

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 21290
[REDACTED]	)	
	)	DECISION
Petitioners.	)	
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On March 14, 2008, the Idaho State Tax Commission’s (Commission) Income Tax Audit Bureau (ITA) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioners) proposing additional income tax, penalty, and interest for the taxable years 2004, 2005, and 2006, in the total amount of \$24,367. The petitioners filed a timely petition for redetermination. The petitioners were informed of their appeal rights in a letter dated March 3, 2009. In addition to informing the petitioners of their appeal rights, a modified audit report was sent to the petitioners modifying the amount sought from \$24,367 to \$21,748. The Commission, having reviewed the file, hereby issues its decision.

In August 2007, the ITA notified the petitioners that their 2004, 2005, and 2006, Idaho individual income tax returns had been selected for audit. More specifically, the ITA notified the petitioners that the ITA would be reviewing 1) if the petitioners should have filed an amended Idaho income tax return for 2004 to report the adjustments made to that tax year by the Internal Revenue Service; 2) the expenses claimed on Federal Schedule A for medical and dental expenses; 3) the expenses claimed on Federal Schedule A for unreimbursed employee expenses and 4) the petitioners filing of a Federal schedule C showing a net loss for each of the years.

The ITA made additional attempts on November 17, 2007, and December 12, 2007, to secure certain specific information from the petitioners. In those letters, the ITA requested that the petitioners provide the following documentation supporting the:

[Redacted]. Since the petitioners did not respond to the ITA's documentation requests, the ITA issued the NODD on March 14, 2008. The petitioners filed a petition for redetermination in April 2008 and subsequent to the filing of the petition, the petitioners provided some additional documentation involving a few of the stock sales. As a result of the additional information, the ITA sent a modified audit report to the petitioners which resulted in a reduction of the amount sought from \$24,367 to \$21,748.

The ITA, unsuccessful in its attempts to acquire the remaining requested information, forwarded the petitioners' petition for redetermination to the Commission's Policy and Legal department for resolution. On March 3, 2009, the petitioners were sent a letter informing them of their appeal rights.

On April 20, 2009, the petitioner forwarded to the Commission [Redacted]. As of the date of this decision, the petitioners have not provided any additional information that would resolve this case in the petitioners' favor for taxable years 2004, 2005, and 2006. Having presented no additional information in support of their argument, the petitioners have failed to meet their burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State Dept. of Revenue, 106 Idaho 810, 814, (1984); Parsons v. Idaho State Tax Comm'n, 110 Idaho 572, 574 (Ct. App. 1986). Since the petitioners have not met this burden of proof of showing that the Notice of Deficiency Determination, as subsequently modified, is incorrect, the Commission upholds the ITA's determination for the taxable years 2004 through 2006.

WHEREFORE, the Notice of Deficiency Determination dated March 14, 2008, as modified by the subsequent aforementioned audit report, is hereby MODIFIED, 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	\$11,672	\$584	\$3,272	\$15,528
2005	4,096	205	902	5,203
2006	1,194	60	188	<u>1,442</u>
			TOTAL DUE	<u>\$22,173</u>

Interest for taxable years 2004, 2005, and 2006, is calculated through September 30, 2009, and will continue to accrue at the rate set forth in Idaho Code section 63-3045.

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.  
  
\_\_\_\_\_