

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 21148
[REDACTED],	)	
	)	DECISION
Petitioners.	)	
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On March 10, 2008, 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 2004 through 2006 in the total amount of \$28,393.

On May 12, 2008, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather wanted to provide corrected income tax returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

As part of the Tax Commission’s discovery program, the taxpayers were identified as individuals that potentially had a requirement to file Idaho individual income tax returns for the taxable years 2004 through 2006. The Tax Discovery Bureau (Bureau) sent the taxpayers a letter asking them about their requirement to file Idaho individual income tax returns but did not receive a response from the taxpayers. The Bureau obtained additional information [Redacted] and determined the taxpayers were required to file Idaho income tax returns. The Bureau prepared income tax returns for the taxpayers and sent them a Notice of Deficiency Determination.

Upon receipt of the Notice of Deficiency Determination, the taxpayers contacted the Bureau and stated that they thought there was a three-year statute in which to file their income

tax returns. The Bureau explained that individual income tax returns had a due date of the fifteenth day of the fourth month following the close of the taxable year for filing income tax returns. The Bureau told the taxpayers that they were confusing the due date of the returns with the general statute of limitations for receiving a refund. The taxpayers stated they would start working on their returns to get them filed.

The taxpayers submitted income tax returns to the Bureau within the appeal time of the Notice of Deficiency Determination. The Bureau reviewed the taxpayers' returns and accepted them as a protest of the Notice of Deficiency Determination. The Bureau accepted the taxpayers' 2006 return but did not accept their 2004 and 2005 returns. The Bureau contacted the taxpayers and told them that their 2006 return was accepted but that their 2004 and 2005 returns were not accepted because they did not report all the income the taxpayers received in those years. The Bureau gave the taxpayers a list of the missing income and asked them to provide corrected income tax returns. The taxpayers did not respond, so 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, so the Tax Commission sent a follow-up letter to the taxpayers. The taxpayers contacted the Tax Commission and asked for information on the missing income. The Tax Commission provided the taxpayers with the information and discussed why the income was not exempt from being taxed. The taxpayers stated they would re-file their 2004 and 2005 returns.

After some additional coaxing, the taxpayers provided a second filing of their 2004 and 2005 Idaho income tax returns. The Tax Commission reviewed the taxpayers' returns and found

that they included the missing income omitted on the first set of returns. The Tax Commission also found these returns to be a better representation of the taxpayers' Idaho taxable income than the returns prepared by the Bureau. Therefore, the Tax Commission accepts the taxpayers' returns, subject to the normal review process of the Tax Commission, in lieu of the returns prepared by the Bureau.

Since the Bureau previously accepted the taxpayers' 2006 return, the Tax Commission will not address it any further except to say that the 2006 return is not a part of this decision. The taxpayers' 2004 return resulted in tax owed to the state of Idaho. Since the taxpayers did not file this return by the due date, the Tax Commission finds it appropriate to add interest and penalty in accordance with Idaho Code sections 63-3045 and 63-3046, respectively. The taxpayers' 2005 return resulted in a refund. Therefore, in accordance with Idaho Code section 63-3072, the refund is applied to offset the tax, interest, and penalty of the 2004 tax year.

WHEREFORE, the Notice of Deficiency Determination dated March 10, 2008, 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 (computed to April 1, 2009):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$4,403	\$1,101	\$1,124	\$6,628
2005	(472)	0	0	(472)
			<b>TOTAL DUE</b>	<b><u>\$6,156</u></b>

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.  
  
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