

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19493
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

On May 26, 2006, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioners) proposing additional income tax, penalty, and interest for tax year 2003 in the total amount of \$1,305.

On June 19, 2006, a timely protest and petition for redetermination was filed by the petitioners. The petitioners have not requested a hearing. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The petitioners were issued a NOD by the Commission [Redacted]. [Redacted] TDB, therefore, issued a NOD based on that information and adjusted the petitioners' Idaho return. The Commission finds that the TDB correctly recomputed the petitioners' tax liability [Redacted].

In the petitioners' protest letter received June 19, 2006, [Redacted] stated "You can not charge me or tax me for unemployment compensation because I have to pay that back."

Under the claim of right doctrine, the fact that a taxpayer must repay certain amounts that he receives as income doesn't prevent the original receipt from being included in income. When the recipient repays it, he may be entitled to a tax benefit.

On February 8, 2007, the Tax Policy Specialist (policy specialist) sent the petitioners a letter to inform them of the alternatives for redetermining a protested NOD. A follow-up letter was sent to the petitioners on March 26, 2007. The petitioners did not respond to either letter.

Idaho Code § 63-3002 states that it is the intent of the Idaho legislature insofar as possible to make the Idaho income tax code identical to the Internal Revenue Code in the way taxable income is determined.

From the cited Idaho Code section, it is apparent the Idaho legislature intended any changes made to a taxpayer's federal return to be reflected on the taxpayer's Idaho return. Therefore, it is the Commission's position the changes made to the taxpayer's federal return must be made to the taxpayer's state return.

Following the Idaho Code, the adjustments should be made to the petitioners' Idaho income tax return. The petitioners have the burden of proving the adjustments were incorrect. The petitioners would like the Commission to re-audit [Redacted]. The Commission's position is the petitioners must be granted relief at the federal level before relief can be granted at the state level. The petitioners have failed to carry the burden in this matter.

Since the petitioners have not provided the Commission with a contrary result [Redacted], the Commission must uphold the deficiency as asserted.

WHEREFORE, the Notice of Deficiency Determination dated May 26, 2006, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that petitioners pay the following tax, penalty, and interest for the year 2003:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$1,099	\$55	\$241	\$1,395

Interest is calculated through October 20, 2007.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioners' right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this ____ day of _____, 2007, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.
