

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21917
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On March 4, 2009, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioners) proposing additional tax and interest for taxable years 2006 and 2007 in the total amount of \$6,074.

A timely protest and petition for redetermination was filed by the petitioners. An informal hearing was requested by the petitioners and held on September 3, 2009. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the deficiency determination.

The petitioners filed their 2006 and 2007 Idaho resident individual income tax returns reporting Idaho income and claiming Idaho income tax withholding. A review of the petitioners' imaged W-2s [Redacted] showed that [Redacted] state income taxes were withheld. The work for this company was performed in Idaho.

The petitioners claimed the [Redacted] state income tax withholding [Redacted] as Idaho state income tax withholding. A billing letter was sent, and then an NOD was issued to deny the petitioners' claim for Idaho income tax withholding on their Idaho income tax returns that was really [Redacted] state income tax withholding.

The petitioners were advised to file [Redacted] income tax returns to receive back their [Redacted] income tax withholding to pay back to Idaho the improperly claimed withholding.

The petitioners were not charged a negligence penalty of 5 percent due to their quick response and cooperation.

[Redacted] stated in the petitioners' protest letter that he had no objection to paying the principal amount of Idaho income tax withholding due. [Redacted] stated that his only disagreement was with the interest because he believed that the error was solely the responsibility of the payroll department of the company. [Redacted] stated that he was unable to convince [Redacted] to reimburse them for the interest charges.

The TDB calculated interest in accordance with Idaho Code section 63-3045(6)(b) at the same time the NOD was issued. The TDB informed [Redacted] that interest had been charged as a matter of law.

On May 20, 2009, the Tax Policy Specialist (policy specialist) sent the petitioners a letter to inform them of the alternatives for redetermining a protested NOD. A follow-up letter was sent to the petitioners on August 12, 2009. [Redacted] called the policy specialist to schedule a hearing after he received the follow-up letter.

On June 10, 2009, the Commission received a payment from the petitioners for the income tax due in the NOD. The NOD in this case has been modified to account for the petitioners' payment.

During the petitioners' hearing, [Redacted] stated that she changed her mailing address to Idaho on [Redacted] personnel's self-service system when she moved to Idaho. [Redacted] supervisors and [Redacted] personnel's self-service system failed to notify [Redacted] personnel department of [Redacted] new work location. Since [Redacted] personnel department was not notified of [Redacted] relocation, the personnel department continued to withhold [Redacted] income taxes from her wages. The petitioners requested the Commission waive the interest in the revised NOD.

The Idaho Supreme Court, in hearing Union Pacific Railroad Company v. State Tax Commission, 105 Idaho 471, 670 P.2d 878 (1983), addressed whether the taxpayer was required to pay interest. The Court said:

The general rule is that absent statutory authorization, courts have no power to remit interest imposed by statute on a tax deficiency. American Airlines, Inc. v. City of St. Louis, 368 S.W.2d 161 (Mo. 1963); see generally 85 C.J.S. Taxation, § 1031(c) (1954). We agree with the State that I.C. § 63-3045(c) is clear and unequivocal when it states that 'interest ... shall be assessed' and 'shall be collected.' This section is not discretionary, but rather, it is mandatory. Following the language of this section we hold that this Court, as well as the district court, lacks any power to remit the interest that is mandated by the statute. Therefore, as to the interest issue we reverse with directions for the trial court to award interest from 1942.

The bottom line here is the petitioners claimed Idaho income tax withholding on their Idaho income tax returns for which the state of Idaho never received. Therefore, the Commission cannot waive the interest imposed in this case.

The petitioners have not provided the Commission with a contrary result to the determination of their income tax and interest due for taxable years 2006 and 2007. Therefore, the Commission must uphold the deficiency as modified.

WHEREFORE, the Notice of Deficiency Determination dated March 4, 2009, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2006	\$2,689	\$396	\$ 3,085
2007	2,826	211	3,037
		SUBTOTAL	<u>\$6,122</u>
		LESS PAYMENT	<u>(5,515)</u>
		TOTAL DUE	<u>\$ 607</u>

Interest is computed through March 3, 2010, 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 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.
