

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22568
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On, January 5, 2010, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing additional income tax and interest for taxable year 2007 in the total amount of \$5,952.

On January 28, 2010, the taxpayers submitted a payment for the tax asserted on the NODD. On the payment voucher that accompanied the check, the taxpayers wrote the statement “interest not due per our accountant.”

The taxpayers did not request a hearing and have provided only the information presented with their protest letter. The Commission, having reviewed the file, hereby issues its decision.

The taxpayers timely filed their 2007 Idaho individual income tax return. The Income Tax Audit Bureau (Bureau) reviewed that return and found the taxpayers claimed a capital gains deduction for the installment sale of stock. The Bureau determined the taxpayers did not qualify for the capital gains deduction, so the Bureau adjusted the taxpayers’ return. In addition to the adjustment for the capital gains deduction, the Bureau added interest to the taxpayers’ tax deficiency.

The Bureau sent a Notice of Deficiency Determination to the taxpayers. The taxpayers responded with a payment of the tax due amount but protested the addition of interest on the

deficiency. The taxpayers stated that, per their accountant, interest was not due. No further information has been provided.

Idaho Code section 63-3045 provides for the addition of interest to any tax deficiency. The specific wording of the Idaho Code is “interest upon any deficiency shall be assessed.” The addition of interest has also been addressed in the courts. In hearing Union Pacific R. Co. v. State Tax Com’n, 105 Idaho 471, 670 P.2d 878 (1983), the Idaho Supreme Court addressed whether the taxpayer was required to pay interest, stating:

The general rule is that absent statutory authorization, courts have no power to remit interest imposed by statute on a tax deficiency. American Airlines, Inc. v. City of St. Louis, 368 S.W.2d 161 (Mo. 1963); see generally 85 C.J.S. Taxation, § 1031(c) (1954). We agree with the State that I.C. § 63-3045(c) is clear and unequivocal when it states that 'interest ... shall be assessed' and 'shall be collected.' This section is not discretionary, but rather, it is mandatory. Following the language of this section we hold that this Court, as well as the district court, lacks any power to remit the interest that is mandated by the statute.

Accordingly, the Commission finds interest is a statutory addition to tax deficiencies of which the Commission has no discretion. Therefore, the Commission must uphold the addition of interest to the taxpayers’ tax deficiency.

WHEREFORE, the Notice of Deficiency Determination dated January 5, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2007	\$5,363	\$589	\$5,952
		Payment Rec'd	<u>(5,363)</u>
		TOTAL DUE	<u>\$ 589</u>

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

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.