

tax return.

On April 22, 2008, the TDB sent the petitioners an email acknowledging that the TDB had reviewed the tax return submitted by the petitioners for taxable year 2004 and determined that the NOD dated January 4, 2008, should be cancelled for taxable year 2004 only. The TDB restated from a previous correspondence that the petitioners send in their 2005 return by May 16, 2008. The petitioners' 2004 individual income tax return is subject to the Commission's review process and will not be addressed any further in this decision.

On September 9, 2009, the tax policy specialist (policy specialist) sent the petitioners a letter to inform them of the alternatives for redetermining a protested NOD. The petitioners contacted the policy specialist by phone on October 9, 2009, and requested additional time to complete their 2005 return. At the time of this decision, the petitioners have not filed their 2005 Idaho income tax return.

The petitioners have not provided the Commission with information to establish that the amounts asserted in the NOD, as adjusted, are incorrect. As a result, the Commission will uphold the NOD, as adjusted. A determination of the State Tax Commission is presumed to be correct. *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The burden is on the petitioners to show that the deficiency is erroneous. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986).

[Redacted] The petitioners have not provided the Commission with a contrary result to the determination of their income for taxable year 2005 [Redacted] Therefore, the Commission must uphold the deficiency as modified.

WHEREFORE, the Notice of Deficiency Determination dated January 4, 2008, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 2005 | \$4,491 | \$1,123 | \$1,169 | \$6,783 |

Interest is computed through July 23, 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 _____ 2010.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____ 2010, 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.
