

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20187
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On March 21, 2007, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing income tax, penalty, and interest for taxable years 2003 through 2005 in the total amount of \$30,129.

The taxpayers protested the determination and, subsequently, submitted an Idaho Individual income tax return for tax year 2003. That return was accepted as filed, and the NODD was cancelled for that year. No information was submitted for tax years 2004 or 2005. The Tax Commission, having reviewed the file, hereby issues its decision regarding tax years 2004 and 2005.

When the Bureau could not find any record of the taxpayers' 2004 and 2005 Idaho individual income tax returns, the taxpayers were sent a letter advising them of the missing returns and asking them for an explanation. The taxpayers did not respond.

[Redacted]

Idaho Code § 63-3045 (1)(a) states:

**63-3045. Notice of redetermination or deficiency -- Interest.** (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

Because the taxpayers did not file their state income tax returns for tax years 2004 and 2005, the Bureau prepared provisional returns and issued an NODD. The NODD was based on information obtained from [Redacted] and those records retained by the Tax Commission. The taxpayers, through their appointed representative, protested the Bureau's determination.

The Bureau sent the taxpayers a letter to acknowledge their protest. They were allowed a continuance. However, when the returns did not arrive as promised, their file was transferred to the Legal/Tax Policy Division of the Tax Commission for administrative review.

The taxpayers were sent a letter advising them of their appeal rights. The taxpayers' representative responded to the appeal rights letter. He did not request a hearing but informed the Policy Specialist that the 2004 and 2005 income tax returns should be completed by December 26, 2007. Several additional requests for returns have been made, but to date, the Tax Commission has not received the taxpayers' 2004 or 2005 Idaho income tax returns or any additional information. The Tax Commission, believing the taxpayers have had more than an

adequate amount of time to prepare and submit their income tax returns, decided this matter based on the information available.

The Idaho resident individual income tax returns the Bureau prepared on behalf of the taxpayers were based on income information gleaned from the taxpayers' [Redacted] records and the records retained by the Tax Commission. The filing status of Married, filing joint, was used to determine the taxpayers' Idaho income tax responsibility.

The Tax Commission's information showed the taxpayers had an active sales/use tax permit under the name of [Redacted] during the periods in question. Sales/use tax reports submitted by the taxpayer were used to estimate the income and resulting tax due.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of their argument, the taxpayers have failed to meet their burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayers have provided nothing that would dissuade the Tax Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for tax years 2004 and 2005. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated March 21, 2007, is hereby MODIFIED, and as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$8,985	\$2,246	\$2,129	\$13,360
2005	6,587	1,647	1,166	<u>9,400</u>
			TOTAL DUE	<u>\$22,760</u>

Interest is computed through November 30, 2008.

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

An explanation of the taxpayers' 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.  
  
\_\_\_\_\_