

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20201
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On March 13, 2007, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing income tax, penalty, and interest for the years 1999, 2000, 2001, 2002, 2003, 2004, and 2005 in the total amount of \$12,541.

A timely protest was filed by the petitioner and his wife. A hearing was not requested by the petitioner. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

The petitioner and his wife failed to file their 1999, 2000, 2001, 2002, 2003, 2004, and 2005 individual income tax returns. On January 11, 2007, the TDB sent a letter with a questionnaire to the petitioner and his wife to help the Commission properly determine the petitioner's filing requirement. Neither the petitioner nor his wife responded to this letter. [Redacted]. The Commission issued an NOD to the petitioner on March 13, 2007, [Redacted]. [Redacted]

In the protest letter for the petitioner and his wife postmarked May 14, 2007, the petitioner stated the tax due on their actual tax returns would be less than the Notice of Deficiency Determination. [Redacted] stated they would supply the TDB with their tax returns over the next two weeks. [Redacted] stated they were dealing with a corrupted computer that was making downloading and retrieving data very tedious and time consuming. [Redacted]

stated they had some years completed already and were sending them to the TDB.

On May 16, 2007, the Tax Enforcement Specialist (TES) sent the petitioner and his wife a letter acknowledging a timely protest and requesting they provide the information by June 18, 2007.

In a letter from the petitioner and his wife dated June 20, 2007, [Redacted] stated:

We apologize again for the time this matter is taking from your busy day. Thank you for your help in getting this matter resolved and behind our family. We enclose the following documentation for your consideration:

2005 Idaho State Tax Return (w/ copy of Federal return attached) - we owe a balance of \$286 for 2005. Since the State is holding our 2006 State Tax Refund of \$2076 we ask that the 2005 tax due be deducted from the 2006 refund balance;

2003, 2002, 2001 Federal Tax Returns - as mentioned in our last letter, our computer was on its last legs. We were able to prepare Federal Returns, but were not able to download the State information from TurboTax before it failed to restart. We are in the process of getting a new computer; however, we wanted you to have the Federal Returns now. Is it difficult for you to compute our State taxes with the Federal returns? If not, we had the following expenses (from what we can determine the Federal returns don't show):

	Group insurance rates	Education contributions
2001	\$4,224	\$75
2002	\$4,632	\$81
2003	\$435/month	\$89

If there is more information that you need, please let us know.

2004 - We have the TurboTax program and are getting permission to use a work computer to run it. We will have the 2004 State and Federal returns to you in a few days.

1999 & 2000 - we did not have an income for these two years to report.

On June 25, 2007, the TES sent a letter to the petitioner and his wife that stated he had reviewed the information they had recently submitted for tax years 2001 through 2003 and 2005.

The TES stated that the petitioner and his wife needed to file returns for 2001 through 2003. The TES stated he could adjust their notice of deficiency for filing status, exemptions, and income but not for other credits. The TES stated that to take those credits, they must file their tax returns. The TES stated that if they claimed any withholding, they must provide W-2s or the withholding would be disallowed. The TES stated that he could attest to their 2005 withholding but did not have information regarding withholding for the other years.

On June 25, 2007, the petitioner and his wife submitted to the TDB their 2001, 2002, and 2003 federal individual income tax returns and their 2005 individual income tax return.

The TDB reviewed the information submitted by the petitioner and his wife for tax years 2001, 2002, 2003, and 2005 and determined that the NOD dated March 13, 2007, should be cancelled for tax years 2001, 2002, 2003, and 2005 only. The TDB requested that the petitioner and his wife send in their 1999, 2000, and 2004 returns by May 15, 2007.

Since the petitioner and his wife did not provide the requested returns or additional information for tax years 1999, 2000, and 2004, their files were turned over to the Commission's Legal/Tax Policy division for further consideration.

On September 24, 2007, the Tax Policy Specialist (policy specialist) sent the petitioner a letter to inform him of the alternatives for redetermining a protested NOD.

In a letter from the petitioner and his wife dated October 16, 2007, but received November 21, 2007, they stated that they had attached their 2001, 2002, and 2003 Idaho individual income tax returns. The petitioner and his wife also attached a 2005 W-2 statement that was missing from their 2005 Idaho income tax return that was previously supplied to the TDB. The petitioner and his wife stated they had recently determined that they did have income in 1999 and were finalizing their Idaho state tax return on that income. The petitioner and his wife stated they did not

have income in 2000 and their 2004 was proving difficult to finalize but would be done over the Thanksgiving holiday and would be mailed along with their 1999 return after the holiday.

On December 14, 2007, the policy specialist received a 1999 Idaho individual income tax return from the petitioner and his wife.

After reviewing this return, the Commission determined that the submitted return represented the petitioner's taxable income better than the return prepared by the TDB. Therefore, the Commission hereby cancels the Notice of Deficiency Determination dated March 13, 2007, for tax year 1999 only.

The petitioner's 1999, 2001, 2002, and 2003 returns will be processed and are subject to the normal review process. It does not appear that the petitioner's income met the filing requirement in tax year 2000. The tax years 1999, 2000, 2001, 2002, 2003, and 2005 will not be addressed any further in this decision.

The petitioner has 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 petitioner to show that the deficiency is erroneous. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986).

[Redacted] The petitioner has not provided the Commission with a contrary result to the determination of his income [Redacted]. Therefore, the Commission must uphold the deficiency as modified.

WHEREFORE, the Notice of Deficiency Determination dated March 13, 2007, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$1,306	\$327	\$307	\$1,940

Interest is computed through November 18, 2008.

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

An explanation of the petitioner's 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.

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