

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19169
[Redacted],	)	
	)	DECISION
Petitioners.	)	
	)	
	)	

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On September 21, 2005, 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 taxable year 2001 in the total amount of \$1,738.

A timely protest and petition for redetermination was filed by the petitioners' representative (representative). An informal hearing has not been requested by the petitioners or their representative. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The petitioners failed to file their 2001 individual income tax return. On July 30, 2004, September 9, 2004, and May 10, 2005, the TDB sent a letter with a questionnaire to the petitioners to help the Commission properly determine the petitioners' filing requirement.

On May 16, 2005, the TDB received a completed letter and questionnaire from the petitioners in which [Redacted] indicated that they were required to file and would file Idaho individual income tax returns for tax year 2001. On the questionnaire, [Redacted] indicated that she was a legal resident of Idaho the entire year, lived in Idaho the entire twelve months, and moved to Idaho in September 1972. [Redacted] also indicated that the last time she filed a return in the state of Idaho was tax year 2000. On the back side of the questionnaire, [Redacted] stated:

I have been unable to complete the tax forms because of illness.

I did file forms for these years that had the basic facts and paid the amounts (thousands) through my CPA

I am currently moving and unable to find any information. I have a mountain of boxes. As soon as I am settled enough so I can eat and sleep, I will put my attention to this matter.

I cannot do all of this in 15 days, but I assure you that I shall be as quick as possible.

In a letter to the petitioners dated August 11, 2005, the Tax Enforcement Specialist (TES) stated that the petitioners had indicated in previous correspondence that they were required to file an Idaho tax return for tax year 2001. The TES stated that the TDB had not received the petitioners' returns. The TES stated to the petitioners that if their return was currently being prepared, to please provide the TDB with an expected date of completion. The TES stated that if the TDB did not begin receiving the petitioners' individual income tax return with a reasonable schedule for completion, the TDB would assess the petitioners based on the information available to the Commission. The TES requested the petitioners forward any correspondence to her attention within 15 days from the date of the letter. The TES stated that if the petitioners had questions concerning this matter, to please contact her. The petitioners did not respond to this letter.

[Redacted]. The Commission issued an NOD to the petitioners for tax year 2001 on September 21, 2005, [Redacted].

In the petitioners' protest letter dated November 18, 2005, the representative stated:

This letter is a written protest and petition for redermination of the Notice of Deficiency Determination dated September 21, 2005 regarding the 2001 Idaho return for the above taxpayer. A copy of your notice is enclosed. A copy of my Power of Attorney is enclosed.

[Redacted]

The TDB sent the representative a letter dated November 21, 2005, which requested he send

the petitioners' information for their 2001 Idaho individual income tax return by January 5, 2006. The TES sent the representative copies of all of the petitioners' financial documents that the representative should need to prepare the petitioners' 2001 tax return. The TES also sent the representative the petitioners' estimated payments for 2001. The TES stated that it was the TDB's intention to complete the redetermination within the TDB unless the issues involved require legal interpretation. The petitioners' file would be transferred to the Commission's legal department if the TDB was unable to reach a mutually acceptable agreement of the issues involved. The representative did not respond to this letter.

On August 22, 2006, the petitioners' file was sent to the Commission's Legal/Tax Policy division for further review.

On August 23, 2006, the Tax Policy Specialist (policy specialist) sent the representative a letter to inform him of the alternatives for redetermining a protested NOD.

On July 17, 2007, the policy specialist mailed a letter to the representative which had computer printouts of 1099 income information for the petitioners for tax year 2001. The petitioners' 2001 individual income tax return has not been filed as of the date of this decision.

It is well settled in Idaho that an NOD issued by the Idaho State Tax Commission is presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the petitioners to show that the tax deficiency is erroneous. Id. Since the petitioners have failed to meet the burden in this case, the Commission finds that the amount shown due on the Notice of Deficiency Determination is true and correct.

[Redacted], to the end that [Redacted]. The petitioners have not provided the Commission with a contrary result to the determination of their income [Redacted]. Therefore, the Commission

must uphold the deficiency.

WHEREFORE, the Notice of Deficiency Determination dated September 21, 2005, 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	\$1,188	\$297	\$492	\$1,977

Interest is computed through December 6, 2008, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

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.

DATED this \_\_\_ day of \_\_\_\_\_, 2008.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_ day of \_\_\_\_\_, 2008, 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.

[Redacted]

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