

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20502
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On June 29, 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 2003 through 2005 in the total amount of \$36,944.

On August 31, 2007, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers requested a hearing but never followed through with scheduling a hearing or providing any additional information. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) reviewed the taxpayers as a follow-up case to an examination and subsequent decision of the Tax Commission on the taxpayers' 2001 Idaho income tax return. The Bureau found through searching the Tax Commission's records that the taxpayers failed to file Idaho individual income tax returns for the tax years 2002 through 2005. The Bureau sent the taxpayers a letter asking them to file Idaho income tax returns for the tax years 2002 through 2005. [Redacted] replied that she and [Redacted] were in the midst of a divorce and that he handled all their tax filings. She stated she forwarded the Bureau's letter to [Redacted]; however, he did not respond.

The Bureau obtained additional information [Redacted]; determined the taxpayers had a requirement to file Idaho individual income tax returns; prepared returns for the tax years 2003

through 2005; and sent the taxpayers a Notice of Deficiency Determination. The taxpayers disagreed with the Bureau's determination and filed an appropriate protest.

The taxpayers stated that [Redacted] was not a resident of nor was he domiciled in Idaho for any of the years in question. The taxpayers stated [Redacted] did not maintain a place of abode in Idaho and he was not present in Idaho, in the aggregate, more than 270 days in any of the years at issue. The taxpayers requested a hearing, so the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayers a letter requesting a list of available dates that the taxpayers could attend a hearing. 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 on the information available.

The Tax Commission issued a decision on the taxpayers' 2001 Idaho income tax return stating that [Redacted] was domiciled in Idaho. [Redacted] domicile was not questioned because she and their children were long-time residents of Idaho. As part of its decision making process on the taxpayers' 2001 tax year, the Tax Commission participated in a telephone conference with [Redacted] and his representative on March 27, 2006. The purpose of that conference call was to gather information to determine [Redacted] domicile for the tax year 2001. However, the information obtained also spoke to the years leading up to the present time, March 2006.

The taxpayers' arguments in this case are essentially the same as those made for the 2001 tax year. The taxpayers have provided nothing further to strengthen their arguments for the years at issue. 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 have not met their burden.

In its decision for tax year 2001, the Tax Commission found that the information presented supported a finding that [Redacted] was domiciled in Idaho. (See the decision on Docket No. [Redacted]) Since the information obtained from [Redacted] for that decision encompassed the years in this matter, the Tax Commission finds it appropriate to use the information in deciding this matter. Therefore, as in 2001, the information available leads the Tax Commission to the same conclusion. [Redacted] domicile remained with Idaho. Consequently, the taxpayers were required to file Idaho income tax returns and report their income from all sources to Idaho for the tax years 2003 through 2005. Therefore, the Tax Commission upholds the Bureau's determination.

WHEREFORE, the Notice of Deficiency Determination dated June 29, 2007, is hereby 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	\$13,283	\$3,321	\$3,555	\$20,159
2004	5,276	1,319	1,095	7,690
2005	8,024	2,006	1,184	<u>11,214</u>
			TOTAL DUE	<u>\$39,063</u>

Interest is computed to July 1, 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

\_\_\_\_\_  
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.

\_\_\_\_\_