

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21565
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On September 23, 2008, the Income Tax Audit Division (division) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioners) proposing additional income tax, penalty, and interest for taxable year 2005 in the total amount of \$2,671.

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

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

In the petitioners' protest letter received by fax on November 24, 2008, [Redacted]:

This letter is to formally dispute Notice of Deficiency Determination regarding my 2005 tax return. I am protesting these findings as the [Redacted] taxes were improperly adjusted and closed before I could appeal the findings. In April, I requested an audit report from [Redacted] and received this report just last month. It became apparent, [Redacted] had not received the information requested by them and made adjustment with no back up. We are in the process of having are 2005 tax filed again by a tax professional and expect this to completed and filed by the first week of December. Based on this information I am requesting an extension of 45 days to resolve this issue with [Redacted].

On June 24, 2009, the tax policy specialist (policy specialist) sent the petitioners a letter to inform them of the alternatives for redetermining a protested NOD. A follow-up letter was sent to the petitioners on August 12, 2009. The petitioners did not respond to either letter.

A copy of the petitioners' account transcript was requested [Redacted] on April 23, 2010. The [Redacted] used the petitioners' 2007 and 2008 income tax refunds as payments towards their 2005 liability.

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 [Redacted] 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 petitioners' [Redacted] return to be reflected on the petitioners' Idaho return.

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

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

WHEREFORE, the Notice of Deficiency Determination dated September 23, 2008, 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>
2005	\$2,178	\$109	\$575	\$2,862

Interest is calculated through August 12, 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 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.
