

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20476
[REDACTED],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On June 5, 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 2002 through 2005 in the total amount of \$72,761.

Tax Commission records show the taxpayers were Idaho residents who appeared to meet the Idaho individual income tax filing requirements. The Bureau attempted to contact the taxpayers for an explanation of why their 2002 through 2005 Idaho returns had not been filed, but they did not respond to the inquiries.

[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.

Determining the taxpayers had a requirement to file resident individual income tax returns; the Bureau prepared Idaho returns on their behalf and sent them an NODD. In response to the NODD, the taxpayers submitted their 2003 Idaho income tax return along with a timely protest for tax years 2002, 2004, and 2005. The taxpayers stated in their protest, received August 7, 2007, that the other outstanding returns were in the final stages and should be filed within 60 days.

The Bureau sent the taxpayers a letter acknowledging their protest and advising them that the portion of the NODD addressing tax year 2003 was cancelled. Therefore, the taxpayers' 2003 Idaho individual income tax return will not be discussed further in this decision.

The taxpayers did not provide the returns within 60 days as stated in their protest letter. The Bureau made two subsequent requests for the returns, each time granting the taxpayers additional time to respond.

When the missing returns did not arrive, the taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayers did not respond to a letter from the Tax Policy Specialist wherein they were advised of their rights regarding their appeal. A follow-up letter sent by the Tax Policy Specialist also went unanswered.

Therefore, the Tax Commission decided the matter based upon the information available. [Redacted]. The Bureau used a formula to determine the taxpayers' income for tax years 2002, 2004, and 2005. This calculation was based on known income from tax years 2001 and 2003.

Withholding (\$26 for 2004 and \$322 for 2005) reduced the tax amount for those years. Interest and penalty were added pursuant to Idaho Code §§ 63-3045 and 63-3046. The Tax Commission reviewed those additions and found them proper and in accordance with Idaho Code.

The taxpayers did not provide anything to show the returns prepared by the Bureau were not a reasonable representation of their taxable income and they failed to meet their burden of proof on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846 (1984).

Therefore, the Tax Commission finds the returns the Bureau prepared to be a reasonable representation of the taxpayers' taxable income for the years in question. The Tax Commission upholds the Bureau's determination.

WHEREFORE, the Notice of Deficiency Determination dated June 5, 2007 is hereby MODIFIED and as modified is APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$12,315	\$3,079	\$2,036	\$17,430
2004	13,180	3,295	2,969	19,444
2002	13,974	3,494	4,726	<u>22,194</u>
			TOTAL DUE	<u>\$59,068</u>

Interest is calculated through September 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

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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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