

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20942
[REDACTED],)	
)	DECISION
Petitioners.)	
<hr style="width: 45%; margin-left: 0;"/>		

On December 5, 2007, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioners) proposing income tax, penalty, and interest for taxable years 2002 and 2004 in the total amount of \$2,405.

A timely protest and petition for redetermination was filed by the petitioners. An informal hearing has not been requested by the petitioners. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

The petitioners failed to file their 2002 and 2004 Idaho individual income tax returns. On October 22, 2007, the TDB sent a letter with a questionnaire to the petitioners to help the Commission properly determine the petitioners' filing requirement. The petitioners did not respond to this letter. I[Redacted]. The Commission issued an NOD to the petitioners on December 5, 2007, [Redacted].

In the petitioners' protest letter postmarked February 6, 2008, [Redacted] stated;

This letter is to protest the Notice of Deficiency Determination [Redacted]. We received the notice a few days after December 5, 2007 stating that we owe taxes, penalties, and interest for tax years of 2002 and 2004. We, according to our memory, filed taxes for these years. We also recollect paying the taxes due for theses [sic] years as well. We do have copies of the tax returns that were filed for these years. Since receiving the notification we have been in the process of locating the tax returns and all supporting documentation for these years. Once located, we will forward them to your office.

We would like to ask for an extended period of time to provide this documentation to you. If possible we would like to ask for a deadline of March 15, 2008 to gather and forward the proof of filing to your office. Please notify us if this extension of time is possible.

The TDB sent the petitioners a letter dated January 12, 2008, which stated that the TDB would retain the petitioners' file while the TDB awaited the information the petitioners had yet to provide. The TDB requested the petitioners provide the information by March 10, 2008. The petitioners were also informed that if their issues could not be resolved in the TDB, their file would be transferred to the Commission's Legal/Tax Policy division for further review.

On March 27, 2008, the Commission received the petitioners' 2002 Idaho individual income tax return.

On May 21, 2008, the TDB sent the petitioners an e-mail acknowledging that the TDB had reviewed the information submitted by the petitioners for tax year 2002 and determined that the NOD dated December 5, 2007, should be cancelled for tax 2002 only. The TDB requested that the petitioners send in their 2004 return by June 6, 2008. The petitioners' 2002 individual income tax return will not be addressed any further in this decision.

On November 10, 2008, the tax policy specialist (policy specialist) sent the petitioners a letter to inform them of the alternatives for redetermining a protested NOD. A follow-up letter was sent to the petitioners on December 30, 2008. The petitioners did not respond to either letter.

The petitioners have not provided the Commission with information to establish that the amounts asserted in the NOD, as adjusted, are incorrect. As a result, the Commission will uphold the NOD, as adjusted. A determination of the State Tax Commission is presumed to be correct. *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The burden is on the petitioners to show that the deficiency is erroneous. *Parsons v.*

Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986).

[Redacted] The petitioners have not provided the Commission with a contrary result to the determination of their income [Redacted]. Therefore, the Commission must uphold the deficiency as modified.

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

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$647	\$162	\$170	\$979

Interest is computed through May 28, 2008, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

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

An explanation of the petitioners' 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.
