

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20292
[Redacted],)	
)	DECISION
Petitioners.)	
)	
)	
_____)	

On April 11, 2007, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers) proposing income tax, penalty, and interest for the taxable years 2001 through 2004 in the total amount of \$7,457.

On June 11, 2007, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather wanted to submit income tax returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information from the Idaho Department of Labor that showed the taxpayers worked in Idaho during the years 2001 through 2004. The Bureau researched the Tax Commission's records and found that the taxpayers had not filed individual income tax returns for those years. The Bureau sent the taxpayers a letter asking them about their requirement to file Idaho income tax returns. The taxpayers did not respond. [Redacted]. The Bureau prepared returns for the taxpayers and sent them a Notice of Deficiency Determination. The taxpayers protested the Bureau's determination. The taxpayers stated they did not live in Idaho the full years of 2001 and 2004. They stated they moved to Idaho in September 2001 and moved out of Idaho in July 2004. The taxpayers also stated that they thought at least one of the years, 2002 or 2003, had been filed with Idaho. The taxpayers stated

they did not think they needed to file returns for 2001 and 2004 because they did not live in Idaho for the full year.

The Bureau allowed the taxpayers additional time to submit income tax returns or additional information; however, nothing was received. Consequently, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the case and sent the taxpayers a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayers contacted the Tax Commission and asked for the forms and instructions to file the needed income tax returns. The taxpayers stated they knew the returns needed to be filed. They asked for 30 days to get the returns completed and sent to the Tax Commission. The Tax Commission agreed to the 30 days and mailed the taxpayers the needed forms and instructions.

The agreed upon time passed, and the taxpayers failed to provide the needed returns. The Tax Commission contacted the taxpayers, and they stated that they were looking for their tax information to complete the returns. The taxpayers stated they would be going through some boxes in storage in the coming weekend and would contact the Tax Commission with an update on their progress.

The taxpayers did not contact the Tax Commission, so the Tax Commission called and left a message for the taxpayers. The taxpayers did not respond to the Tax Commission's message, so the Tax Commission sent the taxpayers a letter giving them a deadline for providing their returns or additional information. The taxpayers did not provide the needed returns or any additional information. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayers did not deny they were required to file Idaho income tax returns for 2002 and 2003. They stated they lived in Idaho from September 2001 to July 2004. Idaho Code section 63-3030 states that part-year residents of Idaho are required to [Redacted] Idaho individual income tax returns if they have gross income from Idaho sources in excess of \$2,500. It is clear from the information available that the taxpayers' wages, while living in Idaho in 2001 and 2004, were in excess of \$2,500. Therefore, the Tax Commission finds the taxpayers did have a filing requirement for the taxable years 2001 through 2004.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The returns the Bureau prepared for the taxpayers were full-year resident returns for all four years. The taxpayers stated they were part-year residents in 2001 and 2004. Looking at the information available, the Tax Commission found that it supported the taxpayers' statements that they moved to Idaho in September 2001 and left Idaho in July 2004. Therefore, the Tax Commission finds that the proper status for the taxpayers in 2001 and 2004 was that of part-year residents. As such, the correct returns for those years are part-year resident returns reporting all the taxpayers' income while residents of Idaho and only Idaho source income to Idaho while they were nonresidents of Idaho.

Since the taxpayers failed to provide anything to show that the Bureau's tax computations were incorrect, the Tax Commission hereby upholds the Bureau's determination for the tax years 2002 and 2003. As for the tax years 2001 and 2004, the Tax Commission modifies the Bureau's computations to reflect the part-year resident status of the taxpayers.

With the modification to the taxpayers' residence status for 2001, the end result was that the taxpayers were due a refund. However, Idaho Code section 63-3072 states that a claim for refund of the overpayment of tax from excess withholdings must be made within three years of the due date of the return. Since the taxpayers have not made a claim for refund, and it is well passed the three year statute for issuing or crediting the refund, the Tax Commission cannot credit the 2001 refund to the taxpayers' tax liability for 2002 through 2004.

The Bureau added interest and penalty to the taxpayer's Idaho tax. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated April 11, 2007, is hereby MODIFIED, in accordance with the provisions of this decision 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 (interest is computed to July 15, 2008):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$ 0	\$ 0	\$ 0	\$ 0
2002	792	198	257	1,247
2003	987	247	266	1,500
2004	920	230	193	<u>1,343</u>
			TOTAL DUE	<u>\$4,090</u>

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.
