

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22095
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On May 14, 2009, the Idaho State Tax Commission’s (Commission) Tax Discovery Bureau (TDB) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioners) proposing additional income tax, penalty, and interest for taxable year 2005 in the total amount of \$4,200. The petitioners filed a timely petition for redetermination. The petitioners were informed of their appeal rights. The Commission, having reviewed the file, hereby issues its decision.

Based upon information available to the Commission, the TDB determined that the petitioners had an Idaho filing requirement for taxable year 2005. The TDB initiated contact with the petitioners requesting that the petitioners file an Idaho income tax return for 2005 or, in the alternative, explain why the petitioners would not have an Idaho filing requirement. The petitioners responded that the wife had filed an Idaho income tax return but the husband did not file an Idaho tax return since he worked and lived in [Redacted] during this year.

The TDB researched the Commission’s records and determined that neither of the petitioners had filed an Idaho income tax return. Since the petitioners did not provide the Idaho return as requested, the TDB issued the NODD.

The TDB calculated the petitioners' Idaho taxable income and Idaho income tax liability as follows:

Table 1	<u>2005</u>
Federal adjusted gross income	\$85,216
Standard deduction	-10,000
Personal exemption	<u>-9,600</u>
Idaho taxable income	<u><u>\$65,616</u></u>

Table 2	<u>2005</u>
Idaho income tax liability	\$4,533
Permanent building fund	10
Grocery credit	-60
Withholding	<u>-1,606</u>
Net income tax due	<u><u>\$2,877</u></u>

[Redacted].

[Redacted].

The petitioners filed a timely petition for redetermination on November 10, 2009. In the petition, the petitioners indicated that they needed more time to gather up W-2s and other information that may help them with the tax issue. The petitioners were informed of their appeal rights on January 5, 2010. The petitioners did not respond to the appeal rights letter.

As of the date of this decision, the petitioners have not filed the requested return nor provided any information that would resolve this case in the petitioners' favor for taxable year 2005. It is the petitioners' burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State Dept. of Revenue, 106 Idaho 810, 814, (1984); Parsons v. Idaho State Tax Comm'n, 110 Idaho 572, 574 (Ct. App. 1986). Since the petitioners have not met this burden of proof showing that the NODD prepared by the TDB for taxable year 2005 is incorrect, the Commission upholds the TDB's determination for 2005.

Interest was included in the NODD in accordance with Idaho Code section 63-3045 as was the Idaho Code section 63-3045(c)(1) failure to file an Idaho income tax return penalty. The penalty percentage is 5 percent per month with a maximum rate of 25 percent.

WHEREFORE, the Notice of Deficiency Determination dated May 14, 2009, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$2,877	\$719	\$740	\$4,336

Interest is calculated through June 30, 2010, and will continue to accrue at the rate set forth in Idaho Code section 63-3045.

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.
