

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21488
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On April 14, 2008, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing income tax, penalty, and interest for taxable years 2003 and 2004 in the total amount of \$2,376.

The taxpayers filed a timely protest. They did not submit additional information or request an informal conference. The Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

When the Bureau could not find any record of the taxpayers' 2003 and 2004 Idaho individual income tax returns, the taxpayers were sent a letter advising them of the missing returns and asking them for an explanation. The taxpayers did not respond.

[Redacted] Idaho Code § 63-3045(1)(a) states:

Notice of redetermination or deficiency -- Interest. (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

Because the taxpayers did not file their state income tax returns, the Bureau prepared provisional returns and issued an NODD. The NODD was based on information obtained from [Redacted] and those records retained by the Commission. The taxpayers protested the Bureau's determination stating that they had deductions that were not taken into consideration on the NODD.

The Bureau sent the taxpayers a letter to acknowledge their protest. They were allowed a continuance. However, when the returns did not arrive as promised, their file was transferred to the Legal/Tax Policy Division of the Commission for administrative review.

The taxpayers did not respond to a letter advising them of their appeal rights. A follow-up letter was sent, and the taxpayers responded, again requesting additional time in which to prepare returns. To date, the Commission has not received the taxpayers' 2003 and 2004 Idaho individual income tax returns or any additional information. The Commission, believing the taxpayers have had more than an adequate amount of time to prepare and submit their income tax returns, decided this matter based on the information available.

The Idaho resident individual income tax returns the Bureau prepared on behalf of the taxpayers were based on income information gleaned from the taxpayers' [Redacted] records and the records retained by the Commission. The Bureau calculated the taxpayers' Idaho tax for taxable year 2004 using a filing status of Married, filing joint, with three exemptions as shown in [Redacted] records.

For taxable year 2003, [Redacted] records showed the taxpayers did not file a federal return. However, Commission information shows the taxpayers had an active sales/use tax permit under the name of [Redacted] during the years in question. Sales/use tax reports submitted by the taxpayers were used by the Bureau to estimate the income and the resulting tax

due for taxable year 2003. A filing status of Married, filing joint was used, and because the taxpayers did not file a federal return, the Bureau allowed only two exemptions.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayers to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayers did not meet their burden. The taxpayers stated that the Bureau did not account for the expenses incurred. However, it is the taxpayers' responsibility, and the burden rests upon them to disclose their receipts and claim their proper deductions. United States v. Ballard, 535 F.2d 400 (1976). The Commission recognizes that the taxpayers may have had business expenses to offset their income; yet, if the taxpayers are unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed, and the taxpayers must bear their misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). Since the taxpayers failed to meet this burden, the Commission finds the adjusted gross income amount for taxable year 2003, as prepared by the Bureau, is a reasonable representation of the taxpayers' Idaho adjusted gross income based upon the information available. Therefore, the Commission upholds the Bureau's determination of the taxpayers' adjusted gross income, but has modified the NODD as it pertains to the amount of exemptions allowed. [Redacted] records show the taxpayers' were allowed a total of four exemptions for taxable year 2002 and three exemptions for taxable year 2004. The Commission believes that for taxable year 2003, it is reasonable to assume the taxpayers had at least one dependent, therefore the NODD is modified to include an additional exemption.

The interest and penalty added by the Bureau pursuant to Idaho Code §§ 63-3045 and 63-3046 was reviewed and found to be proper and in accordance with Idaho Code.

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

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$1,173	\$293	\$390	\$1,856
2004	156	39	43	238
			TOTAL DUE	\$2,094

Interest is calculated through August 7, 2009.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer'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 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.
