

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21356
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On June 19, 2008, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers) proposing income tax, penalty, and interest for taxable years 2003, 2005, and 2006 in the total amount of \$37,140.

On August 21, 2008, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather wanted to provide corrected income tax returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

As part of the Tax Commission’s discovery program, the taxpayers were identified as individuals that had a requirement to file Idaho individual income tax returns for taxable years 2003, 2005, and 2006. The Tax Discovery Bureau (Bureau) sent the taxpayers a letter asking them about their requirement to file Idaho individual income tax returns. The taxpayers replied that they knew they needed to file income tax returns and expected to resolve the matter by the middle of May 2008. The Bureau allowed the taxpayers additional time to submit their income tax returns but the taxpayers failed to provide any returns or contact the Bureau. The Bureau obtained additional information [Redacted], prepared returns for the taxpayers, and sent them a Notice of Deficiency Determination.

The taxpayers protested the Bureau's determination. The taxpayers stated they would file returns with true and accurate figures for each of the years. The taxpayers remained in contact with the Bureau giving it updates on their progress for completing and filing their returns. Then on January 6, 2009, the taxpayers called the Bureau and stated they were pursuing the same issue with the [Redacted] and that they were headed into Tax Court. The Bureau asked for verification of the federal litigation, so the taxpayers provided a copy of the Notification of Receipt of Petition to the United States Tax Court. The Bureau reviewed the document and referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayers a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayers responded that they were dealing [Redacted] on the same issue and they got a verbal agreement [Redacted] would accept their actual returns. The taxpayers asked that the Tax Commission allow them additional time to finalize everything at the federal level before dealing with the State. The Tax Commission asked the taxpayers to provide it with copies of their returns.

The taxpayers procrastinated in sending in their returns. It was not until the Tax Commission gave them an ultimatum that they provided their income tax returns. The Tax Commission reviewed the taxpayers' returns and found them to be a better representation of the taxpayers' Idaho taxable income than the returns prepared by the Bureau. Therefore, the Tax Commission accepts the taxpayers' returns, subject to the normal review process of the Tax Commission, in lieu of the returns prepared by the Bureau.

The taxpayers' 2005 and 2006 returns resulted in tax owed to the state of Idaho. Since the taxpayers did not file these returns by the due date, the Tax Commission finds it appropriate

to add interest and penalty in accordance with Idaho Code sections 63-3045 and 63-3046, respectively. The taxpayers' 2003 return resulted in a refund. However, because the taxpayers failed to make a claim for refund within statutory timeframe as provided in Idaho Code sections 63-3024A and 63-3072, the Tax Commission cannot refund or credit the amount claimed.

WHEREFORE, the Notice of Deficiency Determination dated June 19, 2008, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>REFUND CLAIMED</u>	<u>REFUND ALLOWED</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$ 95	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
2005			12,956	3,239	3,363	19,558
2006			4,027	1,007	793	<u>5,827</u>
					TOTAL DUE	<u>\$25,385</u>

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

An explanation of the taxpayers' 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.
