

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 21539
[Redacted],)
) DECISION
)
Petitioner.)
)
_____)

On September 11, 2008, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing income tax, penalty, and interest for taxable years 2005 and 2006 in the total amount of \$568.

A timely protest and petition for redetermination was filed by the petitioner and her husband. An informal hearing has not been requested by the petitioner or her husband. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

The petitioner and her husband failed to file their 2005 and 2006 individual income tax returns. On July 2, 2008, the TDB sent a letter with a questionnaire to the petitioner and her husband notifying them of the missing returns. The petitioner and her husband did not respond to this letter. [Redacted]. The Commission issued an NOD to the petitioner on September 11, 2008, [Redacted].

In their protest letter dated November 7, 2008, the petitioner and her husband requested a 90-day extension to file their 2005 and 2006 taxes.

The TDB sent the petitioner and her husband a letter dated November 12, 2008, which stated that the TDB would retain their protest while they awaited the information the petitioner and her husband had yet to provide. The TDB requested the petitioner and her husband provide the information by January 5, 2009. The petitioner and her husband did not respond to this letter. If the petitioner's issues could not be resolved in the TDB, their file would be transferred to the Commission's Legal/Tax Policy Division for further review.

The TDB sent the petitioner and her husband a letter dated April 1, 2009, which requested they send their 2005 and 2006 Idaho individual income tax returns by April 15, 2009. The petitioner and her husband did not respond to this letter.

On May 20, 2009, the Tax Policy Specialist (policy specialist) sent the petitioner a letter to inform her of the alternatives for redetermining a protested NOD.

On June 8, 2009, the Commission received a 2005 Idaho individual income tax return from the petitioner and her husband.

The Commission reviewed the Idaho income tax return for taxable year 2005 from the petitioner and her husband and determined that the submitted return represented the petitioner's taxable income better than the return prepared by the TDB. Therefore, the Commission withdraws the NOD dated September 11, 2008, for taxable year 2005 only. The 2005 return will be processed and is subject to the Commission's normal review process. The petitioner's 2005 individual income tax return will not be addressed any further in this decision.

The policy specialist returned a phone call from the petitioner on June 19, 2009. The petitioner stated that their 2006 income tax return was at the accountant's office.

The petitioner has 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 petitioner 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 petitioner has not provided the Commission with a contrary result to the determination of her income for taxable year 2006 [Redacted] Therefore, the Commission must uphold the deficiency as modified.

WHEREFORE, the Notice of Deficiency Determination dated September 11, 2008, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2006	\$203	\$51	\$44	\$298

Interest is computed through December 4, 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 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.