

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20497B
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On July 6, 2007, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] and [Redacted] (taxpayers) proposing income tax, penalty, and interest for the taxable year 2005 in the total amount of \$5,070.

On August 30, 2007, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not respond to the Tax Commission's hearing rights letter and have not provided any further information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) found while researching the Tax Commission's records that Mr. [Redacted] stopped filing Idaho individual income tax returns after filing a return for the tax year 2001. The Bureau sent Mr. [Redacted] a letter asking him if he had a filing requirement with Idaho for the tax years 2002 through 2005. Mr. [Redacted] did not respond to the Bureau's letter. [Redacted]. The Bureau prepared a 2005 Idaho income tax return for the taxpayers and sent them a Notice of Deficiency Determination.

The taxpayers protested the Bureau's determination. They stated they were advised by their tax preparer that they did not need to file an Idaho return for 2005 even though Mr. [Redacted] told the preparer he was an Idaho resident. The taxpayers provided a copy of their 2005 federal and [Redacted] returns as part of their protest.

The Bureau reviewed the information the taxpayers provided and determined the return it prepared should be modified to include a credit for taxes paid to [Redacted]. The Bureau sent the taxpayers the result of the modification and asked them to withdraw their protest. The taxpayers did not respond. Accordingly, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayers a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayers did not respond. The Tax Commission sent a follow-up letter to the taxpayers, but still the taxpayers failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayers did not contest that they were required to file a 2005 Idaho income tax return. They stated they were advised they did not have to. However, if Mr. [Redacted] was a resident of Idaho in 2005, he was required to file and the advice they were given was wrong. The taxpayers did provide a copy of their federal and [Redacted] returns, and from this information an Idaho return can be prepared. The Bureau's return included all the information on the taxpayers' federal and [Redacted] returns except for allowing a credit for taxes paid to another state. The Bureau modified its original determination to include the credit for taxes paid to another state, but did not receive a response from the taxpayers.

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 taxpayers did not specifically show that the Bureau's original determination was in error but they did provide additional information not previously available to the Bureau.

Therefore, the Tax Commission finds that the return prepared by the Bureau, plus the modification for taxes paid to another state, is an accurate representation of the taxpayers' Idaho tax.

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 July 6, 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:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$173	\$43	\$27	\$243

Interest is computed to August 15, 2008.

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

An explanation of the taxpayers'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.
