

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 22066
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On May 5, 2009, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing income tax, penalty, and interest for taxable years 2005 and 2006 in the total amount of \$3,499.

The taxpayers protested the determination and subsequently submitted an Idaho Individual income tax return for taxable year 2006. The return was accepted as filed, and the NODD was cancelled for that year. Taxable year 2006 will not be addressed further in this decision. No information was submitted for taxable year 2005. The Commission, having reviewed the file, hereby issues its decision regarding taxable year 2005.

The taxpayers failed to file their 2005 individual income tax return. Because Commission records show the taxpayers met the state income tax filing requirements and had not filed their Idaho return for 2005, the Bureau attempted to contact them for clarification. The taxpayers did not respond.

[Redacted][Redacted].

Idaho Code § 63-3045 (1)(a) states:

**63-3045. Notice of redetermination or deficiency - Interest.** (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall

be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty - three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

The Bureau prepared the missing Idaho returns on behalf of the taxpayers and sent them an NODD. The taxpayers appealed the NODD and requested additional time to complete the 2005 return. The additional time, until September 18, 2009, was allowed by the Bureau. When the return was not received, the file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayers did not respond to a letter advising them of their appeal rights. A follow up letter was also sent by the policy specialist with no response. To date, the taxpayers' 2005 individual income tax return has not been received.

[Redacted] A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayers have provided nothing that would dissuade the Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for taxable year 2005.

WHEREFORE, the Notice of Deficiency Determination dated May 5, 2009, is hereby MODIFIED, APPROVED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$718	\$148	\$185	\$1,051

Interest is computed through July 1, 2010.

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

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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.