

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21304
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On July 14, 2008, the staff of the Income Tax Audit Bureau (ITA) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing additional income tax, penalty, and interest for taxable year 2004 in the total amount of \$1,778.

A timely protest and petition for redetermination was filed by the petitioner's representative (representative). Neither the representative nor the petitioner has requested a hearing. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The petitioner was issued an NOD by the Commission [Redacted]. [Redacted] ITA, therefore, issued an NOD based on that information and adjusted the petitioner's Idaho return. The Commission finds that the ITA correctly recomputed the petitioner's tax liability [Redacted].

In the petitioner's protest letter dated and received by fax on July 16, 2008, the representative stated:

We have reason to believe that the federal assessment upon which your deficiency determination is based is in error, and for that reason are lodging this protest immediately.

To the best of our knowledge the taxpayer has properly reported all of his income, but according to the [Redacted] rep with whom we visited this morning, they issued a CP2000 claiming an additional W-2 income of 43,000, which sounds to us like a duplication of the income already reported by the taxpayer.

Because of a recent address change by the taxpayer, this information never came to him from [Redacted]. Your assessment is the first we have known of this whole matter.

It was way too much to ask of [Redacted] to merely furnish us a copy of the CP2000 on the spot, so we are going to have to engage in the correspondence process to get it, because after an hour or so of waiting on hold, we had a belly full of them and their "service"

When we have more information from the [Redacted], we will advise you, at which point you can correct your assessment also.

On July 21, 2008, the tax auditor sent a letter to the representative which stated:

We have received your protest/request for redetermination dated and faxed on July 16, 2008, in response to the Notice of Deficiency Determination dated July 14, 2008, for the referenced tax years.

Due to the fact that the Notice of Deficiency Determination mailed via Certified Mail on July 14, 2008 was based entirely upon information obtained from a [Redacted], it will remain in effect unless or until the [Redacted] either modifies or cancels their audit of the above referenced tax year. As noted on page 2 of my report, the adjustments were due to the [Redacted] disallowing all unreimbursed employee and other expenses claimed on line 26 of Schedule A and not on missing wages as indicated in your fax.

When you receive written confirmation from the [Redacted] that they are modifying or canceling their original audit, please forward a copy to my attention using the enclosed envelope or by fax. Since the additional [Redacted] documentation necessary to resolve the issue protested is not currently available, the file is being retained in the audit section until December 29, 2008. If you have not contacted me by then, the file will be sent to our legal section for continuation of the appeals process.

On December 12, 2008, the representative sent an e-mail to the tax auditor in which he stated that due to a move and some divorce-related issues, the petitioner was not able to locate his 2004 records for some time. The representative stated that because of this, he had really no basis for a proper response [Redacted]. The representative stated that they had now requested that the [Redacted] get them what they needed to deal with the [Redacted] determination and should

hopefully have that before long. The representative stated they needed more time to get the tax auditor the information he required. The tax auditor responded via e-mail to the representative granting him additional time to February 27, 2009. The additional information was not received, therefore the petitioner's file was transferred to the Commission's Legal/Tax Policy division for further review.

On June 17, 2009, the tax policy specialist (policy specialist) sent the representative a letter to inform him of the alternatives for redetermining a protested NOD. A follow-up letter was sent to the representative on August 4, 2009. The representative did not respond to either letter.

Idaho Code § 63-3002 states that it is the intent of the Idaho Legislature, insofar as possible, to make the Idaho Income Tax Code identical to the Internal Revenue Code in the way taxable income is determined. Idaho Code § 63-3069 states that, upon a final determination of any deficiency or refund of federal taxes, written notice shall be immediately sent to the State Tax Commission by a taxpayer. IDAPA 35.01.01 Income Tax Administrative Rule 890.03 states that immediate written notification is required within 60 days of the final determination.

From the cited Idaho Code sections and the Administrative Rule, it is apparent the Idaho Legislature intended any changes made to a petitioner's federal return to be reflected on the petitioner's Idaho return.

The petitioner has the burden of proving the adjustments were incorrect. The petitioner would like the Commission to re-audit [Redacted]. The Commission's position is that the petitioner must be granted relief at the federal level before relief can be granted at the state level. The petitioner has failed to carry the burden in this matter.

Since the petitioner has not provided the Commission with a contrary result [Redacted], the Commission must uphold the deficiency as asserted.

WHEREFORE, the Notice of Deficiency Determination dated July 14, 2008, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$1,394	\$70	\$408	\$1,872

Interest is calculated through December 24, 2009, 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 petitioner's right to appeal this decision is enclosed.

DATED this ____ day of _____, 2009.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2009, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
