

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

|   |   |                   |
|---|---|-------------------|
| In the Matter of the Protest of           | ) |                   |
|   | ) | DOCKET NO. 20995A |
| [REDACTED] ,                              | ) |                   |
|   | ) | AMENDED DECISION  |
| Petitioners.                              | ) |                   |
| <hr style="width: 40%; margin-left: 0;"/> |   |                   |
|   | ) |                   |

On April 26, 2010, the Idaho State Tax Commission (Commission) issued a decision on Docket No. 20995 to [Redacted] (petitioners) for taxable year 2005. The decision affirmed the Commission’s use of federal information in determining the taxable income of the petitioners and agreed with the tax computation prepared by the Tax Discovery Bureau (TDB). The Commission based its decision upon the information available since the petitioners failed to file their Idaho income tax return or provide additional documentation for that year.

The petitioners submitted their 2005 income tax return they had prepared. Since the petitioners submitted this return within the appeal period of the decision, the Commission decided to consider the additional information.

The Commission reviewed the petitioners’ 2005 income tax return and found it was a better representation of the petitioners’ taxable income for the taxable year 2005. Therefore, the Commission accepts the petitioners’ 2005 return, subject to the normal review process of the Commission, in lieu of the return prepared by the TDB.

The petitioners’ return for 2005 resulted in a refund. However, Idaho Code section 63-3072(c) states that a claim for refund or credit of the overpayment of Idaho income taxes withheld shall be made within three years from the due date of the return. Idaho Code section 63-3024A(g) states that a refund claim must be filed within three years of the due date of the return. The petitioners’ 2005 return had a due date of April 15, 2006. Since the petitioners’ 2005

return was received July 26, 2010, well outside the three-year statute of limitations, the Commission would normally deny this refund. However, since the NOD in this case was issued prior to the expiration of the three-year statute of limitations for taxable year 2005, the statute of limitations is suspended for that year. Idaho Code section 63-3072(i) states:

The expiration of the period of limitations as provided in this section shall be suspended for the time period between the issuance by the state tax commission of a notice under either section 63-3045 or 63-3065, Idaho Code, and the final resolution of any proceeding resulting from the notice.

Therefore, the petitioners' refund for taxable year 2005 will be refunded.

WHEREFORE, the decision for Docket No. 20995 dated April 26, 2010, is hereby AMENDED to include the provisions of this amended decision.

IT IS ORDERED and THIS DOES ORDER that the petitioners receive the following tax refund:

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 2005        | (198)      | 0              | 0               | (198)        |

An explanation of the petitioners' right to appeal this decision is enclosed.

DATED this \_\_\_ day of \_\_\_\_\_ 2010.

IDAHO STATE TAX COMMISSION

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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.

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