

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 21031
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On February 14, 2008, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing income tax, penalty, and interest for taxable years 2002 through 2006 in the total amount of \$13,498.

The taxpayers filed a timely appeal. They also filed their 2006 Idaho individual income tax return and provided additional withholding information for taxable year 2002. The W-2 provided by the taxpayers indicated an amount was withheld in excess of the tax due for 2002 and, therefore, the NODD was cancelled for that year as well as for taxable year 2006. Those years will not be mentioned further in this decision. No information was submitted for taxable years 2003 through 2005. The taxpayers did not request a hearing. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

When the Bureau could not find any record of the taxpayers' 2003 through 2005 Idaho individual income tax returns, the taxpayers were sent a letter advising them of the missing returns and asking them for an explanation. The taxpayers did not respond.

[Redacted].

The Bureau prepared the missing returns on behalf of the taxpayers and sent them an NODD. The taxpayers appealed the NODD stating that they worked outside of Idaho during the years in question and were not required to file Idaho individual income tax returns. The Bureau

acknowledged the protest, and the 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 wherein they were advised of their rights regarding their appeal. A follow-up letter sent by the tax policy specialist also went unanswered. Therefore, the Tax Commission decided the matter based upon the information available.

The Bureau received information that showed the taxpayers had W-2 wages for taxable years 2003 through 2005. The amounts reported were in excess of the filing thresholds of Idaho Code § 63-3030 for each year. [Redacted]. The taxpayers also received Idaho driver's licenses and resident fish and game licenses in 2002. The fish and game license applied for by Mr. [Redacted] stated he has been a resident since 1999, and the application of Mrs. [Redacted] stated she has been a resident since 2000. In addition, the taxpayers submitted to the Commission an Idaho Business registration form in 2001 that listed a [Redacted], Idaho, address as their residence, and the contact number listed on the application was an Idaho phone number. All these pieces of information are indications that the taxpayers considered themselves, and indeed were, residents of Idaho.

Idaho Code section 63-3002 states the intent and purpose of the Idaho Income Tax Act:

[T]o impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state.

As residents of Idaho, if the taxpayers had income in excess of the filing requirements of Idaho Code § 63-3030, they were required to file Idaho individual income tax returns. From the information available, it is clear the taxpayers had income in excess of the filing requirement.

The taxpayers have provided nothing that shows otherwise. Therefore, the Tax Commission finds the taxpayers did have a requirement to file Idaho individual income tax returns.

However, based on the information provided by the taxpayers and information available to the Tax Commission, it is also apparent that the taxpayers did work in other states besides Idaho and filed returns with those states. Idaho Code § 63-3029 provides for a credit for income tax paid to another state or territory. The credit is available to resident individuals for the amount of any income tax imposed by another state on income from sources within that state that is also subject to tax by Idaho.

The taxpayers provided a copy of an [Redacted] state income tax return for taxable year 2005 and a credit for taxes paid was allowed for that year. While the taxpayers did not provide a copy of the return they filed with [Redacted] for taxable year 2004, it is reasonable to assume they did file since [Redacted] records show a refund was received. Based on the information available to the Tax Commission, an information only non-resident [Redacted] return was prepared by the Tax Commission to determine what tax was paid. A credit for taxes paid to [Redacted] was then allowed for taxable year 2004.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayers have provided nothing that would dissuade the Tax Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for taxable years 2003, 2004, and 2005.

WHEREFORE, the Notice of Deficiency Determination dated February 14, 2008, is hereby MODIFIED, APPROVED, 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	\$ 182	\$ 46	\$ 60	\$ 288
2004	1,548	387	421	2,356
2005	486	122	103	<u>711</u>
			TOTAL DUE	<u>\$3,355</u>

Interest is calculated through July 31, 2009.

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 \_\_\_\_\_, 2009.

IDAHO STATE TAX COMMISSION

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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.

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