

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22207
[Redacted])	
)	DECISION
Petitioners.)	
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On July 8, 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 2001, 2002, 2005, and 2006 in the total amount of \$6,935. 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 2001, 2002, 2005, and 2006. The TDB initiated contact with the petitioners requesting that the petitioners file an Idaho income tax return for these years or, in the alternative, explain why the petitioners would not have an Idaho filing requirement. 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. The TDB calculated the petitioners’ Idaho taxable income and Idaho tax liability as follows:

Table 1	2006	2005	2002	2001
Federal adjusted gross income			\$37,759	\$46,167
Wages	\$14,712	\$0		
1099-MISC	4,344	44,334		
State income tax refund			-412	-525
Subtotal	\$19,056	\$44,334	\$37,347	\$45,642
Standard or itemized deduction(s)	-5,150	-10,000	-9,400	-10,102
Personal exemption	-6,600	-6,400	-9,000	-8,700
Idaho taxable income	<u>\$7,306</u>	<u>\$27,934</u>	<u>\$18,947</u>	<u>\$26,840</u>

Table 2	2006	2005	2002	2001
Idaho tax liability	\$339	\$1,667	\$1,027	\$1,622
Permanent building fund	10	10	10	10
Grocery credit	-40	-40	-60	-60
Withholding	-131			
Net Tax Due	\$178	\$1,637	\$977	\$1,572

The petitioners filed a timely petition for redetermination. In the petition, the petitioners did not dispute that they had an Idaho filing requirement for these years; instead, they indicated that they were in the process of pulling documents and that, for taxable year 2001, they believe they were due a refund of \$98.

As of the date of this decision, the petitioners have not filed the requested returns nor provided any information that would resolve this case in the petitioners' favor for taxable years 2001, 2002, 2005, and 2006. 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 2001, 2002, 2005, and 2006 is incorrect, the Commission upholds the TDB's determination for these years.

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 July 8, 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>
2006	\$ 178	\$ 45	\$ 35	\$ 258
2005	1,637	409	426	2,472
2002	977	244	424	1,645
2001	1,572	393	781	<u>2,746</u>
				<u>\$7,121</u>

Interest is calculated through July 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.
