may not." Olive v. Commissioner, 792 F.3d 1146, 1150 (9th Cir. 2015), aff'g 139 T.C. 19 (2012). "Section 280E does not require that a criminal investigation be pursued against a taxpayer, or even that 280E only applies if a criminal conviction under the CSA has been obtained. If congress had

10A

Standing Akimbo LLC

Examiner:

Pringle, Tyler

Towne, Nathan Johnson, Lynn

Tax Form:

TIN:

1065

Date:

10/31/2018 7/28/2021

Tax Year (s):

201412, 201512

1aA- Cost of Goods Sold (COGS)

We find that the sale of medical marijuana was petitioner's primary source of income and that the sale of any other item was an activity incident to its business of distributing medical marijuana." Canna Care Inc V. Commissioner, T.C. Memo 2015-206.

In the present case, the taxpayer is a marijuana dispensary licensed with the state of Colorado. The taxpayer has taken the position that they do not have to disclose the source of the income on the return, and will not directly disclose the nature of the business. The taxpayer has not provided all information requested, and many items provided are heavily redacted. A focal point of the taxpayer's argument is that they do not have to disclose their trade or business as part of the examination, and thus the IRS cannot determine if their trade or business is related to a marijuana trade or business that would fall under IRC 280E.

Even with the silence from the taxpayer, it is clear that the taxpayer is in a trade or business of selling medical and recreational marijuana. This is evidenced by a number of factors:

- 1. The taxpayer's website lists that they are a provider of medical and recreational marijuana and includes pictures of various marijuana products and a menu of marijuana items for sale.
- 2. Their online presence on review websites such as yelp.com lists them as a cannabis clinic and health center.
- 3. The taxpayer's business is also listed on the website Weedmaps.com. Weedmaps website indicates the purpose of the website is to "Find local marijuana dispensaries, delivery services, doctors' offices, and deals in your area".
- 4. The taxpayer holds multiple licenses with the state of Colorado's Marijuana Enforcement Division, which are required if the taxpayer wishes to buy and sell marijuana.
- 5. The owners hold a license required by the state of Colorado's Marijuana Enforcement Division, which is required to work at a marijuana dispensary.
- 6. Partner John Murphy is listed as "Master Grower" in a Dope magazine article titled "Standing Akimbo: Proper Medical Marijuana in the Mile High".
- 7. The taxpayer won the 2014 High Times Cannabis Cup award for best medical sativa strain.

Based on all the information available, it is clear that the taxpayer is involved with growing and selling marijuana on a continual and regular basis. Thus, the taxpayer is in the trade or business of selling medical and recreational marijuana.

Conclusion: The taxpayer meets all three elements. The taxpayer's expenses are subject to the limitations imposed by IRC 280E. The only question remains as to what amount of expenses should be allowed under COGS under IRC 471 and what amount should be disallowed under IRC 280E.

The taxpayer has taken the position that they do not need to disclose the source of their income and will not disclose the type of business they operate. The taxpayer has not provided all necessary records to complete the audit. Of the items provided, many of the records are heavily redacted and unable to be clearly understood. The RA requested the taxpayer's computation of COGS under IRC 280E and 471, but the taxpayer has not provided it.

500

Standing Akimbo LLC

Examiner:

Pringle, Tyler

Towne, Nathan

Johnson, Lynn

Tax Form:

TIN:

1065

Date:

11/1/2018 7/28/2021

Tax Year (s):

201412, 201512

1aB- Salary Expense Lead Sheet					
Tax Period	Per Return	Per Exam	Adjustment	Reference	
201412	465,736.00	.00	465,736.00	See Below	
201512	195,000.00	.00	195,000.00	See Below	

Conclusion:

Taxpayer is a marijuana dispensary and is subject to IRC section 280E. Taxpayer is only allowed to deduct cost of goods sold pursuant to IRC section 280E and 471. Any allowable costs, or portions thereof, were included in COGS (see 500-1). Additionally, the taxpayer has not fully substantiated the claimed expense pursuant to IRC section 6001.

Facts:

The taxpayer did not provide all requested documentation, and the documents provided were heavily redacted. POA states they will not provide the requested records unless the IRS gives them absolute immunity to prosecution under federal criminal drug laws.

The taxpayer is a marijuana dispensary. It was determined that the taxpayer's allowable expenses are limited to items allowed in COGS. All below the line expenses were disallowed and the RA included all allowable expenses in COGS. See 500 for more information.

Law:

IRC Section: § 162, 212, 280E, 471

Specific citations:

Standing Akimbo LLC

Examiner:

Pringle, Tyler

Towne, Nathan Johnson, Lynn

1065

Date:

11/1/2018

7/28/2021

Tax Year (s):

Tax Form:

TIN:

201412, 201512

1aC- Repairs Expense and Capitalization Lead Sheet				
Tax Period	Per Return	Per Exam	Adjustment	Reference
201412	25,167.00	.00	25,167.00	See Below
201512	12,565.00	.00	12,565.00	See Below

Conclusion:

Taxpayer is a marijuana dispensary and is subject to IRC section 280E. Taxpayer is only allowed to deduct cost of goods sold pursuant to IRC section 280E and 471. Any allowable costs, or portions thereof, were included in COGS (see 500-1). Additionally, the taxpayer has not fully substantiated the claimed expense pursuant to IRC section 6001.

Facts:

The taxpayer did not provide all requested documentation, and the documents provided were heavily redacted. POA states they will not provide the requested records unless the IRS gives them absolute immunity to prosecution under federal criminal drug laws.

The taxpayer is a marijuana dispensary. It was determined that the taxpayer's allowable expenses are limited to items allowed in COGS. All below the line expenses were disallowed and the RA included all allowable expenses in COGS. See 500 for more information.

Law:

IRC Section: § 162, 212, 280E, 471

Specific citations:

Taxpayer Position: (If applicable)

1aC

Standing Akimbo LLC

Examiner:

Pringle, Tyler

Towne, Nathan

Johnson, Lynn

Tax Form:

TIN:

1065

Date:

11/1/2018

7/28/2021

Tax Year (s):

201412, 201512

1aD- Rent Expense Lead Sheet					
Tax Period	Per Return	Per Exam	Adjustment	Reference	
201412	99,686.00	.00	99,686.00	See Below	
201512	55,937.00	.00	55,937.00	See Below	

Conclusion:

Taxpayer is a marijuana dispensary and is subject to IRC section 280E. Taxpayer is only allowed to deduct cost of goods sold pursuant to IRC section 280E and 471. Any allowable costs, or portions thereof, were included in COGS (see 500-1). Additionally, the taxpayer has not fully substantiated the claimed expense pursuant to IRC section 6001.

Facts:

The taxpayer did not provide all requested documentation, and the documents provided were heavily redacted. POA states they will not provide the requested records unless the IRS gives them absolute immunity to prosecution under federal criminal drug laws.

The taxpayer is a marijuana dispensary. It was determined that the taxpayer's allowable expenses are limited to items allowed in COGS. All below the line expenses were disallowed and the RA included all allowable expenses in COGS. See 500 for more information.

Law:

IRC Section: § 162, 212, 280E, 471

Specific citations:



Standing Akimbo LLC

Examiner:

Pringle, Tyler

Towne, Nathan

Johnson, Lynn

Tax Form:

TIN:

1065

Date:

11/1/2018

7/28/2021

Tax Year (s):

201412, 201512

1aE- Taxes				
Tax Period	Per Return	Per Exam	Adjustment	Reference
201412	50,886.00	.00	50,886.00	See Below
201512	52,875.00	.00	52,875.00	See Below

Conclusion:

Taxpayer is a marijuana dispensary and is subject to IRC section 280E. Taxpayer is only allowed to deduct cost of goods sold pursuant to IRC section 280E and 471. Any allowable costs, or portions thereof, were included in COGS (see 500-1). Additionally, the taxpayer has not fully substantiated the claimed expense pursuant to IRC section 6001.

Facts:

The taxpayer did not provide all requested documentation, and the documents provided were heavily redacted. POA states they will not provide the requested records unless the IRS gives them absolute immunity to prosecution under federal criminal drug laws.

The taxpayer is a marijuana dispensary. It was determined that the taxpayer's allowable expenses are limited to items allowed in COGS. All below the line expenses were disallowed and the RA included all allowable expenses in COGS. See 500 for more information.

Law:

IRC Section: § 162, 212, 280E, 471

Specific citations:

Standing Akimbo LLC

Examiner:

Pringle, Tyler

Towne, Nathan

Johnson, Lynn

Tax Form:

TIN:

1065

Date:

11/1/2018 7/28/2021

Tax Year (s):

201412, 201512

1aF- Depreciation Lead Sheet					
Tax Period	Per Return	Per Exam	Adjustment	Reference	
201412	78,416.00	.00	78,416.00	See Below	
201512	28,722.00	.00	28,722.00	See Below	

Conclusion:

Taxpayer is a marijuana dispensary and is subject to IRC section 280E. Taxpayer is only allowed to deduct cost of goods sold pursuant to IRC section 280E and 471. Any allowable costs, or portions thereof, were included in COGS (see 500-1). Additionally, the taxpayer has not fully substantiated the claimed expense pursuant to IRC section 6001.

Facts:

The taxpayer did not provide all requested documentation, and the documents provided were heavily redacted. POA states they will not provide the requested records unless the IRS gives them absolute immunity to prosecution under federal criminal drug laws.

The taxpayer is a marijuana dispensary. It was determined that the taxpayer's allowable expenses are limited to items allowed in COGS. All below the line expenses were disallowed and the RA included all allowable expenses in COGS. See 500 for more information.

Law:

IRC 162, 212, 280E, 471

Specific citations:

Standing Akimbo LLC

Examiner:

Pringle, Tyler

Towne, Nathan Johnson, Lynn

Tax Form:

TIN:

1065

Date:

11/1/2018 7/28/2021

Tax Year (s):

201412, 201512

1aG- Other Deductions Lead Sheet				
Tax Period	Per Return	Per Exam	Adjustment	Reference
201412	186,623.00	.00	186,623.00	See Below
201512	183,145.00	.00	183,145.00	See Below

Conclusion:

Taxpayer is a marijuana dispensary and is subject to IRC section 280E. Taxpayer is only allowed to deduct cost of goods sold pursuant to IRC section 280E and 471. Any allowable costs, or portions thereof, were included in COGS (see 500-1). Additionally, the taxpayer has not fully substantiated the claimed expense pursuant to IRC section 6001.

Facts:

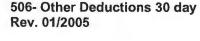
The taxpayer did not provide all requested documentation, and the documents provided were heavily redacted. POA states they will not provide the requested records unless the IRS gives them absolute immunity to prosecution under federal criminal drug laws.

The taxpayer is a marijuana dispensary. It was determined that the taxpayer's allowable expenses are limited to items allowed in COGS. All below the line expenses were disallowed and the RA included all allowable expenses in COGS. See 500 for more information.

Law:

IRC Section: §162, 212, 280E, 471

Specific citations:



Standing Akimbo LLC

Examiner:

Johnson, LynnYager,

Shelley K

Johnson, Lynn

TIN:

Tax Form:

Tax Year (s):

1065

201412, 201512

Date:

7/28/2021

5a-	Sch K	Charitable	contributions	Lead Sheet

Tax Period	Per Return	Per Exam	Adjustment	Reference
201512	716.00	.00	716.00	See Below

Conclusion:

Based on examination findings, adjustment made to reflect disallowed items per Section 280E.

Facts:

The taxpayer did not provide all requested documentation, and the documents provided were heavily redacted. The taxpayer is a marijuana dispensary. It was determined that the taxpayer's allowable expenses are limited to items allowed in COGS. All below the line expenses were disallowed and the RA included all allowable expenses in COGS. See 500 for more information.

Law:

IRC Section: §162, 212, 280E, 471

Specific citations:



Standing Akimbo LLC

Examiner:

Yager, Shelley K

Johnson, Lynn

TIN:

Tax Form:

1065

Date:

7/28/2021

Tax Year (s):

201412, 201512

5b- Sch K Net earnings (loss) from self-employment Lead Sheet				
Tax Period	Per Return	Per Exam	Adjustment	Reference
201412	109,294.00	712,012.00	602,718.00	See Below
201512	244,546.00	951,911.00	707,365.00	See Below

Conclusion:

Based on examination findings, adjustment made to reflect corrected Net Earnings. Statutory adjustment

Facts:

The taxpayer did not provide all requested documentation, and the documents provided were heavily redacted. The taxpayer is a marijuana dispensary. It was determined that the taxpayer's allowable expenses are limited to items allowed in COGS. All below the line expenses were disallowed and the RA included all allowable expenses in COGS. See 500 for more information.

Law:

IRC Section: §162, 212, 280E, 471

Specific citations:



Standing Akimbo LLC

Examiner:

Yager, Shelley K

Johnson, Lynn

TIN:

Tax Form:

1065

Date:

7/28/2021

Tax Year (s):

201412, 201512

5c- Sch K Gross nonfarm income Lead Sheet				
Tax Period	Per Return	Per Exam	Adjustment	Reference
201412	653,202.00	.00	(653,202.00)	See Below
201512	561,493.00	.00	(561,493.00)	See Below

Conclusion:

Based on examination findings of return, the adjustment is made to reflect the determined the earning are not non farm income, they are subject Self-Employment tax instead.

Facts:

The taxpayer initially did not properly report Self-Employment earnings. There is no amount for Gross Nonfarm Income, it is all Net Earning (Loss) from Self-Employment.

Law:

IRC Section: §162, 212, 280E, 471

Specific citations:



Standing Akimbo LLC

Examiner:

Yager, Shelley K

Johnson, Lynn

TIN:

Tax Form:

1065

Date:

7/28/2021

Tax Year (s):

201412, 201512

5d- Nondeductible expenses Lead Sheet				
Tax Period	Per Return	Per Exam	Adjustment	Reference
201412	173,894.00	1,100,009.00	(926,115.00)	See Below
201512	146,881.00	1,326,539.00	(1,179,658.00)	See Below

Conclusion:

Based on examination findings of other expenses, the adjustment is made to reflect the determined nondeductible expense.

Facts:

The taxpayer did not provide all requested documentation, and the documents provided were heavily redacted. The taxpayer is a marijuana dispensary. It was determined that the taxpayer's allowable expenses are limited to items allowed in COGS. All below the line expenses were disallowed and the RA included all allowable expenses in COGS. See 500 for more information.

Law:

IRC Section: §162, 212, 280E, 471

Specific citations:

