BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of	)	
	)	DOCKET NO. 21244
[REDACTED],	)	
	)	DECISION
Petitioners.	)	
	)	
	)	

On May 21, 2008, the staff of the Income Tax Audit 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 2000 through 2002 in the total amount of $33,595.

On June 25, 2008, [Redacted] filed a timely appeal and petition for redetermination. [Redacted] requested a hearing which was held November 18, 2008. The Tax Commission, having reviewed the file, hereby issues its decision.

The Income Tax Audit Bureau (Bureau) received information [Redacted] that a change was made to the taxpayers' 2000, 2001, and 2002 federal income tax returns. The Bureau reviewed the changes [Redacted] made and determined the taxpayers' Idaho income tax returns should be adjusted. The Bureau adjusted the taxpayers' Idaho income tax returns, and since the taxpayers are now divorced, the Bureau sent both of them a Notice of Deficiency Determination. [Redacted] appealed the Bureau's determination, while [Redacted] did not respond at all. Therefore, hereafter in the remainder of this decision, taxpayer refers to Mr. Shutts.

The taxpayer stated the Tax Commission was assessing additional tax based on a federal examination that was challenged in Tax Court by the taxpayer. He stated that due to some legal restrictions the proposed federal changes have not been approved by the Tax Court. The taxpayer stated that the adjustments for 2000 and 2002 were not assessed and, therefore, not

final. He stated he is willing to concede the adjustments to 2001 and will arrange to pay the additional tax owed.

The Bureau acknowledged the taxpayer's protest and referred the matter for administrative review. The Tax Commission sent the taxpayer a letter that explained the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer requested a hearing. At the hearing, the taxpayer explained the situation at the federal level and presented arguments why the Tax Commission should delay or relieve the taxpayer of the additional Idaho tax. The Tax Commission, having considered the arguments and being duly advised, makes the following decision.

Idaho Code section 63-3002 states the intent of the Idaho Legislature regarding the Idaho Income Tax Act. It states that the Idaho Act is to be identical to the Internal Revenue Code as it relates to the measurement of taxable income, in so much as that the taxable income reported to Idaho is the same as that reported [Redacted] subject to the modifications contained in the Idaho law. The information the Bureau received showed the taxpayer's federal taxable income had changed. Therefore, the Bureau adjusted the taxpayer's Idaho income tax returns to agree with the federal changes. The taxpayer argued some of the federal changes were not valid and others were not settled; therefore, the Tax Commission could not assess the additional tax based upon the federal changes.

The information available to the Tax Commission, as of September 4, 2008, shows the federal government is still pursuing collection on the changes made to the taxpayer's 2000, 2001, and 2002 federal income tax returns. Therefore, it is the Tax Commission's decision to uphold the adjustments to the taxpayer's 2000 and 2001 Idaho income tax returns. Should the taxpayer receive some sort of relief [Redacted] or the Courts, the taxpayer can present those findings to

the Tax Commission for further consideration. As for the adjustments to tax year 2002, the Tax Commission finds that there are extenuating circumstances that may preclude the collection of additional tax for that year. Therefore, the Tax Commission hereby cancels the Notice of Deficiency Determination for the taxable year 2002.

WHEREFORE, the Notice of Deficiency Determination dated May 21, 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 ([Redacted][Redacted]) pay the following tax, penalty, and interest (computed to May 31, 2009):

YEAR	TAX	PENALTY	INTEREST	TOTAL
2000	$8,931	$1,340	$4,624	$14,895
2001	3,574	179	1,575	5,328
2002	0	0	0	0
			TOTAL DUE	$20,223

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

_____

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.

[REDACTED]

Receipt No.

_____