

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 22460
[Redacted]	)	
	)	DECISION
Petitioners.	)	
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On December 5, 2008, 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 1998 through 2006 in the total amount of \$28,073. 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 1998 through 2006. 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 several 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 these years; instead, they requested that the NODD be modified to include one additional child as a dependent.

The TDB did not modify the NODD to include the additional dependent; however, the TDB did modify the NODD since the petitioners provided the TDB with an Idaho individual income tax return for 1998, 1999, 2004, and 2006. Basically, the TDB canceled that portion of

the NODD relating to those years that the petitioners filed a valid Idaho return. The petitioners submitted an Idaho Form 40 Individual Income Tax return for taxable years 2000 and 2005; however, these returns aren't valid Idaho income tax returns since the returns are unsigned and the petitioners failed to attach a copy of their federal income tax return. The authority for not treating these returns as a valid income tax return is found in Idaho Income Tax Administrative Rule 800. Having not received the remaining returns, the TDB forwarded the petition for redetermination to the Legal/Tax Policy division for resolution.

The amount of tax due for those taxable years remaining at issue was calculated as follows:

Taxable Years:	2000	2001	2002	2003	2005
Federal AGI				\$49,525	
Wages	\$37,645	\$53,781	\$54,336		\$62,859
1099-Int					25
1099-R			442		2,500
1099-G					684
1099-MISC	620				
Subtotal	38,265	53,781	54,778	49,525	66,068
Standard deduction	-8,800	-9,100	-9,400	-9,500	-10,000
Personal exemption	-5,600	-5,800	-6,000	-6,100	-6,400
Idaho taxable income	<u>\$23,865</u>	<u>\$38,881</u>	<u>\$39,378</u>	<u>\$33,925</u>	<u>\$49,668</u>
Idaho tax	\$1,485	\$2,513	\$2,539	\$2,130	\$3,289
Idaho withholdings	-339	-114	-478	0	-101
Grocery credit	-30	-40	-40	-40	-40
PBF tax	10	10	10	10	10
Amount of tax due	<u>\$1,126</u>	<u>\$2,369</u>	<u>\$2,031</u>	<u>\$2,100</u>	<u>\$3,158</u>

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.

As of the date of this decision, and except for the providing of W-2s for taxable years 2000 and 2005, the petitioners have not provided any other additional information that would resolve this case in the petitioners' favor for taxable years 2000, 2001, 2002, 2003, and 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 for taxable years 2000, 2001, 2002, 2003, and 2005, the Commission upholds the TDB's determination for these years except for the amount of withholding allowed in taxable years 2000 and 2005. Since the petitioners provided the Commission with valid W-2s for taxable years 2000 and 2005, the Commission modifies the NODD to reflect the amount of Idaho withholding as shown on the W-2s. Therefore, for taxable years 2000 and 2005, the petitioners W-2 withholdings as shown on the W-2s, are \$501 and \$1,619, respectively, rather than the \$339 and \$101 amounts, respectively, as shown in the NODD.

WHEREFORE, the Notice of Deficiency Determination dated December 5, 2008, is hereby MODIFIED, 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>
2000	\$ 964	\$241	\$ 561	\$ 1,766
2001	2,369	592	1,358	4,319
2002	2,031	508	1,035	3,574
2003	2,100	525	958	3,583
2005	1,640	410	439	<u>2,489</u>
			TOTAL DUE	<u>\$15,731</u>

Interest is calculated through September 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.

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