

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 [Redacted]) DOCKET NO. 20618
)
 Petitioner.) DECISION
)
)
 _____)

On July 27, 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 taxable years 2004 and 2005 in the total amount of \$9,505.

On September 17, 2007, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather wanted to provide 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 [Redacted] received wages from an Idaho employer in 2004 and 2005. The Bureau searched the Tax Commission's records and found that the taxpayers stopped filing Idaho income tax returns after filing their 2003 Idaho return. The Bureau sent the taxpayers a letter asking about their requirement to file Idaho income tax returns. The taxpayers did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayers were required to file Idaho income tax returns for 2004 and 2005. 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 the Bureau's tax calculation did not take into account their farm income and expenses. They stated that if

their farming activities were included, they anticipate a refund would be due. The taxpayers requested additional time to prepare and submit income tax returns.

The Bureau allowed the taxpayers the additional time they requested, but the taxpayers failed to provide any returns. The Bureau continued corresponding with the taxpayers and eventually received an income tax return for 2004. The Bureau reviewed the return and accepted it in lieu of the return it prepared. The Bureau worked with the taxpayers to get their 2005 return, but when nothing was received after a substantial amount of time passed, 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 to the Tax Commission's letter, so the Tax Commission sent the taxpayers a follow-up letter. The taxpayers contacted the Tax Commission and stated their return would be mailed that day or the next day. A little over a week later, the Tax Commission received the taxpayers' 2005 Idaho income tax return.

The Tax Commission reviewed the taxpayers' 2005 return and found it to be a better representation of the taxpayers' taxable income than the return prepared by the Bureau. Therefore, the Tax Commission accepts the taxpayers' 2005 return in lieu of the Bureau's return, subject to the normal review processes of the Tax Commission.

The taxpayers' return resulted in a refund. Generally, Idaho Code section 63-3072 would prohibit crediting or refunding the claim because it was not made within three years of the due date of the return. However, because the Tax Commission issued a Notice of Deficiency Determination within the three (3) year statute of limitations, the period of limitations is suspended until the final resolution of the deficiency determination. Therefore, since the period

of limitations is still open, the taxpayers are entitled to the refund claimed on their 2005 income tax return.

WHEREFORE, the Notice of Deficiency Determination dated July 27, 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 receive the following refund:

<u>YEAR</u>	<u>REFUND</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$1,275	\$ 0	\$ 0	\$1,275

Since the taxpayers are to receive a refund, no DEMAND for payment is required or needed.

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

DATED this _____ day of _____ 2009.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2009, 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.
