

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19550
[REDACTED],)	
)	DECISION
Petitioners.)	
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On May 31, 2006, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioners) proposing income tax, penalty, and interest for the years 2001, 2002, 2003, and 2004 in the total amount of \$15,489.

On August 2, 2006, a timely protest and petition for redetermination was filed by the petitioners. An informal hearing has not been requested by the petitioners. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

The petitioners had failed to file their 2001, 2002, 2003, and 2004 individual income tax returns. In October 2005, the TDB sent a letter with a questionnaire to the petitioners to help the Commission properly determine the petitioners' filing requirement. The petitioners completed the questionnaire by checking the "I'm required to file a tax return in Idaho" option.

In the cover letter dated January 24, 2006, that accompanied the 2001 through 2004 tax booklets requested by the petitioners, they were advised of their tax delinquency for tax years 2001 through 2004. The petitioners were asked to file their 2001 through 2004 returns by February 28, 2006. The petitioners failed to file their returns by that date.

Since [Redacted] is self-employed as a contractor and the usual sources of income information for self-employed individuals such as loan applications and bank accounts were not available, the TDB estimated the petitioners' annual income as the average of the adjusted gross

income reported by the petitioners for tax years 1998 through 2000 increased by five percent each year. The Commission issued a NOD to the petitioners on May 31, 2006, [Redacted].

In the petitioners' protest letter received by fax on August 2, 2006, [Redacted] stated that they hand-delivered their 2005 and 2004 returns and asked for additional time to complete returns for 2003, 2002, and 2001.

In another letter from the petitioners dated August 2, 2006, [Redacted] asked for an extension until August 7, 2006, to complete return for 2003 and until September 1, 2006, to complete returns for 2002 and 2001.

The TDB sent the petitioners a letter dated September 18, 2006, which stated that the 2004 and 2005 returns submitted by the petitioners were reviewed and the May 31, 2006, NOD was canceled for tax year 2004. The letter also stated that the petitioners' file was being transferred to the legal department since their 2001-2003 returns were not filed by September 1, 2006, as promised.

The petitioners' 2004 income tax return will not be addressed any further in this decision.

On September 25, 2006, 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 November 16, 2006. The petitioners did not respond to either letter.

On June 28, 2006, the policy specialist called the petitioners and spoke with [Redacted] who said he would have all of the returns filed by the end of July 2007. As of the date of this decision, the petitioners' returns in question have not been filed.

Beyond those issues addressed above, the petitioners have not provided the Commission with information to establish that the amounts asserted in the NOD, as adjusted, are incorrect. As a result, the Commission will uphold the NOD, as adjusted. A determination of the State Tax

Commission is presumed to be correct. *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The burden is on the petitioners to show that the deficiency is erroneous. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986).

WHEREFORE, the Notice of Deficiency Determination dated May 31, 2006, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$2,595	\$649	\$891	\$ 4,135
2002	2,579	645	720	3,944
2003	2,973	743	671	<u>4,387</u>
			TOTAL DUE	<u>\$12,466</u>

Interest is computed through November 26, 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 on this ___ day of _____, 2007, 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:

[REDACTED]

Receipt No.
