

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21758
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On January 9, 2009, the staff of the Revenue Operations Division of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers) charging a penalty to the taxable year 2007 in the total amount of \$4,666.80.

On February 4, 2009, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers requested a hearing which was held April 21, 2009. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayers filed their 2007 Idaho individual income tax return on September 24, 2008. Revenue Operations processed the taxpayers' return and found that it did not meet the requirements of a timely filed return because the taxpayers did not pay at least 80 percent of the tax due by the due date of the return. Revenue Operations added the penalty prescribed in Idaho Code section 63-3033 (relating to extension of time) and sent the taxpayers a Notice of Deficiency Determination.

The taxpayers protested the addition of the penalty. The taxpayers stated there was reasonable cause that their estimated tax payments did not meet the requirements of Idaho Code section 63-3033. The taxpayers provided copies of the information they relied upon when determining their extension payment. They stated their Idaho tax was computed on all of the information that was available by the due date of the return.

Idaho Code section 63-3033 states in pertinent part:

(a) Taxpayers shall have an automatic extension of time for filing any return, declaration, statement or other document required by this chapter for a period of six (6) months if on or before the unextended due date the taxpayer has paid at least eighty percent (80%) of the total tax due on the income tax return when it is filed, or the total tax due on the income tax return for the prior year if a return was filed for the prior year. . . .

(f) If the amount of payment made under subsection (a) of this section is less than eighty percent (80%) of the total tax due under the provisions of this chapter and is less than the amount of the total tax due on the income tax return for the prior year, except as permitted by subsection (b) of this section, a penalty may be applied to the total of the balance due unless reasonable cause can be established.

Whether or not the taxpayer is liable for taxes is a question of tax law which often only an expert can answer. The taxpayer not only can, but must, rely on the advice of either an accountant or a lawyer. This reliance is clearly an exercise of ordinary business care and prudence. U.S. vs. Kroll, 547 F.2d 393 (1977). The information the taxpayers provided during the hearing and additional information the Tax Commission found in its records leads the Tax Commission to believe that the taxpayers did all that they could do to meet the requirement for extending the due date of their 2007 return without penalty. In fact, the taxpayers, when computing the amount of tax for the extension, paid 100 percent of the computed tax not just the required 80 percent.

Therefore, the Tax Commission finds there was reasonable cause for the taxpayers' underpayment of tax and hereby waives the extension of time filing penalty of Idaho Code section 63-3033.

WHEREFORE, the Notice of Deficiency Determination dated January 9, 2009, is hereby CANCELLED.

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]