

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 21427
[Redacted]	)	
	)	DECISION
Petitioner.	)	
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On August 12, 2008, the Income Tax Audit Division (division) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing additional income tax, penalty, and interest for taxable year 2004 in the total amount of \$2,235.

A timely protest and petition for redetermination was filed by the petitioner. The petitioner has not requested a hearing. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The petitioner was issued an NOD by the Commission [Redacted]. [Redacted] The division, therefore, issued an NOD based on that information and adjusted the petitioner's Idaho return. The Commission finds that the division correctly recomputed the petitioner's tax liability [Redacted].

In the petitioner's protest letter dated September 18, 2008, he stated in part:

[Redacted]

On July 2, 2009, the tax policy specialist (policy specialist) sent the petitioner a letter to inform him of the alternatives for redetermining a protested NOD. In this letter, the policy specialist informed the petitioner that the [Redacted] received his amended 2004 income tax return on August 1, 2008, and it appeared from the [Redacted] transcript that no changes were made to his 2004 return based on the amended return he filed. The policy specialist also informed the

petitioner that the state of Idaho's NOD in this matter was based on the [Redacted] [Redacted] audit of his unreimbursed employee expenses claimed on a Schedule A of his 2004 [Redacted] income tax return. The policy specialist stated that the [Redacted] audit denied the entire unreimbursed employee expenses that the petitioner claimed and had nothing to do with his employers' W-2s issued to him for taxable year 2004. The petitioner was reminded that the Commission's position is that he must be granted relief at the [Redacted] level before relief can be granted at the state level. A follow-up letter was sent to the petitioner on August 19, 2009. The petitioner did not respond to either letter.

A copy of the petitioner's 2004 account transcript requested [Redacted] on May 10, 2010, shows that there are still no adjustments to his 2004 [Redacted] audit.

Idaho Code § 63-3002 states that it is the intent of the Idaho Legislature, insofar as possible, to make the Idaho Income Tax Code identical to the Internal Revenue Code in the way taxable income is determined. Idaho Code § 63-3069 states that, upon a final determination of any deficiency or refund of federal taxes, written notice shall be immediately sent to the State Tax Commission by a taxpayer. IDAPA 35.01.01 Income Tax Administrative Rule 890.03 states that immediate written notification is required within 60 days of the final determination.

From the cited Idaho Code sections and the Administrative Rule, it is apparent the Idaho Legislature intended any changes made to a petitioner's [Redacted] return to be reflected on the petitioner's Idaho return.

The petitioner has the burden of proving the adjustments were incorrect. The petitioner would like the Commission to re-audit [Redacted]. The Commission's position is that the petitioner must be granted relief at the [Redacted] level before relief can be granted at the state level. The petitioner has failed to carry the burden in this matter.

Since the petitioner has not provided the Commission with a contrary result [Redacted], the Commission must uphold the deficiency as asserted.

WHEREFORE, the Notice of Deficiency Determination dated August 12, 2008, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$1,748	\$87	\$573	\$2,408

Interest is calculated through September 8, 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 petitioner's right to appeal this decision is enclosed.

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

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2010, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.

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