

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20491
	)	
[REDACTED],	)	DECISION
	)	
Petitioners.	)	
_____	)	

On June 22, 2007, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued two Notices of Deficiency Determinations (NODD) each proposing income tax, penalty, and interest for taxable years 2003 through 2005 in the amount of \$52,080. One of the NODDs was sent to [Redacted] and one of the NODDs was sent to [Redacted].

[Redacted] (taxpayers) jointly filed a timely appeal. They did not request a hearing but did submit additional information. The Tax Commission has reviewed the file and hereby issues its decision based upon the information contained in the file.

Because Tax Commission records showed the taxpayers met the state income tax filing requirements and had not filed their Idaho returns for 2003 through 2005, the Bureau attempted to contact them for clarification. 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.

Determining the taxpayers had a requirement to file Idaho individual income tax returns, the Bureau prepared returns on their behalf and sent them each a NODD. Separate NODDs and the filing status of married filing separate were used because, by not filing state or federal income tax returns for 2003 through 2005, the taxpayer did not make the election to file returns with the filing status of married filing joint. One-half of the community income was used to determine the tax amount. No withholding was identified.

In response to the notice, the taxpayers sent a letter of protest that was signed by both of them, the front page of their 2003 federal return, and copies of W-2s for 2003 and 2004. Subsequently, they sent a W-2 for 2005. Idaho withholding was identified for all three years. The taxpayers said they were going to file all three returns with a filing status of married filing joint.

Using the verified information provided by the taxpayers, the Bureau recalculated the two NODDs and issued one NODD to both taxpayers for the years 2003 through 2005 using the filing status of married filing joint with five dependents.

When the taxpayers did not respond to the amended NODD, their 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 advising them of their appeal rights.

The taxpayers have not filed complete and accurate 2003 through 2005 Idaho income tax returns and have submitted nothing that would cast doubt on the Bureau's amended determination of tax, penalty, and interest that was based on information submitted by the taxpayers and the records retained by [Redacted] the Idaho State Tax Commission.

The Bureau allowed the taxpayers credit for \$14,623 of withholding for 2003, \$13,436 of withholding for 2004, and \$10,167 of withholding for 2005. The interest and penalty added by the Bureau pursuant to Idaho Code §§ 63-3045 and 63-3046 was reviewed and found to be proper and in accordance with Idaho Code.

WHEREFORE, the Notice of Deficiency Determination dated June 22, 2007, to [Redacted] and the Notice of Deficiency Determination dated June 22, 2007, to [Redacted], are hereby MODIFIED and, as so modified, are 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>
2003	\$10,632	\$2,658	\$2,689	\$15,979
2004	10,461	2,615	2,018	15,094
2005	14,639	3,660	1,946	<u>20,245</u>
			TOTAL DUE	<u>\$51,318</u>

Interest is computed through April 15, 2008.

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

An explanation of taxpayers' right to appeal this decision is enclosed.

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

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE BY MAIL**

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2008, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

[Redacted]

\_\_\_\_\_