

a community property split of income and sent each of them a Notice of Deficiency Determination.

The taxpayers protested the Bureau's determination stating they would provide income tax returns before the end of the protest period. The taxpayers stated the Bureau did not allow for any withholdings and they had itemized deductions that would eliminate any tax they might owe. The Bureau allowed the taxpayers additional time to provide their income tax returns but failed to receive any returns within the requested time. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent each of the taxpayers a letter that discussed the methods available for redetermining protested Notices of Deficiency Determination. The taxpayers contacted the Tax Commission and stated they were working to get the returns completed and filed. They stated they had problems with their tax preparer so they retained another and were working to recover their records. The taxpayers stated they were hoping to have their returns completed and to the Tax Commission in 30 days.

The taxpayers did not provide their returns within the 30 days, but they did contact the Tax Commission again. The taxpayers stated they were going through some personal difficulties but they hoped to have the returns within a couple of weeks. The taxpayers did not provide their returns within the two weeks but, shortly thereafter, the Tax Commission received the taxpayers' income tax returns for the taxable years 2005 and 2006.

CONCLUSION

The Tax Commission reviewed the taxpayers' returns and found them 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.

The taxpayers' returns resulted in refunds for both years. Generally, Idaho Code section 63-3072 would prohibit the claim for credit or refund of the taxpayers' 2005 excess tax payment. However, because the Tax Commission issued the Notices of Deficiency Determination within the three-year statute of limitations, the period of limitations was suspended until the final resolution of the deficiency determination. Therefore, since the period of limitations is still open, the taxpayers are entitled to the carryover credit to their 2006 Idaho individual income tax return.

WHEREFORE, the Notices of Deficiency Determination dated July 23, 2008, are hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, are APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers receive a carryover credit in the following amounts:

<u>YEAR</u>	<u>REFUND</u>	<u>TOTAL</u>
2005	\$1,982	\$1,982
2006	2,644	2,644

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.
