

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 22169
[Redacted]	)	
	)	DECISION
Petitioners.	)	
	)	
	)	

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On June 18, 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 years 2004 and 2007 in the total amount of \$8,995. 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 years 2004 and 2007. The TDB initiated contact with the petitioners requesting that they file an Idaho income tax return or, in the alternative, explain why the petitioners would not have an Idaho filing requirement.

The TDB provided the petitioners with extensions of time in which to file the requested returns. Since the petitioners did not provide the Idaho returns as requested or provide an explanation for not having an Idaho filing requirement, the TDB issued the NODD.

In the petition for redetermination, the petitioners did not dispute that they had an Idaho filing requirement for the years in question, nor did they dispute the amount due for taxable year 2004. Instead, the petitioners indicated that they needed to return to their residence and find their Idaho income tax return for taxable year 2007 as the petitioners believed that the amount shown in the NODD for taxable year 2007 was incorrect.

The amount of tax due for those taxable years remaining at issue was based upon federal information and was calculated as follows:

Taxable Year	2004	2007
Federal AGI	\$23,538	
Wages		\$0
1099-INT		308
1099-MISC		110,084
Subtotal	23,538	110,392
Standard Deduction	-9,500	-10,000
Personal Exemption	-6,100	-6,400
Idaho Taxable Income	\$7,938	\$93,992
Idaho Tax	\$172	\$6,621
Idaho Withholdings	0	0
Grocery Credit	-40	-40
PBF tax	10	10
Amount of tax due	\$142	\$6,591

The TDB obtained a copy of the [Redacted] information [Redacted]Interest was included in the NODD in accordance with Idaho Code section 63-3045 as was the Idaho Code section 63-3046(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.

As of the date of this decision, the petitioners have not provided any information that would resolve this case in the petitioners' favor for taxable years 2004 and 2007. 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 years 2004 and 2007 is incorrect, the Commission upholds the TDB's determination for these years.

WHEREFORE, the Notice of Deficiency Determination dated June 18, 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>
2004	\$ 142	\$ 36	\$ 48	\$ 226
2007	6,591	1,648	972	<u>9,211</u>
			TOTAL DUE	<u>\$9,437</u>

Interest is calculated through December 15, 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 petitioners' rights 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.