

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22111
[Redacted],)	
)	DECISION
Petitioners.)	
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On January 27, 2009, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing income tax, penalty, and interest for taxable years 2004 and 2005 in the total amount of \$1,284.

On January 27, 2009, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing income tax, penalty, and interest for taxable years 2004 and 2005 in the total amount of \$1,284.

The petitioners protested the NODs by providing their 2003 and 2004 federal individual income tax returns and an accompanying letter. An informal hearing has not been requested by the petitioners. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NODs.

The petitioners failed to file their 2004 and 2005 individual income tax returns. On July 11, 2008, the TDB sent a letter with a questionnaire to the petitioners notifying them of the missing returns. The petitioners did not respond to this letter. I[Redacted]. The Commission issued an NOD to each petitioner on January 27, 2009, [Redacted].

In the petitioners' protest letter received April 2, 2009, [Redacted] stated:

This letter is in regards to our 2000–2006 taxes. We recently received a letter stating that our taxes were not filed. Our 2003 and 2004 have been done and where [sic] sent in on those years. Here is a copy for your records. As far as the 2005–2006 they are with our accountant at this time and should be done soon. You also are currently holding our 2007 stimulus and income tax return until we finish our taxes for the previous years. I have enclosed the letter stating that is being withheld. I ask that you give us a little more time on this issue.

On April 2, 2009, along with the petitioners' protest letter, the Commission received the petitioners' 2003 and 2004 federal individual income tax returns.

The TDB sent the petitioners a letter on April 17, 2009, acknowledging they had received the petitioners' 2003 and 2004 federal individual income tax returns. The TDB reminded the petitioners that their Idaho individual income tax returns for the same years were also required. The TDB asked the petitioners to provide an expected date of completion for their 2005 and 2006 income tax returns if they were currently being prepared. The TDB would hold the petitioners' file in a protest status until they received the petitioners' returns. The petitioners were asked to provide these returns with W-2s attached by May 20, 2009.

In a letter dated September 21, 2009, the Commission's tax enforcement specialist stated:

To date, we have not received your Idaho individual income tax returns for tax years 2004 and 2005. We have received the information you submitted for the tax year 2004. Based on this information and the Idaho individual income tax returns submitted for the tax year 2007 we have revised the Notice of Deficiency Determination for tax years 2004 and 2005 from Married filing Separately to Married filing Joint. Credit was also given for additional exemptions for children for both years (two children in 2004 and three children in 2005).

Please review the revised Notice of Deficiency Determination and the enclosed protest withdrawal form. On the protest withdrawal form we ask that you choose an option, sign and return this form in the enclosed envelope by October 9, 2009.

If we do not receive a response your file will be forwarded to our legal department for resolution. If you have questions concerning this matter, please contact me at the number below. Thank you for your cooperation.

Each petitioner will be referred to as the petitioners from this point forward.

On February 1, 2010, the TDB received and reviewed the petitioners' 2005 Idaho individual income tax return and determined that the NOD dated January 27, 2009, should be withdrawn for taxable year 2005 only. The petitioners' 2005 individual income tax return will not be addressed any further in this decision.

On July 16, 2010, the Tax Policy Specialist (policy specialist) sent the petitioners a letter to inform them of the alternatives for redetermining a protested NOD. A follow-up letter was sent to the petitioners on September 2, 2010. The petitioners did not respond to either letter.

The petitioners have not provided the Commission with information to establish that the amounts asserted in the NOD, as adjusted, are incorrect. As a result, the Commission will uphold the NOD, as adjusted. A determination of the State Tax Commission is presumed to be correct. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The burden is on the petitioners to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986).

[Redacted]

The petitioners have not provided the Commission with a contrary result to the determination of their income [Redacted] Therefore, the Commission must uphold the deficiency as modified.

WHEREFORE, the Notices of Deficiency Determination dated January 27, 2009, as MODIFIED, 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	\$233	\$58	\$82	\$373

Interest is computed through April 16, 2011, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioners' right to appeal this decision is enclosed.

DATED this ___ day of _____ 2011.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ___ day of _____ 2011, 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.